

# AN EXPLORATORY ANALYSIS OF SOCIO-LEGAL FACTORS RELATED TO THE DISTANCE EDUCATION LEARNING ENVIRONMENT: THE CASE OF DISABLED LEARNERS IN KAZAKHSTAN

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## ABSTRACT

*The paper uses motivation, cognition, and action concept to evaluate the level of knowledge of students with disabilities about existing distance education learning environment at their universities. The paper aims to explore legal provisions in the higher education of Kazakhstan related to persons with disabilities, and suggest ways to bridge the gap between principles of international law and provisions of domestic laws. In order to meet aim of this study, the authors conducted a survey among students with disabilities from Kazakhstani higher education institutions. The study concludes that students with disabilities have certain knowledge about the distance learning technologies as well as methods and techniques used in distance education learning process, however, the motivation to use these education technologies are relatively low. Therefore, in future studies it is necessary to determine the factors that influence the motivation of students with disabilities to get higher education through distance learning technologies. Despite a significant legislative framework on the rights of persons with disabilities, persons with disabilities continue to face significant limitations to get higher education in Kazakhstan.*

**Keywords:** Distance Education, Students with Disabilities, Legislative Framework, Kazakhstan.

## INTRODUCTION

Nowadays, the distance education learning technologies are broadly used in higher education institutions around the world. It seems that distance education is becoming one of the most effective and promising forms of general, professional and higher education in new era of information technologies (Beldarrain, 2006). The distance education learning technologies open new opportunities to obtain qualification and professional skills especially for people with disabilities (Edmonds, 2004). A personal computer with access to Internet becomes a tool that

should provide opportunities for people with disabilities to get not only education, but it also helps to get work, daily products and services (Burgstahler et al., 2004). According to data from Organisation for Economic Co-operation and Development (2017), there were 338 disabled students at 39 universities in Kazakhstan, including 192 students in classic universities, 85 students in technical universities, 47 students in pedagogical universities, 14 students in economic universities (Organisation for Economic Co-operation and Development, 2017). The number of students with disabilities increased from 29 in 1995 to 338 in 2016. The presence of students with disabilities to total number of students increased from 0.04% in 1995 to 0.5% 2016. This is a positive trend, although it is still far from the European level, where this share reaches almost 5% (Moore & Kearsley, 2011).

In order to provide access to education for students with disabilities, Kazakhstan has adopted a number of institutional initiatives including Law on Social Protection of Persons with Disabilities (Directive № 39-III of 13.04.2005) and Law on Education (Directive №319-III of 05.05.2017). According to Art. 33 of the Law on Education the Government of RK guarantee to persons with disabilities the creation of the necessary environment and conditions for access to education service (Yergebekov & Temirbekova, 2012). The goal of these laws was to stimulate implementation in all regions of Kazakhstan the programs for the development of distance education for persons with disabilities that for health reasons unable to attend higher education institutions (McLendon, 2004). Following the laws and programme initiatives, some of Kazakhstani higher education universities start their education modules for students with disabilities (Diagnostic Report, 2014). For example, Kazakh Economic University proposes 3 undergraduate distance education for students with disabilities, who wish to receive economic education with manager, financier or bank employee qualification. Kazakh National Technical University conducts 7 undergraduate and postgraduate training programmes on technical specialists including engineers, technologists, and designers (Maudarbekova & Kashkinbayeva, 2014; Koshim et al., 2018). Despite numerous efforts to ensure equal access to education, according to national and international reports, students with disabilities still remain at a very disadvantageous position in Kazakhstan (Organisation for Economic Co-operation and Development, 2017). As stated in reports, the issue of access to education has been resolved only at a formal level, i.e. people with disabilities have the right to education at any level and at any professional educational institution, but, in practice, this right is not feasible for technical, economic and social reasons. Using motivation, cognition, and action concept, this study aims to evaluate the level of knowledge of students with disabilities about existing distance education learning environment at their universities.

## METHOD

The authors conducted a survey among students with disabilities from ten Kazakhstani universities. In total 176 students with different types and forms of disability participated in survey. The survey was grouped into three main parts according to structural components (Locke, 2000):

1. The questions that we assigned to the motivation part were aimed to identify the level of the importance of the distance learning technologies and its advantages for students with disabilities, and the importance of

- distance technologies for future professional development. It also identifies the students' level of external and internal motivation to the learning process through distance technologies.
2. The second set of questions that we attributed to the cognition part was aimed to identify the students' level of knowledge about the nature and characteristics of distance learning technologies to obtain higher professional education, the knowledge about the expected outcomes that might be obtained during the distance learning process at the university, and the knowledge about the basic work principles of distance learning education including IT, computers and software applications.
  3. The third set of questions of our study was devoted to the action part, which includes the ability to plan, organise and implement distance learning education process. In another words, it demonstrates their skills and experience in using the distance education learning technologies.

## RESULTS

### National Reforms

The factor associated with the reform of the education system is due to the transition of Kazakhstan in accordance with the Bologna agreement to a three-tier system of higher education (bachelor, master and PhD). The above is a clear example of the impact of international law on national law. The reform confirms the possibility of using the usual norms (recommendation law) of international law in the field of regulation of legal relations in the educational sphere. The global market forms a new system of values (a single educational space in order to create a single labor market). As a result, international law initiates the process of unification of legislation on education and, thus, forms national legislation (Kurmanov et al., 2015). However, the problem of the interaction of norms of international and national legislation is relevant at the level of law enforcement. Kazakhstan has agreements on international cooperation in the field of education with a number of countries, however, when deciding, for example, on confirming the required level of education or on establishing equivalence of educational levels, their potential is ignored. This circumstance is explained by the fact that the provisions of these agreements are of a general nature, whereas in order to be directly applicable, they must have the necessary level of specification (Kerimbayev et al., 2016). This level is associated with the ability to generate rights and obligations for individuals and legal entities. At the same time, their incorporation does not always achieve the goal of the norm, since the application of such norms becomes impossible if it is necessary to implement them. Acts of national law have been enacted to enforce the rule, but the presence of declarative provisions on international cooperation in the field of education in domestic legislation is clearly not enough (Oralova, 2012). It should be noted that there is a multidirectional nature of agreements concluded at the interstate level regarding the establishment of equivalence of diplomas of doctors of science, certificates of professors, which does not contribute to the unification of legislation in the field of education.

### De-Facto Situation

Legislation in the field of education is distinguished by the breadth of its meaning, which is explained in the historical traditions of the formation of the industry in question. In Soviet times, the existing approach to regulating public relations in the field of education was based on administrative and legal foundations, although researchers established the specificity of educational relations back in the 1970s (Zhetspisbayeva et al., 2012). Consequently, the Soviet

Fundamentals of legislation on public education in beginning of 1990s no longer meet the realities of time. Meanwhile, the development of the new Law “On Education” took time, and the way out of this situation was the adoption of Temporary regulations governing the activities of institutions (organization of the education system) and training in Kazakhstan. As a result, the generally accepted sequence of preparing normative legal acts was violated. Subsequently, in order to comply with the level of development of social relations and in view of the need to fill in the gaps in legal regulation, the volume of by-laws has increased (Obukhova et al., 2015). The rationale for making amendments to a law is argued in favor of the need to bring its standards in line with the norms of acts of the sub-legislative level. The intensity of subordinate rulemaking has an opposite effect on the national level of regulation of laws. Thus, most of the procedures related to the exercise of citizens' rights to education are within the scope of precisely the by-law rulemaking. At the same time, such a method of systematization of legislation as incorporation remains unclaimed, in which regulations governing public relations in the field of education are combined in a collection together with the elimination of outdated, conflicting provisions.

### The Socio-Cultural Paradigm

The result of survey of motivation part shows that 68.6% of students with disabilities understood the importance of distance education learning technologies (Tables 1 & 2). 66.7% indicated a high interest in the opportunity of obtaining higher professional education using distance learning technologies. More than half of the students (66.2% and 76.7%) indicated professional development and quality education as main motives. Due to the fact that distance education learning is based on self-study, the questions of the survey were aimed at identifying the level of self-independence in setting and solving problems in the distance learning process. The results of the survey indicate an understanding of the responsibility for their education by the majority of students with disabilities (73.7%).

<b>Table 1</b> <b>THE MOTIVATION PART (%)</b>		
<b>№</b>	<b>Motivation Components</b>	<b>%</b>
1	Importance of distance technologies in the education process at the university	68.6
2	Interest in the learning process through distance learning technologies	66.7
3	Motivation to professional development through distance learning technologies	66.2
4	Motivation to getting quality education through distance learning technologies	76.7
5	Opportunities of self-realisation in the process of distance learning	68.1
6	Independence of actions in the distance learning process	73.7

Regarding the cognition part, the result of the survey reveals that 64.0% of students with disabilities know the essence of distance learning technologies and in 74.8% of students with disabilities highly evaluated the possible outcomes that might be obtained as a result of distance learning process at the university. More than half of students with disabilities (65.7%) have enough knowledge about the methods and techniques that are used in the distance learning process. 65.2% of students with disabilities consider important conditions for distance education learning environment are the quality of educational information, clear structuring of educational information at each stage of distance learning process.

№	Cognition Components	%
1	Essence of distance learning technologies	64.0
2	Outcomes that might be obtained as a result of distance learning at the university	74.8
3	Methods and techniques used during the distance learning process	65.7
4	Features of education process that aimed to meet the special needs of students with disability	68.0
5	Features of work and interaction during the distance learning process	65.2
6	Features of the self-independent work during the distance learning process	65.3
7	Opportunities of using IT computer for higher education as distance technology	71.4
8	The basic work principles of the computer and auxiliary devices	72.7
9	The basic work principles of Internet and other software	72.8

The results of the study on action part show that significant difficulties for students with disabilities include the ability to plan their activities in the distance learning system (40.8%), the ability to work according to the compiled plan in the distance learning process (31.8%), and the skills of working in small groups (31.2%). Other situational difficulties include the organisation of network interaction through a conference in system of distance learning (33.8%). Most students note that they do not have difficulties in rational use of time in the distance learning system (70.9%), the ability to conduct a network dialogue with other students in the distance learning system (70.4%), the ability to work in network programs such as email, chat, and Skype.

The result of this study indicates that students with disabilities have certain knowledge about the distance learning system, the methods and techniques used in distance education learning system. They also know how to apply this knowledge in practice, and have some experience working with Internet resources, as well as have knowledge of the application and designation of certain programs and communication technologies. However, students with disabilities are not enough motivated to get higher education in form of distance education. As shown in Tables 3 & 4, the motivation part is lower in comparison with the results of the cognition and actions parts. It is necessary to determine the factors that influence the motivation of students with disabilities to get higher education.

<b>Table 3 ACTION PART (%)</b>		
<b>№</b>	<b>Action Components</b>	<b>%</b>
1	Ability to plan activities within distance learning system	59.2
2	Ability to work on curriculum within distance learning system	68.2
3	Ability to use time rationally within distance learning system	70.9
4	Ability to work in small groups on-line and off-line	68.8
5	Ability to use information resources (e.g., databases)	71.5
6	Ability to fill educational material (answers to assignments and questions)	70.3
7	Ability to select resources in the Internet	70.5
8	Ability to use different programs (text editor, graphic editor, etc.)	68.0
9	Ability to communicate through e-mail	72.8
10	Ability to communicate through chat technologies	71.4
11	Ability to communicate through Skype	70.3
12	Ability to communicate through online conference	66.2
13	Ability to conduct a network dialogue with other students within distance learning system	70.4

<b>Table 4 SUMMARISING THREE COMPONENTS</b>		
<b>Value and Motivation</b>	<b>Cognition</b>	<b>Situational Components</b>
41.6%	69.3%	69.1%

## The Legal Paradigm

Kazakhstan, being a member of the international community, fully supports the fundamental principles of international conventions and declarations including Universal Declaration of Human Rights, Declaration on the Rights of Persons with Disabilities, Declaration on the Rights of Mentally Retarded Persons, Convention on the Rights of the Child, Standard Rules for Ensuring equal opportunities for people with disabilities. The Conventions on the Rights of Persons with Disabilities is another key international treaty designed to ensure that people with disabilities fully involve in social, cultural, economic, and political life of countries their living (Marishet, 2017). The Convention provides general social principles and rights including important issues such as prevention of discrimination, accessibility to resources, equality of opportunity, dignity and individual autonomy, legal capacity, education right, health right, participation rights, expression and opinion right (Ebuenyi et al., 2019). The Convention has the general obligations that States parties must develop and apply all appropriate institutional mechanisms for the meeting the main purpose of the Convention; do cancel of all existing laws and regulations, which are discriminatory towards persons with disabilities; develop and apply policies and programs to protect and promote the rights of persons with disabilities (Saiymova et

al., 2018). It is specially stated that during the development and applying the norms of legislation and strategies for persons with disabilities, participating States consult with persons with disabilities and actively involve them through organizations representing persons with disabilities (Lee, 2010). To monitor implementation of this convention, the specific Committee on the Rights of Persons with Disabilities was established and countries that ratified the Convention were obligated to provide reports on the Convention implementation (Porta et al., 2018). The Convention was ratified by 173 nations worldwide, while 16 countries not made legally binding the Convention so far and many other nations continue to limit or ignore the application of the Convention. Furthermore, some authors criticise some conceptual aspects of the Convention (in particular its definitions of “*disability*”, “*legal capacity*”, “*discrimination*”) as well as inconsistencies and shortcomings in the Convention (Pozón, 2016). Authors stated that the some important fundamental rights declared in the Convention might be violated and resulted in unintended consequences such as increasing discriminations, ignorance, and fear (Freeman et al., 2015).

Moreover, there are different international institutions (e.g., World Health Organisation, UN Economic and Social Council, United Nations High Commissioner for Human Rights) that involved in realisation of principles of Convention on the Rights of Persons with Disabilities; however, despite the many international and national institutions that promote the implementation of the rights of persons with disabilities, their activities are still fragmented and ineffective. Nowadays, persons with disabilities continue to face social discrimination in both developed and developing countries (Fierman, 2006). As stated in report from Human Watch, disabled people are often unemployed, invisible and marginalised in both developed and developing countries. For example, it has been estimated that over 1.2 million people (9% of the Russia's total population) are suffering from one or the other kind of disability and long term illness. In fact, Russia ratified the International Conventions on the Rights of Persons with Disabilities in 2012 (Asanova, 2006; Yerkin et al., 2019). The basic principles of this Convention have been integrated in number of legislative and political framework in Russia. For example, the Russia's Constitution declared that the Russian Federation is a social state. The main objective of the country's social policy is to provide the rights and the principle of social justice, universal solidarity and mutual responsibility. Additionally, number of federal programmes have been developed, for example, State Programme “*Accessible Environment*”; however, according to report “*Left Out? Obstacles to Education for People with Disabilities in Russia*”, people with disabilities are still facing discrimination in receiving any formal education and other vital social provisions. 78% of disable people in Russia do not hold any formal education; this number is significantly higher compare to average number in European Union (22%). People with disability in Russia also face problems with quality of health care, employment opportunity, availability of proper infrastructure, access to public, commercial and leisure services (Gurevich, 2011; Burkhalter & Shegebayev, 2012; Natsun, 2016). Apart from that, the last studies (Natsun, 2016) confirm that people with disability in Russia completely not involved in civil and political life of country.

Regaling to national Kazakhstan policy, the Constitution of Kazakhstan states that international treaties ratified by the republic take precedence over its laws and are applied directly, except when the international treaty indicates that its application requires the issuance of a law (Yessentemirova et al., 2019). Therefore, all the basic international standards regarding

people with disabilities are reflected in Kazakhstani documents. In order to ensure the realization of the rights of students with disabilities in various spheres of human activity, the UN International Convention on the Rights of Persons with Disabilities was ratified by the Republic of Kazakhstan on February 20, 2015 (Smagulova et al., 2018). In order to implement the norms of the Convention, the Law of the Republic of Kazakhstan “*On the protection of the rights of persons with disabilities*” was adopted in 2015. The rights of all people with disability to higher education is definitely fixed in legal acts including Law “*On Education*”, “*On the Rights of the Child in the Republic of Kazakhstan*”, “*On Social Protection of Disabled Persons in the Republic of Kazakhstan*”, “*On Social and Medical Pedagogical Corrective Support for Children with Disabilities*”, as well as regulatory documents and acts including Program for the development of education and science in the Republic of Kazakhstan for 2016-2019, a draft National Plan for improving the quality of life of persons with disabilities. The state educational policy in the Republic of Kazakhstan is aimed at developing and implementing effective mechanisms for the integration of people with disabilities into the educational process and providing them with the most favorable educational conditions. Thus, in the “*State Program for the Development of Education of the Republic of Kazakhstan 2016-2019*”, one of the program objectives was put forward: “ensuring equal access to quality education, forming an intellectually, physically, spiritually developed and successful citizen”. On the basis of the “*Rules for the organization of the educational process on distance education technologies*” (Decree of the Government of the Republic of Kazakhstan dated January 19, 2012 No. 112) in universities of the country in relation to persons with disabilities, including children with disabilities, distance education technologies are applied, which are implemented in the following forms: TV technology, network technology, case technology, etc.

## CONCLUSION

Universities should create the necessary conditions for affordable and high-quality education for students with disabilities. This requires the organization of a special structure that provides psychological and pedagogical support for students with disabilities in the educational process—from the moment of its preparation for entering a university to its successful employment in the specialty. The organization of the educational process of universities is not adapted to the capabilities of students with disabilities. As a positive moment, the order of the Department of Higher, Postgraduate Education and International Cooperation of the Ministry of Education and Science of the Republic of Kazakhstan should be noted, according to which a coordinator for inclusive education is appointed at each university. Thus, at present, in 65 universities under the control of the Resource Advisory Center for Inclusive Education for universities of Kazakhstan, coordinators have been appointed and are working. At the same time, in spite of the requirement of the Law of the Republic of Kazakhstan “*On Education*” that all state educational programs, including higher education, should be developed taking into account inclusive education. Unfortunately, the existing state educational programs do not provide for differentiation in terms of mastering the content of the educational program in relation to students with disabilities. Thus, the possibility of, for example, extending the period of study at the undergraduate level for one two year, and at the postgraduate programs by 0.5 years for persons with disabilities, is not provided for. In addition, there is currently no statutory

requirement for all universities in the design and implementation of educational programs to include special (adaptation and rehabilitation) disciplines (modules) of choice for people with disabilities and persons with special educational needs. Accordingly, the staff of universities does not provide for the rate of a specialist dialectologist who would implement these special (adaptation and rehabilitation) disciplines (modules). Also, there is an insufficient level of preparedness of academic staff to work with students who have different characteristics, which affects the quality of the educational process.

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