

The Role of Constitutional Law in the Education System of The Republic of Uzbekistan

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Abstract:

. This article discusses and analyzes the role of constitutional law in the education system of the Republic of Uzbekistan. The right to education plays an important role in the system of human and civil rights and freedoms and has complex connections with many of them and also, the article reveals the concept of the constitutional right to education by describing the essence of the subjective right to education, analyzing its following features: the natural nature of the right to education, its inalienability from a person and a citizen, a focus on the harmonious development of the individual, etc.

Key words: constitutional law, personality, right to education, subjective right, protection mechanism, society, means and methods of protection.

Introduction

The right to education is one of the basic and fundamental human rights. It is enshrined in such important international legal acts as the Universal Declaration of Human Rights of December 10, 1948, the International Covenant on Economic, Social and Cultural Rights of December 16, 1966, the Convention on the Rights of the Child of November 20, 1989, the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, Convention against Discrimination in Education of December 14, 1960

The right to education was also enshrined in the Constitution of the Republic of Uzbekistan. In accordance with the Constitution of the Republic of Uzbekistan, everyone, that is, any person, regardless of gender, race, nationality, language, origin, property, social and official status, place of residence, attitude to religion, beliefs, membership in public associations and other circumstances, has the right to education, which, according to the Constitution of the Republic of Uzbekistan, refers to the inalienable rights and freedoms of a person and belongs to him from birth [3].

It should be noted that the Russian legislator does not give a definition of the term “right to education”. The absence of a single conceptual and terminological designation of the right to education in the domestic legislation on education has led to the ambiguity of the interpretation of this concept in the legal literature, the plurality of approaches to its definition. So, for example, A. Nurmatov understands the right to education as “the right of a person to receive a certain amount of knowledge, cultural skills, professional orientation necessary for normal life in the conditions of modern society”. More broadly, this concept is interpreted by I. Sheraliev, who defines the right to education as “a fundamental and natural right, aimed at satisfying a person’s needs for information and directly in education itself”.

M. Safarova defines the right to education from the standpoint of the science of civil law as one of the non-property rights of participants in a civil legal relationship, the implementation of which is based on the principles of equality, autonomy of will and property independence of subjects. This point of view, no doubt, deserves attention. However, it does not give an idea of the essential characteristics of the right to education as a constitutional right.

The process of formation and development of the constitutional right to education was long and complex. An analysis of the conditions for its formation shows that qualitative transformations, legal regulation were inextricably linked with the process of transforming human rights and freedoms, the historical stages of the formation of the education system, changes in society, the political and economic situation of states.

The beginning of the development of an actual understanding of the human right to education and its individual components should be attributed to the era of bourgeois revolutions (especially to the time of the French Revolution). The legal registration of this right was first implemented in the Universal Declaration of Human Rights, which became one of the foundations of the modern development of the theory of constitutional human rights.

The realization of any human right is impossible without guarantees and certain obligations on the part of the state and society. In constitutional and legal science, general guarantees of the right to education are defined as a set of political, economic, social, ideological (spiritual) conditions that ensure the implementation, protection and protection of the right to education. In our opinion, there is a need to expand the above list of guarantees by introducing organizational conditions into their composition: the activities of the state, its bodies, officials, as well as representatives of civil society, providing an organizational component in the process of creating conditions for the realization by a person of the constitutional right to education.

The legislation of Uzbekistan does not define the right to education. The provisions of the Law of the Republic of Uzbekistan “On Education” (Law of the Republic of Uzbekistan, dated September 23, 2020 No. ZRU-637) regulate the issues of the educational process, organization of educational activities, reveal the concepts of “education”, “training”, “relations in the field of education”, “educational activity”.

In science, there are many points of view on the interpretation of the concept of "the right to education". Quite often, they note the dual legal nature of the right to education due to the fact that this phenomenon combines elements of right and duty. There are other approaches as well. So, for example, K. Burkhonov defines the right to education as an opportunity to master educational programs "in accordance with the beliefs of parents, their own desires and capabilities".

Highly appreciating the value and authority of the above definitions, it is worth noting their limitations in their desire to reveal only certain aspects of the constitutional right to education. The most important feature of constitutional rights in the context of the topic under study is that they are subjective rights, i.e. individual. It is possible to reveal the concept of "right to education" through the description of the essence of the subjective right to education by analyzing its features.

The subjective right to education is a legally secured opportunity for everyone to acquire knowledge, to form skills, abilities, personal characteristics, and other competencies for the purpose of their own harmonious development, as well as the development of society as a whole. The signs of the subjective right to education include: the natural nature of the right to education, its inalienability from a person and a citizen, limited by the interests of other persons and the norms of objective law, its provision with legal obligations of other persons, and the focus on the harmonious development of the individual. The content of the subjective right to education is the possibilities that ensure its implementation:

- to be the bearer of the right to education and use it, independently perform actions in order to satisfy their own needs for knowledge, skills;
- demand from other subjects the fulfillment of their duties (the right to other people's actions);
- apply for protection to the competent authorities in case of violation of the right to education (state coercion);
- enjoy certain social benefits as a result of the realization of the right to education.

In the literature, the following main problems of the realization of the rights to education are distinguished: insufficient funding of the education system; shortage of school teachers; quality and free pre-school education; inaccessibility of general education; weak system of interconnection between different levels of education. A large range of problems in the studied area of constitutional law is related to the fact that without such an opportunity as the right to protection, there is no subjective right at all, including the right to education. Thus, it may be proposed to define the right to protection of the subjective right to education as the ability of a person to independently use countermeasures that are not prohibited by law (non-jurisdictional form of protection), as well as apply to the competent authorities in order to ensure the enforcement of a legal obligation necessary to exercise the right on education, restoration of a violated right or suppression of an offense (jurisdictional form of protection). Protection of the right to education in various forms is provided by legal means and methods that are close in content, but not identical.

Legal means of protecting the right to education should be understood as legal phenomena, the use of which satisfies the needs of the bearer of the right to education in protecting his right. The method of protection is only one of the legal means, namely, a set of actions established by law or an agreement that ensure the protection of the constitutional right to education (aimed at restoring violated or disputed rights). Therefore, it is possible to single out certain signs of ways to protect the constitutional right to education: establishment by law or contract; coercive nature; application by the competent authorities or the person himself; ensuring the termination of the violation of the right to education, its restoration, as well as compensation for the damage caused to the person.

The right to education belongs to the totality of fundamental rights and freedoms of man and citizen, which are closely interconnected with each other. It should be noted that the constitutional right to education occupies a special place in the system of these rights and freedoms and correlates with many of them. Thus, for the implementation of a number of rights and freedoms, the realization of the right to education is a basic condition. An example is the right to work, which includes the possibility of choosing a profession and type of work that a citizen freely chooses or agrees to; the right to an adequate standard of living, including good food, clothing, housing; the right to free and all-round development of the individual. At the same time, without a whole range of individual rights and freedoms, it is impossible to fully use and realize the right to education. In particular, personal rights should be remembered in this context: the right to life, freedom of movement, free choice of place of residence, use of one's native language; the right to freedom of thought and speech, free expression of one's views and beliefs; freedom of literary, artistic, scientific and other creativity, protection of intellectual property, copyrights, etc.

Let us dwell on the issue of discrimination of the law under study, since many constitutional rights are quite often under threat of violation in the event of emergencies for society, situations, regulations, political situations. At present, during the spread of the new coronavirus infection COVID-19, one cannot but note the discriminatory nature of the mandatory introduction of distance learning instead of the classroom contact work of students with a teacher, which actually makes it impossible to exercise the right to education of persons who, due to a difficult financial situation or for other reasons, they do not have the necessary technical means (computer, Internet access, etc.) for distance learning.

Citizens' appeals received by the Commissioner for Human Rights in the Republic of Uzbekistan testify to the presence of shortcomings in legal regulation in obtaining preschool, primary general, basic general, secondary general and vocational education. Thus, compared to 2020, in 2021 the number of requests for education issues increased by 13%. Of the 458 appeals, 148 are collective (in 2020 - 135). Among them, the largest number is occupied by applications for general education. A survey of parents in self-isolation, conducted by the Sociological Anti-Crisis Center, showed that schools, schoolchildren and their parents faced certain difficulties when teaching online: incorrect work of educational platforms, lack of technical teaching aids, lack of computer literacy and skills for remote learning, etc. d.

Thus, it can be concluded that the introduction of distance learning does not deprive citizens of the right to education enshrined in the Constitution of Uzbekistan, but this form of education does not guarantee the results that students aspire to. It is worth noting that in the context of the COVID-19 pandemic, this form is the only possible way to get an education.

Due to its ambiguity and lack of study, this topic causes a lot of discussion. So, the right of citizens to education in emergency situations, in particular COVID-19. To solve the problem of the availability of technical means for the purpose of continuous education, it is possible to apply the following organizational measures: allocation of money from the budget in order to supply low-income families with personal computers; teaching the basics of computer literacy; sponsoring the development of educational platforms not only by the state, but also by representatives of civil society (organizational conditions for the realization of the right to education).

Particularly acute is the question of the qualitative characteristics of knowledge gained during long-term distance education. For example, medical students who did not have the opportunity to practice practical skills properly in accordance with the curriculum. In the future, this can cause

problems in the health care system. Therefore, indirectly, this situation in the field of education can lead to a violation of the right to quality medical care.

Thus, the right to public and free education guaranteed by the Constitution of the Republic of Uzbekistan is currently not fully ensured due to insufficient (quantitatively and qualitatively) existing legal norms. It seems that the improvement of the constitutional and legal regulation of the right to education is possible only by changing the current law "On Education" in terms of regulating the expediency and exclusivity of the grounds for the use of distance learning, securing the provision of financial support for family education, and compensating the cost of studying at home from the federal budget.

Higher education, in contrast to compulsory secondary education, is the subject of a conscious choice of an individual. The requirement for a secondary education to receive higher education cannot be regarded as an element of discrimination, since the educational process itself is objectively based on continuity: obtaining a higher level education is not possible without passing previous educational levels.

Therefore, the right to higher education is exclusively a right, i.e. subjective possibility of personality in its classical sense. At the same time, a person has the right to count on the positive actions of the state, represented by its competent authorities, to create appropriate conditions for the operation of the relevant network of higher education institutions (organizational conditions), which will contribute to the realization of the right to higher education (positive aspect). Public authorities, being participants in relations in the field of education, are obliged to ensure the constitutional right to higher education by creating institutional and organizational and legal guarantees for the development of the higher education system.

The realization of the right to education, as well as the solution of the problems outlined above, is impossible without the provision of organizational conditions (guarantees) on the part of the state, society (public institutions, organizations) aimed at implementing procedural, regime, control and other measures that would allow identifying violation of the individual's right to education; determine the effectiveness of social norms in public relations that regulate the relevant procedure; promote accessibility and free education; establish the use of modern technical means (accounting, control), as well as digital technologies in the implementation of the right.

The content of organizational guarantees can include the definition, adoption and solution by the state of tasks in the field of education (adoption of programs for the development of education); creation of public and private educational organizations; state and public control; monitoring of the education system by state and public bodies; independent assessment of the quality of education by public organizations; organizational procedures for the use of information technology tools, etc.

Based on the above, we come to the following conclusions:

1) to reveal the concept of "constitutional right to education" is possible by describing its essence, the subjective component of the law, as well as analyzing its features: the natural nature of the right to education, its inalienability from a person and a citizen, a focus on the harmonious development of the individual, the dual nature of the object of law;

2) the content of the subjective right to education consists of opportunities that ensure the absence of difficulties in its implementation;

3) the Law of the Republic of Uzbekistan "On Education" contains norms that do not comply with constitutional provisions (in terms of obtaining higher education), thereby restricting the rights of certain categories of citizens in the field of education.

Solving the problems of realizing the subjective right to education depends on guaranteeing its holders the freedom to choose educational institutions, types and forms of education, subjects, teachers, research topics, free expression of opinions during the educational process, which is impossible without modernizing the legal framework of Russian education, its unconditional compliance with constitutional norms with the help of a rational combination of imperative and dispositive methods of regulation.

The solution of problems in the area under study should be based on a strict mechanism of constitutional and legal support of the right to education - an integral dynamic system of organizational and legal means aimed at the implementation, protection and protection of the right to education. The following elements can be distinguished in the structure of this mechanism: a mechanism for exercising the right to education (a system of conditions and legal means aimed at exercising this right); a mechanism for protecting the right to education (a system of constitutional and legal means aimed at ensuring the fulfillment of the legal obligation necessary for the realization of the right to education, the restoration of a violated right or the suppression of an offense); a mechanism for protecting the right to education (a system of socio-economic, organizational, educational, legal measures aimed at preventing violations of the right to education, which are carried out by state authorities, local governments, and civil society institutions).

As a result of the work done, it can be concluded that in order to solve problems in the sphere of the realization of the right to education and its constitutional and legal support, several stages should be observed and taken into account: awareness by society and every citizen of the need for the right to education; creation of social and legal conditions for the effective implementation of this right; the emergence of a direct legal relationship between the bearer of the right to education and other participants in legal relations who are endowed with relevant duties; the actual realization of the right to education. Only in the presence of this continuously organized legal mechanism can we talk about the possibility of consistently identifying and solving problems related to the constitutional right to education.

REFERENCES:

1. Makhmudova G.F. Age-related clinical, anatomical and morphological features of malignant tumors of the cervix// Journal of science and technology//2021.-P.-475-480
2. Guljamol Fazliddinonvna Makhmudova, Adkhambek Uygunovich Nurboboyev. Treatment of mechanical jaundice via the modern way// Scientific progress, 2021.-№6.-P.530-537
3. Nurboboyev A.U., Makhmudova G.F. Miniinvasive approach in the complex treatment of tumor and stone etiology of mechanical jaundice// International journal on Orange technology// Vol 3. Issue 9. Sep.2021.-P. 85-90
4. Samandarova, G. (2022). SCIENTIFIC AND THEORETICAL TRANSPARENCY OF THE STATE BUDGET BASICS. *Архив научных исследований*, 2(1).
5. Samandarova, G. M. K. (2021). Advanced experiences of budget transparency and opportunities for their application in Uzbekistan. *Asian Journal of Multidimensional Research*, 10(8), 190-198.
6. Mirzaliev, S., Sultonov, M., Khalikov, U., Samandarova, G., & Mirzajonov, K. (2021). Aspects of non-profit stem education system creation for industry 4.0 in Uzbekistan. *湖南大学学报(自然科学版)*, 48(10).

7. Muzaffar, S. G. (2021). CENTRAL ASIAN JOURNAL OF INNOVATIONS ON TOURISM MANAGEMENT AND FINANCE.
8. Баратова, М. Р., & Хидирова, Н. К. (2019). Влияние биостимуляторов на урожайность тыквы сорта Палов каду-268 в условиях Андижанской области. *Universum: химия и биология*, (4 (58)), 7-9.
9. Косимова, Ш. М., & Хидирова, Н. К. (2022). ВЛИЯНИЕ БИОСТИМУЛЯТОРОВ НА ПРОДУКТИВНОСТЬ СОРТОВ ТЫКВЫ ИСПАНСКАЯ 73 И ПАЛОВ КАДУ 268. *Universum: химия и биология*, (12-1 (102)), 52-55.
10. Баратова, М. Р., Косимова, Ш. М., & Хидирова, Н. К. (2021). ADVANTAGES OF THE UCHKUN BIOSTIMULATOR WHEN GROWING CUCUMBER IN THE CONDITIONS OF THE ANDIJAN REGION. *Life Sciences and Agriculture*, (1), 68-72.
11. Халилов, Н., Косимова, Ш., Уташев, У., & Баратова, Г. ВЛИЯНИЕ НОРМЫ ВЫСЕВА И ГУСТОТЫ СТОЯНИЯ НА УРОЖАЙНОСТЬ СИЛОСНОЙ МАССЫ ГИБРИДОВ КУКУРУЗЫ ПРИ ПОВТОРНОМ ПОСЕВЕ. *VETERINARIYA VA CHORVACHILIK SOHASIDA DOLZARB MUAMMOLAR VA ULARNING YECHIMI*.
12. Баратова, М. Р., Шоира, К., Зухурова, Г. В., & Хидирова, Н. К. (2019). Влияние биостимулятора Учкун на урожайность тыквы столовой сорта Испанская-73 в условиях Андижанской области. *Евразийский Союз Ученых*, (1-1 (58)), 22-24.
13. Назарова, С. А. (2020). Трудности освоения лексической системы китайского языка студентами. *Преподаватель XXI век*, (2-1), 148-159.
14. Shozamonov, S. I., Nazarova, S. A., & Djuraev, B. B. (2021). Problems of development of the Uzbek language in current society. *Open Journal of Modern Linguistics*, 11(4), 613-620.
15. Назарова, С. А. (2021). МЕЖКУЛЬТУРНАЯ КОММУНИКАТИВНАЯ КОМПЕТЕНЦИЯ: УРОВЕНЬ СФОРМИРОВАННОСТИ И РЕЗУЛЬТАТЫ КОНСТАТИРУЮЩЕГО СРЕЗА СТУДЕНТОВ-ФИЛОЛОГОВ (КИТАЙСКИЙ ЯЗЫК). *Oriental renaissance: Innovative, educational, natural and social sciences*, 1(Special Issue 1), 147-155.
16. Balakin, D. A., Alikberova, A. R., & Nazarova, S. A. (2019). Internet-memes in Chinese mediasphere as a reflection of modern reality. *Journal of Sociology and Social Anthropology*, 10(4), 309-314.
17. Анваровна, N. S. (2019). Проблема интерференции в процессе обучения китайскому языку Назарова Сайера Анваровна. *Китайская лингвистика и синология*, 3, 294.
18. Давронов, Л. О., Ниёзов, Ш. Т., & Джурабекова, А. Т. (2015). Лечение энцефаломиелита и миелита у детей озонотерапией. *Ответственный редактор: Сукиасян АА, КЭН, Ст. преп*, 190.
19. Гайбиев, А. А., Джурабекова, А. Т., Утаганова, Г. Х., Ниёзов, Ш. Т., & Игамова, С. С. (2019). Современные методы диагностики и лечение полиневропатий у детей. *Достижения науки и образования*, (11 (52)), 50-54.
20. Кенжабаев, А. Э., & Кенжабоев, Ж. А. (2016). Применение педагогических технологий в процессе обучения иностранных языков в начальных классах. *Ученый XXI века*, (3-2).
21. Кенжабоев, Ж. А. (2016). ОСОБЕННОСТИ ОБУЧЕНИЯ АУДИРОВАНИЮ НА СРЕДНЕМ ЭТАПЕ ИЗУЧЕНИЯ АНГЛИЙСКОГО ЯЗЫКА. *Вестник современной науки*, (6-2), 73-76.
22. Kenjabaev, J. A. (2022). METHODS THROUGH THE INTERNET IN TEACHING A FOREIGN LANGUAGE. *Экономика и социум*, (12-2 (103)), 67-70.

23. КЕНЖАБАЕВ, Ж. А., & САТТАРОВА, Н. А. (2018). РОЛЬ ИНФОРМАЦИОННО-КОММУНИКАЦИОННОЙ ТЕХНОЛОГИИ ОБУЧЕНИЯ АНГЛИЙСКИМ ЯЗЫКОВЫМ НАВЫКАМ В ПЕДАГОГИЧЕСКОМ ОБРАЗОВАНИИ. *Наука среди нас*, (1), 155-160.
24. Кенжабоев, Ж. А. (2017). Психолого-педагогические основы реализации игровых методов обучения на уроках иностранного языка в школе. *Вестник современной науки*, (2-2), 47-49.
25. Abdisalimovich, K. J. (2023). Communicative Language Teaching And The System Of Exercises. *Journal of Pharmaceutical Negative Results*, 1017-1022.
26. Кенжабаев, Ж. (2021). Лингводидактические особенности развития устной речевой компетенции студентов физического воспитания (на примере спортивной терминологии). *Общество и инновации*, 2(3/S), 150-154.
27. Abdisalimovich, K. J. (2021). LINGUODIDACTIC FEATURES OF THE DEVELOPMENT OF ORAL SPEECH COMPETENCE OF STUDENTS IN THE FIELD OF PHYSICAL CULTURE EDUCATION (IN THE EXAMPLE OF SPORTS TERMS). *Conferencious Online*, 47-48.
28. Azamjonov Ulug'bek Usmonjon o'g'li, Ramazonov Isfandiyor Ikrom o'g'li, Saydumarov Xurshidbek Saydakbar o'g'li, & Sharofiddinov O'lmasjon Sayfiddin o'g'li. (2023). Organizational Power Management. *American Journal of Public Diplomacy and International Studies* (2993-2157), 1(7), 18–32. Retrieved from <https://grnjournal.us/index.php/AJPDIS/article/view/691>
29. Pometun, O., & Hupan, N. (2019). РОЗВИВАЙМО КРИТИЧНЕ МИСЛЕННЯ ЯК НАСКРІЗНЕ УМІННЯ У НАВЧАННІ ІСТОРІЇ DEVELOPING CRITICAL THINKING AS A CROSS-SKILL IN HISTORY TEACHING. *Педагогічна освіта*, 92.
30. Кенжабоев, А., & Кенжабоев, Ж. (2016). Бошланғич синфларда хорижий тилларни ўқитишда педагогик технологиялар. *Современное образование (Узбекистан)*, (6), 18-25.
31. Петросов, Ю., Хайитов, О., Умирзоков, А., Исаманов, У., & Имамбердиев, Ў. (2021). ПРОБЛЕМЫ ДОБЫЧИ И ПЕРЕРАБОТКИ ПОЛЕЗНЫХ ИСКОПАЕМЫХ В УСЛОВИЯХ ГЛУБОКИХ КАРЬЕРОВ. *Збірник наукових праць SCIENTIA*.
32. Azamjonov Ulug'bek Usmonjon o'g'li, Toshmurodov Dilshod Nishon o'g'li, Bektoshev Javohir Nodir o'g'li, & Aliqulov Zayniddin Shuhrat o'g'li. (2023). Management of Professional Promotion of Employees in Organizations. *EUROPEAN JOURNAL OF BUSINESS STARTUPS AND OPEN SOCIETY*, 3(8), 13–29. Retrieved from <https://www.inovatus.es/index.php/ejbsos/article/view/1948>
33. Usmanovich, S. A., Ikhtiyorovich, N. N., & Abdurashidovich, U. A. (2022). Processing of Layout Tails of Gold-Extracting Plants. *Central Asian Journal of Theoretical and Applied Science*, 3(1), 7-13.
34. Nasirov, U., Umirzoqov, A., & Fathiddinov, A. (2021). ANALYSIS OF THE MODERN DEVELOPMENT OF MINING AND PROCESSING COMPLEXES IN UZBEKISTAN. *Збірник наукових праць ЛОГОΣ*.
35. Ixtiyorovich, N. N., & Abdurashidovich, U. A. (2022). Study the Location of the Useful Component from the Tailings of the Gold Recovery Plant. *International Journal of Innovative Analyses and Emerging Technology*, 2(1), 5-8.