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**Kaziyev B.K.**

Master of Arts, history teacher, Nazarbayev Intellectual school of the Physics and Mathematics direction of Aktobe, Kazakhstan, Aktobe  
e-mail: baurzhankaziev@gmail.com

**A HUMAN RIGHTS APPROACH IN RELATION TO THE EDUCATION SYSTEM AND ITS IMPLICATIONS IN KAZAKHSTAN**

This study explains the human rights approach to education in developing countries. Education as a fundamental human right is discussed in the literature review, and the paper focuses on the rights of disabled children to quality education. Examining the strengths and shortcomings of a rights-based approach to education reveals that a human rights approach to learning has a positive impact on improving the literacy levels of children and adults in developing countries. However, considerable debates about the discourse of rights should be underlined, because this approach often overemphasizes legal rights instead of providing essential solutions. This study focuses on children with disabilities in Kazakhstan, in order to investigate the implications of a rights-based discourse in this post-Soviet country. Specifically, how the quality of life in countries such as Kazakhstan is different to that in developed countries, and to what extent this affects the provision of basic rights as a social service.

**Key words:** human rights approach, education, Kazakhstan.

Қазиев Б.Қ.

Ақтөбе физика-математика бағытындағы Назарбаев Зияткерлік мектебі,  
Қазақстан, Ақтөбе қ., e-mail: baurzhankaziev@gmail.com

**Білім беру саласындағы адам құқықтары ұстанымы және оның Қазақстандағы қолданысы**

Бұл мақалада дамушы елдердегі азаматтардың білім алу құқығы айтылады. Адам құқығы ретінде білім беру әдеби шолуда талқыланады және балалардың сапалы білім алуына бағытталған. Сонымен қатар, білім берудегі құқыққа негізделген көзқарастың күшті және әлсіз тұстарын зерттеу, әсіресе балалар мен ересек адамдарға оң әсерін тигізеді. Дегенмен дискурс құқығы, пікірталасқа аса қатты назар аудару керек, себебі бұл көзқарас көбінесе заңды құқықтардан асып түседі және маңызды шешімдерді қамтамасыз етпейді. Посткеңестік кеңістіктегі адам құқығының дискурс салдарын зерттеу Қазақстанда мүмкіндегі шектеулі балалар үшін қажет, Қазақстанда өмір сүру сапасы дамыған елдердегі сападан ерекшеленеді және негізгі құқықтарды қамтамасыз ету оң ықпалын тигізеді.

**Түйін сөздер:** адам құқықтары саласындағы көзқарас, білім беру, Қазақстан.

Казиев Б.К.

магистр искусств, преподаватель истории, Назарбаев Интеллектуальная школа по физико-математическому направлению Актобе, Казахстан, г. Актобе  
e-mail: baurzhankaziev@gmail.com

**Правозащитный подход в отношении системы образования и ее последствия в Казахстане**

В этом исследовании объясняется подход в области прав человека к образованию в развивающихся странах. Образование в качестве фундаментального права человека обсуждается в обзоре литературы, и в документе основное внимание уделяется правам детей-инвалидов на качественное образование. Изучение сильных и слабых сторон на правах подхода к образованию показывает, что подход в области прав человека к обучению положительно влияет на повышение уровня грамотности среди детей и взрослых в развивающихся странах. Однако следует

подчеркнуть значительные дебаты по поводу дискурса прав, поскольку этот подход часто переоценивает юридические права, а не предоставляет существенные решения. В этом исследовании основное внимание уделяется детям-инвалидам в Казахстане, чтобы исследовать последствия правозащитного дискурса в этой постсоветской стране. В частности, качество жизни в таких странах, как Казахстан, отличается от качества жизни в развитых странах, и то, в какой степени это влияет на предоставление основных прав в качестве социальной службы.

**Ключевые слова:** подход в области прав человека, образование, Казахстан.

## Introduction

In recent years, there has been an increasing interest in a human rights approach to education. The issue of the right to education, guaranteed by the United Nations as a basic human right, has been a controversial and much disputed subject within the field of human development. Proponents of the rights-based approach consider it a multilateral concern, consisting of political, economic and cultural aspects, which aims to realize human security, peace and the sustainability of the environment (Tikly and Barrett, 2011). However, there are still huge populations who do not have an opportunity to use their rights, as Subrahmanian reminded the advocates of rights discourse: ‘language of rights may be a luxury’ (2002, p. 3) in some countries where people are struggling to survive every day. This essay suggests that while children’s rights to basic education are supported by a rights-based approach, there are issues surrounding governments’ abilities to fulfil their obligations.

The aim of this study is to investigate the relationship between education based on a human rights approach and government responsibilities accentuated by world organisations, and how states’ comprehension of those responsibilities and rights encourage an appropriate level of opportunities for disabled students. Understanding the rights as basic, inseparable, and essential to the process of education is the main aim of this paper. This study also investigates the rights of disabled students to education in terms of Education for All. The focus of this review is to evaluate the rights-based approach to education in developing countries such as Kazakhstan critically, particularly the rights of disabled children to education.

The essay begins by defining a human rights approach to education. It then examines the situation of children with disabilities and their rights to education, and their exclusion from society. Finally, the implications of the human rights approach towards disabled children in Kazakhstan are investigated, and the essay concludes with some recommendations.

## Children with disabilities and human rights

### *The rights of children with disabilities*

The right of children with disabilities to access education is often violated, and they can encounter harsh discrimination, exclusion, and segregation from social life (UNICEF, 2012). Terms such as ‘students with special needs’ and ‘exceptional children’ can be associated with the word ‘disabled’ (Tomasevski, 2003). Thus, there is a need to be explicit about exactly what is meant by the word ‘disability’. Holsinger and Jacob described disability as a broad term which embodies ‘physical, mental, emotional, and spiritual disadvantages’ (2009, p. 14), that can be considered a marginalized and neglected factor in terms of educational inequalities. Disability has been defined by the Supreme Court of Canada as follows:

Disability, as a prohibited ground, differs from other enumerated grounds such as race or sex because there is no individual variation with respect to these grounds. However, with respect to disability, this ground means vastly different things depending upon the individual and the context (*Eaton v. Brant County Board of Education* 1997, cited in Pothier, 2006, p. 138).

Educating children with disabilities may depend on financial resources. Therefore, from a political perspective, these children are considered costly for countries’ budgets, and consequently, they may be denied education or segregated from society (Tomasevski, 2003). For example, there are 600 million people with disabilities worldwide, 70% of whom are from Asian/Pacific and African countries (Helder 1992, cited in Peters, 2009, p. 149). In addition, a rights-based framework considers human beings as eventual ends of political and moral concerns. As a result, economically unproductive individuals that benefit from education, for example children with mental disabilities, have equal opportunities to education as children that are anticipated to produce economic revenue in terms of human capital (Robeyns, 2006).

The right of children with disabilities to education should be ensured equally with others, which would include providing equal access to the same education curriculum as all students, opportunities

to take exams, and the elimination of controversial laws, which separate students into 'non-educable' and 'educable' categories (UNESCO & UNICEF, 2007). Tomasevski (2003) claimed that schools tend to reject students who are labelled as difficult to teach, however, education settings should be adapted to every student in order to provide equal rights to each individual.

### **The exclusion of disabled people**

It has been argued that the exclusion of disabled people formally and informally from education may be a phenomenon on a global scale (Peters, 2009). Despite the fact that children with disabilities are supported by some improvement programmes, in all cultures and countries they are marginalized, disadvantaged, and discriminated against (Miles, 1995) from economic, cultural, socio-political and historical perspectives. For instance, just 1-2% of people with disabilities in southern countries are provided equal access to education (Peters, 2009).

The main reason disabled students cannot attend normal schools could be that education organisations are unable to provide all necessary support for students such as time, space, appropriate learning and teaching aids, and staff (Hegarty, 1992). Similarly, Tomasevski (2003) found cost to be a key factor in denial of education. Moreover, providing education for all children including disabled students might be impossible when considering the financial resources of low-income countries (Miles and Singal, 2010). For example, about 600 million disabled people cannot participate in cultural and social life due to social barriers and physical limitations, 80% of whom are from developing countries (UNESCO, 2007). Miles and Singal stated that, despite awareness within society of the rights of disabled people, the issues of disability can be omitted from public debates and considered specialist work, and as a result, the 'exclusion and neglect of disabled people from policy and practice' (2010, p. 5) may continue. Moreover, Peters (2009) claimed that the exclusion of disabled people from social services could lead to restricted social connections, low self-esteem, and poor health. Consequently, poverty and the lack of education may 'lock disabled people into a chronic cycle' (p. 149).

Tomasevski argued that, due to the lack of identification of special needs and the misunderstanding of the three Ds 'disability, difficulty, and disadvantage' (2003, p. 152), the proportion of special needs children around the world is different, varying from 1% to 41%. In addition, disabled people's impairment can be the direct or indirect effect of their

living conditions, or it may itself lead to poverty (Miles, 1995).

### **Children with disabilities from the Education for All perspectives**

Solving problems related to disabled people within the community can be a catalyst for the comprehensive improvements of society (Miles, 1995). It has been suggested that educational settings must provide service for all children, despite their physical, social, intellectual, linguistic, and emotional conditions (UNESCO, 1994).

Miles and Singal observed that EFA changed their emphasis, from only focusing on access to education to addressing the acquisition of knowledge and the development of competence, and how the concerns and needs of the new world should be responded to by education reforms that focus on 'on *individual groupings*, such as disabled children' (2010, p. 12, original emphasis). In her analysis of inequalities in education for people with disabilities, Peters (2009) illustrated five principles intrinsic to rights-based approaches: social protection, accessibility, participatory decision-making, control/capacity building, and consciousness rising.

There are several theories related to solving the exclusion problem of disabled students. Many educationalists and organisations argue that these students should be educated separately from mainstream schools and must be provided with specialised services. However, proponents of inclusive education claim that disabled children have to study in mainstream schools rather than special settings (UNESCO, 2007). Hegarty (1992) asserted that an important developmental element in education is educating disabled students with their peers. Furthermore, that the 'integration movement' (1992, p. 48) - the inclusion of exceptional students in normal schools - can be seen as an issue of pedagogy and moral rights. Therefore, schools should find different methods for educating children successfully, in which students with disabilities and young children who require special needs are educated in schools with the majority of children, leading to the conception of inclusive education (UNESCO, 1994).

Hegarty (1992) identified several common features of educational settings that enable the effective teaching of students with disabilities. First, a clear policy emphasising that disabled students are as valuable as other pupils. Secondly, a curriculum that responds to the personal requirements of students and different approaches, with programmes focusing on individuals. Another important issue

might be the quality of staff, because they require extra skills to work with specific students. Finally, establishing a connection between school and home might be pivotal.

### **The Case of Kazakhstan**

The Kazakh education system, including provisions for special needs, is affected by the legacy of Soviet Union. During the Soviet time and after, education was not equally accessible to all students, particularly to children with disabilities. Moreover, defectology as a scientific subject was created in the Soviet Union, and disability was framed as a diagnosis requiring rehabilitation and treatment. By this traditional approach, the schooling of disabled children took place in different areas, separated from mainstream schools (Rouse et al., 2014). As a result, they lost connection with the natural system of society in which they could gain support. Children who were classified as a person with defects were separated from mainstream education, fated for a segregate life with a lack of resources (Tomasevski, 2003).

Rouse et al. (2014) claimed that although education should be free and compulsory, children with disabilities in Kazakhstan are restricted or excluded from access to education due to legislation. In their formulation, some disabled children might be considered 'as uneducable and may not be the responsibility of education authorities' (2014, p. 199). Similarly, the OECD (2009) report demonstrated that although the Kazakh legislation and policies promote the education of disabled children, these students are excluded from discussions on education reform. The report claimed that the country might be opposed to the notion of inclusive education, both within the Constitution of Kazakhstan and within the international obligations made by Kazakh governments.

There are several problems related to providing basic rights for disabled people. According to the OECD (2009) report, facilities are not accessible to disabled students in schools because of a lack of structured approach in this field. Therefore, additional inequalities are created as a result of these inappropriate educational standards for children with disabilities. This view is supported by Rouse et al. (2014), who wrote that there are too many barriers to the inclusion of disabled students in mainstream schools. For example, physical barriers such as steps and stairs are not suitable for them, elevators and ramps can only be found occasionally, and spaces might be insufficient. However, the attitudes of society might be the foremost barriers for disabled children.

The exclusion of disabled students is not only a human-rights issue, but also a social-justice, economic development, and political issue (Rouse et al., 2014). However, the Committee for Children's Rights in Kazakhstan appear reluctant to solve the problems related to the inclusion of disabled children. Moreover, due to budget limitations, they have no opportunity to promote proper social inclusion, health care, and education. For instance, the population may not be provided with extracurricular, cultural, and sporting activities (OECD, 2009).

It has been argued that disabled children in cities have more opportunities to gain access to education, whereas education might be inaccessible for disabled students from remote and rural areas (UNDP, 2005). According to the UNDP (2005) report on achieving the Millennium Development Goals (MDG) in Kazakhstan, there were more than 120,000 children with special education needs in 2004, and 25.3% of them had access to schools. In 2006, this number increased to approximately 130000 students, only 23.3% of whom attended schools or special organisations. However, in Kazakhstan, there might be no coordination between the data collected by agencies and national indicators (UNICEF, 2012).

In human rights discourse, educational settings may be constructed as separate institutions from local communities. As such, schools can be isolated from society in order to provide safe learning environments. However, schools located within society provide social and cultural aspects of learning that isolated schools do not, and the reality of life is a pivotal factor in education (Tikly and Barrett, 2011).

### **Conclusion**

This essay has investigated the central importance of a human rights approach to education. The United Nations report and academic articles were compared, and a report published by UNESCO 'A human Rights-Based Approach to Education for All' was used as a basic source to gain general information about this approach. The article written by Tikly and Barrett (2011), entitled 'Social justice, capabilities and the quality of education in low-income countries', prompted considerable discussion of the issue, and Ingrid Robeyns' (2006) paper, 'Three models of education: Rights, capabilities and human capital', provided an in-depth critical analysis of the human rights model of education.

This discussion has highlighted problems with contemporary human rights-based discourse with



regard to education. The human rights approach was defined in terms of its relation to education, and education was discussed as a basic human right from different perspectives. The next section referred to the 'Education for All' policies, considering the rights of children with disabilities, their exclusion from mainstream schools, and their circumstances. Finally, the education of children with disabilities in Kazakhstan was examined, in particular how they are separated from mainstream education.

Although this essay has demonstrated many advantages with a human rights approach, it would appear that, despite the statements made by international organisations, some groups (such as children with disabilities) are marginalized.

The evidence suggests that without concrete developments in countries' policies towards human rights and education it might be difficult to state international agreements in this field. However, key changes should occur in social attitudes, in order to improve modern society.

This essay examined a human rights approach to education in terms of disabled children and children with disabilities in Kazakhstan. However, girls, ethnic minorities, poor people, and people from remote and rural areas were not discussed in-depth, which could provide scope for further research. Moreover, it would be interesting to assess the effects of a human rights approach to education in the developing countries of Central Asia.

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