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## PROBLEMS OF PROTECTING CHILDREN'S RIGHTS IN EDUCATIONAL INSTITUTIONS

### Abstract

The main purpose of the article is to conduct a legal analysis of the protection of children's rights. Taking into account the protection of children from violence in society, the full protection of children's rights in educational institutions is widely considered. Teachers have a special role in the protection of children's rights, as they are the main person in the field of education and upbringing, in the formation of national values in society, cultural and spiritual development of the future generation. Therefore, in order to create a socio-economic situation that protects the rights and legitimate interests of the child, it is necessary to consider the child rights system and the education system together. Experts from different periods in our country did not ask the question at what age a child should be introduced to human rights, in developed countries, it is in the cultural code that the UN Convention on the Rights of the Child is the main document, and any citizen recognizes the established high responsibility for cruelty not only in relation to someone else's child, but also to one's own child. This article pays special attention to these issues.

An important component of the formation of the legal space of the school is the implementation of the rights and freedoms of all participants in the educational process.

The rights and responsibilities of students are one of the defining characteristics of a democratic type of educational culture. The shortcomings allowed in the implementation of simple norms such as ensuring the rights and legitimate interests of a student in an educational institution, ensuring the protection of his life and health, respecting the child's personality, the right to express his opinion and trust, and exercising discipline in respect of his dignity are comprehensively considered.

The primary research method is the analysis of legal regulations and literary sources on the issues of legal regulation of child rights protection.

**Keywords:** educational institution, teacher, student, children's rights, rights and legitimate interests, adulthood.

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## БІЛІМ БЕРУ МЕКЕМЕЛЕРІНДЕГІ БАЛА ҚҰҚЫҚТАРЫНЫҢ ҚОРҒАЛУ МӘСЕЛЕЛЕРІ

### Аңдатпа

Мақалада бала құқықтарын қорғауға құқықтық талдау жасауды негізгі мақсат етіп қояды. Қоғамдағы зорлық-зомбылықтан балаларды қорғаудың қарастыра отырып, білім беру мекемелеріндегі бала құқықтарының толық қанды қорғалу мәселелері кеңінен қарастырылады. Бала құқығын қорғауда педагогтардың рөлі ерекше көрінеді, себебі, болашақ ұрпақтың қоғамдағы ұлттық құндылықтарды дәріптеуіне, мәдениетті және рухани дамуы жағынан орта қалыптастырып, білім мен тәрбие беруде негізгі тұлға болып танылады. Сондықтан да бала құқығы мен заңды мүдделерін қорғауды жүзеге асыратын әлеуметтік-экономикалық жағдай жасау мақсатында бала құқығы жүйесі мен білім беру жүйесін біріктіріп қарау керек. Бізде қай дәуірдің мамандары болсын, баланы қанша жастан адам құқықтарымен таныстыру керек деген сұрақты алдарына қойған емес, дамыған елдер де Бала құқығы

туралы Біріккен Ұлттар Ұйымының Конвенциясының негізгі құжат екенін саналарына құйып, өзгенің баласы емес өз баласына қатігездік танытудың жауаптылығының жоғары болатындығы бекітілгенін кез-келген азамат мойындайды. Аталған мақалада осы мәселелерге ерекше назар аударылады.

Мектептің құқықтық кеңістігін қалыптастырудың маңызды құрамдас бөлігі білім беру процесіне барлық қатысушылардың құқықтары мен бостандықтарын іске асыру болып табылады.

Оқушы құқықтары мен міндеттері педагогикалық мәдениеттің демократиялық типіне тән белгілердің бірі болып табылады. Білім беру мекемесіндегі оқушының құқықтары мен заңды мүдделерін сақтауға, оның өмірі мен денсаулығын қорғауды қамтамасыз етуге, баланың жеке басын, пікір мен сенім білдіру құқығын құрметтеуге, қадір-қасиетін құрметтеу негізінде тәртіпті болу сияқты қарапайым нормаларды орындауда кететін кемшіліктер жан-жақты қарастырылған.

Зерттеудің жетекші әдісі – бала құқығын қорғауды құқықтық реттеу мәселелеріне арналған нормативтік құқықтық актілер мен әдеби дереккөздерді талдау әдісі.

**Кілт сөздер:** білім беру мекемесі, педагог, оқушы, бала құқығы, құқықтары мен заңды мүдделері, кәмелет жасы.

**Қаржыландыру:** *Зерттеу AR15473346 жобасы аясында жүргізіледі және оны Қазақстан Республикасы Ғылым және жоғары білім министрлігінің Ғылым комитеті қаржыландырады.*

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## **ПРОБЛЕМЫ ЗАЩИТЫ ПРАВ ДЕТЕЙ В ОБРАЗОВАТЕЛЬНЫХ УЧРЕЖДЕНИЯХ**

### *Аннотация*

Основной целью статьи является проведение правового анализа защиты прав детей. С учетом защиты детей от насилия в обществе широко рассматривается полноценная защита прав детей в образовательных учреждениях. Особая роль в защите прав детей принадлежит педагогам, так как они являются главным лицом в сфере образования и воспитания, в формировании национальных ценностей в обществе, культурном и духовном развитии будущего поколения. Поэтому для создания социально-экономической ситуации, защищающей права и законные интересы ребенка, необходимо рассматривать систему прав ребенка и систему образования в совокупности. Специалисты разных периодов в нашей стране не задавались вопросом, с какого возраста следует знакомить ребенка с правами человека, в развитых странах именно в культурном кодексе основным документом является Конвенция ООН о правах ребенка, и любой гражданин признает установленную высокую ответственность за жестокость не только по отношению к чужому ребенку, но и к своему собственному. В данной статье этим вопросам уделяется особое внимание.

Важной составляющей формирования правового пространства школы является реализация прав и свобод всех участников образовательного процесса.

Права и обязанности учащихся являются одной из определяющих характеристика демократического типа образовательной культуры. Комплексно рассматриваются недостатки, допускаемые при реализации таких простых норм, как обеспечение прав и законных интересов учащегося в образовательном учреждении, обеспечение охраны его жизни и здоровья, уважение личности ребенка, право на выражение своего мнения и доверия, осуществление дисциплины в отношении его достоинства.

Основным методом исследования является анализ правовых норм и литературных источников по вопросам правового регулирования защиты прав ребенка.

**Ключевые слова:** образовательное учреждение, педагог, ученик, права детей, права и законные интересы, совершеннолетие.

**Финансирование:** *Исследование проводится в рамках проекта AR15473346 и финансируется Комитетом науки Министерства науки и высшего образования Республики Казахстан.*

### **Introduction.**

The situation with the protection of children's rights in society has become one of the pressing issues that have not been removed from the agenda for many years. Despite the fact that the protection of every born child is reflected in legal norms, you involuntarily begin to think when you see shocking news in news sources. Issues

of child protection from infancy through the preschool and adolescent ages are regulated by family law, educators, teachers, psychologists, legal acts of a strong and just state. And how can one hide the humiliation of an abandoned child, a drug-addicted teenager, or children with disabilities subjected to cruel educators?! The incidence of violence and criminal offenses among teenagers is increasing, and the involvement of children in criminal groups is increasing every day.

Decree of the President of the Republic of Kazakhstan dated January 19, 2022 № 780 and the announcement of the Year of the Child [1] should be celebrated not just with slogans or in the form of a celebration, but for the purpose of protecting children. First of all, it was said that the authorities must take specific actions in the field of healthcare, education and social welfare.

Creating favorable conditions for the lives, development, upbringing, and education of all children, as well as protecting them from violence and abuse, is one of the main tasks of the social policy of any state. However, children around the world face violence in their families, local communities, and educational institutions. This complex and serious issue was not widely discussed by the global community until recently. The UN World Report on Violence Against Children, published in 2006, marked the first international effort to comprehensively analyze not only the magnitude of violence against children but also its negative consequences. According to the report, one in ten students worldwide is bullied at school, and this number continues to grow each year.

Based on the above, the main purpose of this article is to conduct a legal analysis of the protection of children's rights.

At the present stage of development of the state and its legal system, in the political-legal, socio-economic, moral and cultural spheres of society from the point of view of globalization, it is becoming increasingly important to increase the effectiveness of the legal model that ensures the protection of the fundamental rights and legitimate interests of people, including children. The reflection of universal principles and norms of international law in the Constitution of the Republic of Kazakhstan predetermined the recognition of the highest value of human rights and freedoms, their preservation and protection are guaranteed by the state.

Today, the regulatory system for protecting children's rights is sufficiently reflected in international legal documents and state regulations. But what level of protection of children's rights is in these documents?! Unfortunately, this issue is one of the most pressing in society. No violence against children cannot be justified, and efforts to prevent any form of violence must be intensified. According to UNESCO report 2019 [2], one in three students worldwide experience various forms of bullying and violence from peers or classmates. Therefore, taking into account especially dangerous situations within an institution, changes in legislation, effective internal procedures and rules in educational institutions, child protection specialists, non-governmental organizations working with children and youth need to develop a comprehensive prevention system to prevent any type of violence and ensure the implementation of methodological recommendations on protection issues.

**Methods and Materials.** The study employed historical, formal-legal, and comparative methods.

1) historical method – historical study of lawmaking practice related to the meaning and content of protecting the rights of the child;

2) formal-legal method - a comprehensive and more in-depth study of the content of the norms established by the Criminal Code of the Republic of Kazakhstan, in the process of considering the effectiveness of punishment for child abuse;

3) the comparative method is used in the process of comparison with domestic legislation and foreign legislation.

**Discussion of the topic.** Article 28 of the UN Convention on the Rights of the Child, to which Kazakhstan is a participant «States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

a) make primary education compulsory and available free to all;

ә) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

б) make higher education accessible to all on the basis of capacity by every appropriate means;

б) make educational and vocational information and guidance available and accessible to all children;

р) take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries [3].

According to UNESCO recommendations, it is recommended to start teaching children about human rights from preschool age, but in their opinion, this is a long process. After all, a preschooler's understanding of the word «law» is a complex abstract world. However, the Convention on the Rights of the Child is introduced to preschool children in developed countries using various play methods. In our country, instead of teaching preschoolers the rights of the child, educators, in the process of teaching correct eating behavior, when putting them to bed, during play, show aggression instead of calmness, when you see that instead of comforting a crying child, they do things that make them cry, thoughts come that before hiring them it is worth teaching them about children's rights.

When the world defends the rights of children and proclaims that it will protect them from the evil and violence in the world, when students sitting at their desks in universities are stumbling around not knowing their constitutional rights, one wonders whether child abuse will stop so soon!? After all, when a teenager who has reached the age of majority does not know his rights, it is difficult for him not to infringe on the rights of others.

In most cases, children's rights are violated by their relatives. A «problem» parent is not the child's fault, but his misfortune. Abuse of children, which includes not only beatings and bodily harm, but also sexual harassment and other forms of treatment of adults, must be recognized as acts of cruelty, punishing parents with the highest punishment. The result of the social consequences can be seen in the fact that children are not sent to educational institutions, they are forced to work long hours or they become vagrants due to lack of supervision for their children. School-age children go to school with bags, become victims of various gambling games, and pretend that they are coming home from school in the evening. This also indicates the indifference of parents to the child, the lack of communication between the child, parents and teachers.

International organizations have drawn attention to the statistics of deprivation of children's right to education in India, and if in 1990 more than 11 million girls had the right to education, but the opportunity to receive education in educational institutions was limited, this issue did not lose its relevance until 2010 [4]. Here, international experts came to the conclusion that the failure to provide education to women in the country is a state policy of enslavement.

The Law on the Rights of the Child in the Republic of Kazakhstan defines the goals of the state policy of the Republic of Kazakhstan in the interests of children as follows:

- 1) ensuring of rights and legal interests of children, non-admission of their discrimination;
- 2) strengthening of basic guarantees of rights and legal interests of children, as well as restoration of their rights in case of violations;
- 3) formation of legal grounds for guarantees of rights of a child, creation of the relevant bodies and organizations on protecting rights and legal interests of a child;
- 4) assistance for physical, intellectual, spiritual and moral development of children, patriotic, civic consciousness and peacefulness education, as well as implementing a personality of a child in favor of society, traditions of the people of the state, achievements of national and world culture;
- 5) ensuring of purposeful work on formation of legal sense and legal culture of a minor child;
- 6) ensuring protection of children from information harmful to their health and development [5].

Although government policy clearly defines the protection of children's rights, Kazakhstan does not yet have a government program to combat bullying in schools. There are a number of proposals for the introduction of such programs, but they have not yet been accepted as a unified standard. Schools are also reported to lack the resources to implement such programs. But, contrary to popular belief, it is not necessary to increase the number of school psychologists (although this is also necessary), but first of all to improve the qualifications of school administrators and teachers - to train them in modern methods.

The lack of scientific and methodological literature, significant costs (according to the ESM Institute of Education, training one teacher in the Norwegian EBP method costs 3.9 thousand US dollars, and 9 - 9.8 thousand US dollars for American positive Action) is a serious problem. The negative role and resistance of trained personnel and teachers also play a role, citing high workload and stereotypes about the responsibilities of a teacher at school [6].

Today, the school has become only a provider of education, but in the past it also served as an educational institution. Many teachers neglect to manage the classroom environment and the nature of interactions between children. This negatively affects the psychological state of students and increases aggressiveness in school groups. An important component of the formation of the legal space of the school is the implementation of the rights and freedoms of all participants in the educational process.

Mutual rights and responsibilities of student and teacher are one of the characteristics of a democratic type of pedagogical culture. The teacher is obliged to protect the rights and freedoms of the student, ensure the protection of his life and health, respect the child's personality, the right to express opinions and beliefs, and maintain order based on respect for human dignity. The student has the right to use legislative mechanisms to

protect against pedagogical arbitrariness. The student does not have full legal capacity, which means he does not bear full responsibility for his illegal actions, therefore, as a rule, the teacher must be the guarantor of the protection of the rights of the child in the education system until graduation.

In the United Arab Emirates, special child protection officers (inspectors) take full custody of children from the moment they enter educational institutions until they are handed over to their parents. The safety of children, cruelty on the part of the teacher, and actions such as students raising their hands against each other will never be tolerated. This is due to the fact that in this country the activities of school inspectors are considered as a person responsible for the full protection of children's rights, and a special institute has been formed [7].

The district inspector controls a certain area allocated to him. He can't focus only on school. Therefore, it is natural to have school inspectors in educational institutions of the country. The school inspector must take into account the age, origin and marital status of each student, ensure his safety, protect public order on the territory of the educational institution, facilitate the timely resolution of key issues related to the school, through cooperation with teachers, school psychologists and the administration of the educational institution. If parents monitor the child's behavior in the family, then the school inspector monitors the behavior in society.

The presence of school inspectors in educational institutions greatly helps in the prevention of crime among minors.

However, it is better for the school inspector to find out the reasons for the misconduct, and not immediately punish the violators. It is necessary to carry out individual work with each child and his parents, give them psychological and moral advice, give them the opportunity to take the right path.

There are many shortcomings associated with the organization of the work of the inspector, the workload is assigned to only one inspector, regardless of the number of children in the school, inspectors work according to a memorized plan and contribute to the implementation of the plan, one inspector is assigned to one school or one inspector to three schools, and the results of his work no, moreover, the state should not turn a blind eye to many years of bad actions, such as working only with children who are on the school's «black list», keeping them under control, «agreeing» with school directors, hiding the arbitrariness and cruelty of actions shown to children. We will only be able to fully protect the safety and rights of children when solutions to these problems are found.

The excessive stress that both the modern student and the teacher have to bear on their shoulders, the unjustified authoritarianism of adults in relations with children, including in the learning process, the distance of the family from the school as a social institution, the low level of legal culture of adults and children, it seems, The feeling of comfort and security at school began to disappear.

The issue of protecting the rights of the child is important not only for improving the Kazakh school as a whole, increasing its competitiveness in the global educational space, but also for the formation of civil society in Kazakhstan.

The main provisions of the Declaration of the Rights of the Child (1959) and the UN Convention on the Rights of the Child (1989) became important guidelines for protecting the rights and interests of children in the state. It was these international documents that announced the creation of a new ethics of relationships between adults and children. Currently, more than 150 countries around the world have ratified the Convention on the Rights of the Child, our society is just beginning to recognize the child as an independent person with legal rights.

So, another reason for the teacher's reluctance to realize the rights of the child at school is the lack of attention to legal education and training in the practice of pedagogical universities.

The subject «Fundamentals of Law», taught at school, is not provided for in all pedagogical specialties, and the syllabus of this subject does not provide for the study of the concepts «Rights of the Child», «Convention on the Rights of the Child», «Mechanisms for the Protection of Human Rights», etc. In connection with this, a very important question arises: how to prepare a future teacher so that he can ensure and protect the rights of the child when he comes to work at school?

The need to study children's rights is obvious to all teachers due to a number of factors.

Innovative processes associated with the modernization of the entire education system place special demands on the professional activities of teachers. The society of the new millennium needs a teacher who not only acquires special knowledge and skills, but also has certain personal qualities, such as dignity, nobility, love for children, active citizenship, and also has knowledge in various fields of law. The teacher must be able to use them in practice, use his rights, and work to prevent violations among students. Thus, the legal culture of the future teacher becomes an integral component of his professional training.

The task of the future teacher is to learn to organize the teaching and learning process at school in such a way as to create a suitable moral and legal environment that promotes the successful development of each child. The legal space of the school is understood as «the creation of a democratic way of life» which represents a

working model of modern civil society, where the freedom of everyone to act at their own discretion is limited only by the freedom to act as if the rules of joint life of other members of society were determined by a general agreement.

Every fifth Kazakh teenager aged 11 to 15 years becomes a victim or participant in bullying (bullying). Such data are presented in the Health Behavior in Schoolaged Children (HBSC) study of the National Public Health Behavior Center [8].

So, since the majority of graduates of a pedagogical university are not only subject teachers in schools, lyceums and gymnasiums, but also class teachers, they have to educate parents in preserving and protecting the rights of the child.

Thus, a feature of the professional training of future teachers should be a clear understanding of the conditions for the implementation of children's rights in school, knowledge of international regulations that determine the status of the child and teacher in the modern world, as well as mastery of skills and technologies for protecting and ensuring the rights of the child in the modern school environment.

In Article 27 of the Constitution of the Republic of Kazakhstan clearly states:

1. Marriage and family, motherhood, fatherhood, and childhood shall be under the protection of the state.
2. Care and upbringing of children shall be a natural right and responsibility of parents.
3. Adult, able-bodied children must take care of their disabled parents [9].

The Criminal Code of the Republic of Kazakhstan establishes the general age of criminal responsibility at 16 years [10]. The second part of this article lists the criminal offenses for which persons over 14 years of age are subject to criminal liability. For example, a 14-year-old citizen can be prosecuted for falsely reporting murder, kidnapping, robbery, terrorism, vandalism, or aggravated assault. Reducing the age of criminal responsibility for certain offenses depends on the fact that at the age of 14 a person will be able to fully understand the illegal nature of the act and its consequences.

O.V. Polikashina examines not only the signs of certain types of crimes against minors, but also those criminal law problems that arise when classifying crimes of this category. Special attention is paid to the problems of the influence of adults on the behavior of a minor [11].

I.A. Popov is in the opinion of the problems of legal and organizational support for the prevention of juvenile crimes, psychological aspects of the investigator's preventive activities against minors during the preliminary investigation, features of the prevention of juvenile crimes by employees of operational units and units for juvenile affairs of internal affairs bodies [12].

The other alternative to the juvenile punishment is a sentence in juvenile prison. While a juvenile prison sentence could in principle include rehabilitative components, these programs are not widely offered but prisoners have to actively seek to be admitted. It is possible to continue high-school or comprehensive school education while in prison by completing book exams, but no actual tuition is offered. The most negative effect of a prison sentence likely accrues through the peer effects, as the peer group in prison includes criminals with considerable criminal histories. [13]. While both probation and prison sentences include fewer rehabilitative elements than the juvenile punishment, their respective effects relative to juvenile punishment may still be very different due to the types of criminals involved and the peer groups the offenders are exposed to [14].

Kuzmina, O. S. the recommendations highlight the arsenal of practice-oriented tools in the form of technology, psychological and pedagogical methods and techniques for the prevention of bullying and pre-bullying situations in inclusive school practice [15].

Experience shows that cases of violation of children's rights go unnoticed in the country's educational institutions. Only high-profile cases of the use of special forms of cruelty receive wide publicity, but, as a rule, the administration of educational institutions does not take appropriate measures to suppress and prevent further bullying. With children involved in bullying, teachers try to discuss what happened, reconcile the conflicting parties, disciplinary measures are applied to the offender, and the victim is referred to a social worker or psychologist. In addition, administration, teachers and psychologists do not always have the skills to effectively help victims of bullying.

### **Conclusion.**

According to the above, legal literacy and legal culture of citizens in society must be formed in order for the protection of children's rights to be carried out under normal conditions. Where to start?! Of course, from legal consciousness, for example, in the United States of America, from preschoolers to high school, children carry a miniature version of the Constitution in their pockets. This doesn't mean you just carry a book in your pocket, it teaches you to read, study and appreciate its contents. The result of this is to teach the child what is right and what is wrong from an early age, not by telling the child what is right and what is wrong, but on the basis of this Constitution and teaching him to abide by and respect it. . Based on this, legal consciousness and culture adapt to protecting their rights and not encroaching on the rights of others.

The task of school inspectors is not only to deal with “naughty” children, but also to develop the ability to explain simple things, for example, how to behave in a public environment, not to trust strangers and to correctly follow traffic rules.

Today, in the era of changes and additions to legislation in all areas of law, the use of subject textbooks written with old information in classes when the child is growing up, not to mention the protection of the rights of the child, means that the level of the student’s legal education lags behind by two to three years. Prerequisites for protecting children's rights - first of all, we must make the child himself legally literate, because only a legally literate person can feel that his rights are not protected.

That's why I think that even if we don't start in preschool, we should start teaching school-aged children their rights from the very beginning. Only then will it be possible to avoid legal nihilism, protect the rights and responsibilities of future generations in society, and it will be possible to realize them equally.

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