



## THE RIGHTS OF PERSONS WITH DISABILITIES AND CLASSIFICATION AS A SOURCE OF LAW

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Article history:	Abstract:
<b>Received:</b> 4 <sup>th</sup> January 2024 <b>Accepted:</b> 2 <sup>nd</sup> March 2024	This article describes the documents adopted on the provision and protection of the rights of persons with disabilities and their importance in ensuring the rights of persons with disabilities, as well as the process of codification of legal sources. At the same time, the principles of protecting the rights of persons with disabilities in our national legislation and the Constitution of the Republic of Uzbekistan are provided
<b>Keywords:</b> sources of law, international agreements, universally recognized principles, convention, person with disabilities, "Decade of Disability", Paralympics.	

### INTRODUCTION:

Protection of the population in need of social protection is an expression of humanism and social direction in the state policy of any country. It is the support of the population, in particular certain categories, such as persons with disabilities, that helps the state to understand social problems in society and their causes. Therefore, the issue of codification of these legal norms is important in terms of ensuring and protecting the rights of persons with disabilities.

In theory, **sources of law** mean the external form of expression of legal norms. **Sources** are norms that regulate relations between subjects of legal relations.

In law, sources are conditionally divided into main and auxiliary sources. Resources on the rights of persons with disabilities can be similarly classified.

The **main sources of the rights** of persons with disabilities include international treaties and universally recognized principles of international law, norms adopted on the basis of national legislation.

**International treaties**, as the main sources, represent the voluntarily agreed will of the subjects of international law, made in writing, on the determination, modification or cancellation of mutual rights and obligations.

**Universal principles** [1] define general rules of conduct for subjects of international law. Also, principles regarding the rights of persons with disabilities can be conditionally divided into the following: basic, general, specific and national.

### DISSCUSSION:

For the first time in 1924, the issue of codification at the level of a universal international organization arose when the Assembly of the League of Nations adopted a

special resolution providing for the establishment of a permanent body for the progressive codification of international law - the Committee of Experts, consisting of 17 experts.

At present, the UN plays an important role in the codification of international legal norms, according to Article 13 of its Charter, it defines the following: "1. The General Assembly organizes studies and makes recommendations for the following purposes:

a) ... to encourage the progressive development of international law and its codification.

When using the term "progressive development" (Article 15), it means "... preparation of a draft Convention on issues not regulated by international law or where the law has not yet developed in the practice of states." At the same time, the term "codification" is used in the sense of "... more precise formation and systematization of international legal norms in areas where there are extensive state practices, precedents and doctrines" [2].

Usually, when studying the scope of sources in international law, one refers to Article 38 of the Statute of the UN International Court of Justice, which states "1. The court, which is obliged to resolve disputes referred to it on the basis of international law, applies the following:

a) general and special international conventions defining the rules clearly recognized by the conflicting states;

b) as evidence of universal practice recognized as international custom, legal norm;

c) general principles of law recognized by civilized nations;

d) Court decisions and doctrines with the clause specified in Article 59, qualified experts on public law of



different nations as an auxiliary tool in determining legal norms.

2. This decision does not limit the right of the court to allow the work, if the parties agree to it" [3].

Currently, the problems of persons with disabilities cannot be considered in modern conditions without taking into account the generally recognized international normative legal documents, for example:

On December 10, 1948, the "Universal Declaration of Human Rights" was adopted by the UN by resolution 217 (III).

ILO Convention 102 of August 26, 1952 "On Minimum Standards of Social Security".

ILO Recommendation 99 of June 22, 1955 "On the Retraining of the Handicapped".

ILO Convention 111 "On Discrimination in Employment and Occupation" of June 25, 1958.

The "International Covenant on Economic, Social and Cultural Rights" of December 16, 1966 was adopted by the UN by resolution 2200 a (XXI).

ILO Convention 128 of June 29, 1967 "On Invalidity, Old Age and Survivor's Benefits".

December 1, 1969 "Declaration of Social Development and Development", adopted by the UN Resolution 2542 a (XXIV).

December 20, 1971 "Declaration of Mentally Retarded" was adopted by UN Resolution 2856 (XXVI).

ILO Convention 142 "On the Development of Human Resources" of June 20, 1975.

UN ECOSOC Resolution 1921 (LVIII) of May 6, 1975 "On the Prevention of Disability and the Rehabilitation of Disabled Persons".

December 9, 1975 "Declaration on the Rights of Persons with Disabilities", adopted by UN Resolution 3447 (XXX), which defined the term "person with disabilities" for the first time, was one of the first steps to reveal the meaning of the concept. The document is recommended for states and aims to develop international and national law in the field of implementation of the rights of persons with disabilities.

On December 16, 1975, the United Nations declared 1981 the International Year of the Handicapped under the theme of "Full Participation and Equality."

World Program of Action on the Treatment of Persons with Disabilities adopted by UN Resolution 37/52 of December 3, 1982.

The years 1983-1992 were declared by the UN as the "Decade of the Disabled", adopted by the UN on December 3, 1982 with the resolution No. 37/53.

ILO Convention 159 "On Vocational Rehabilitation and Employment of Disabled Persons". The Convention entered into force on June 20, 1985.

Convention on the Rights of the Child of November 20, 1989.

1990 Universal Declaration on the Survival, Protection and Development of Children.

1991 Principles for the Protection of the Mentally Ill and the Promotion of Mental Health.

1993-2002 UN ESCAP Resolution 49/3 for Asia and the Pacific was announced. ESCATO Resolution 58/4 of May 22, 2002 "On building an open, affordable and equal society for people with disabilities in the Asia-Pacific region in the 20th century", which extended the Asia-Pacific Decade of Persons with Disabilities for another decade from 2003 to 2012 was announced.

1993 Vocational Rehabilitation and Employment of Disabled Persons Convention and Recommendations.

The Vienna Declaration of June 25, 1993 and the Program of Action adopted by the World Conference on Human Rights.

On December 20, 1993, adopted by the UN by resolution 48/96 "Standard Rules for Ensuring Equal Opportunities for Persons with Disabilities".

1994 UNESCO Salaman Declaration on Principles, Policy and Practice in the Education of Persons with Special Needs.

The Copenhagen Declaration and Program of Action adopted at the World Summit in March 1995.

1995 Declaration on the Rights of Persons with Disabilities.

On May 22, 2001, the World Health Organization at the World Health Assembly approved a new version of the "International Classification of Activity, Life Activities and Health Limitations" in order to ensure the rights of persons with disabilities.

At the same time, it should be said that the above principles, declarations and decisions of the international organization and the conference act as a source of recommendations rather than imperative norms of international law.

The UN Convention on the Rights of Persons with Disabilities was adopted by UN Resolution 61/106 of December 13, 2006, and entered into force on May 3, 2008. According to its structure, the Convention consists of 8 chapters and 50 articles. The peculiarity of this document is that the Convention is the first agreement in the field of human rights concluded in the 21st century and the first multilateral Universal Convention in the field of protection of the rights of persons with disabilities.

The convention establishes general principles for persons with disabilities, general obligations of the participating states to carry out educational work, categories of women with disabilities and children with disabilities, the indispensable right of each person to live



and takes all the necessary measures to ensure that persons with disabilities carry out their effective activities on an equal basis with others. The convention also provides for the freedom of risk and emergency humanitarian situations, the use of justice, freedom and personal immunity, freedom from torture and compassion, freedom from inhuman or degrading treatment and types of punishment, freedom from exploitation and violence, freedom of movement and citizenship, independent lifestyle and involvement in the local community, individual mobility, freedom of thought and belief and access to information, privacy, education, health, it provides for participation in social and cultural life, recreation and sports activities, International Cooperation and monitoring, and the provision of other rights.

As of March 2023, 193 countries and the European Union are parties to the Convention, and 96 countries are parties to the Optional Protocol.

Uzbekistan signed the Convention in 2009 and ratified it in 2021, recognizing that persons with disabilities have "equal legal capacity in all aspects of life" [4].

On December 19, 2022, a national action plan for 2023-2025 on the implementation of the Convention on the Rights of Persons with Disabilities was developed in the Republic of Uzbekistan, and according to it, the National Action Plan for 2023-2025 on the Implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Uzbekistan and on the implementation of this plan "Road map" approved. It is also decided that the Cabinet of Ministers of the Republic of Uzbekistan will take measures to ensure the implementation of the National Action Plan for 2023-2025 on the implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Uzbekistan. This document was developed by the government in close cooperation with civil society institutions, international organizations and foreign partners. As a member of the UN Human Rights Council, the Republic of Uzbekistan undertakes to approve the national action plan for the implementation of the Convention in national legislation and law enforcement practice. The first note on the fulfillment of the country's obligations under the Convention was submitted in 2023.

The Optional Protocol to the Convention is an additional agreement to it, which was adopted on December 13, 2006 and entered into force on May 3, 2008. The Optional Protocol defines the procedure for consideration of individual complaints under the Convention, as well as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of

Discrimination Against Women. In the Convention on the Elimination of All Forms of Racial Discrimination and other instruments, the parties agree to recognize the competence of the Committee on the Rights of Persons with Disabilities to consider complaints by individuals or groups who claim that their rights under the Convention have been violated, if this has occurred, and the Committee has also requested from a State Party has the right to request information and make recommendations to him. In addition, parties may authorize the committee to investigate, report and make recommendations on "...serious or systematic violations" of the Convention.

Uzbekistan has adopted the Incheon Strategy for Ensuring the Real Rights of Persons with Disabilities in the Asia-Pacific Region 2013-2022, which launched the new Asia-Pacific Decade of Persons with Disabilities.

In this regard, there is the Sendai Framework for Disaster Risk Reduction in 2015-2030. The reports of the UN Secretary General are important in this regard [5].

Supporting sources include the decisions of international organizations, national laws, court decisions, doctrines, opinions of scholars (*opinio juris gentium*), traditions, customs, courtesy, justice, religious norms and ethics.

National sources include the 1992 Constitution of the Republic of Uzbekistan, which previously did not use the term "person with a disability". In preparation for the referendum on April 30, 2023, the term "disabled person" was included for the first time in Articles 57, 70 and 115 of the new Constitution of the Republic of Uzbekistan, and it entered into force according to the positive results of the referendum.

In particular, in the first part of Article 57, "the rights of disabled and lonely elderly people, persons with disabilities and other socially needy categories of the population are protected by the state", in the third part, "the conditions for the full use of facilities and services of social, economic and cultural spheres by persons with disabilities" it is worth noting that it is defined as "creates conditions, helps them get a job, get an education, and provides them with the opportunity to get the necessary information without hindrance".

In addition, Article 70 states that "in the Republic of Uzbekistan, trade unions, political parties, societies of scientists, women's organizations, organizations of veterans, youth and persons with disabilities, creative associations, mass movements and other associations of citizens are recognized as public associations."

Also, in paragraph 3 of Article 115, we can witness that the authority of the Cabinet of Ministers of the Republic of Uzbekistan has been expanded to "ensure the



effective functioning of the system of social protection of the population, including persons with disabilities." At the legislative level in Uzbekistan, the Law of the Republic of Uzbekistan No. 415 of 26.12.2016 "On social services for the elderly, disabled and other categories of the population in need of social protection", the Law "On the rights of persons with disabilities" (approved by the Legislative Chamber of the Supreme Majlis on 22.07.2020 adopted, approved by the Senate on 11.09.2020, signed by the President on 15.10.2020, entered into force on 16.01.2021) is available.

In the decree of the President of the Republic of Uzbekistan dated January 28, 2022 "On the development strategy of the new Uzbekistan for 2022-2026" regarding the rights of persons with disabilities, it was noted that "when assigning a pension, the time spent caring for children with disabilities from childhood to 18 years of age should be included in the length of service".

In addition, goal 66 of Annex 1 to the Decree of the President of the Republic of Uzbekistan "On building a humane state through the further development of human dignity and dignity and the further development of a free civil society" includes the formation of an effective system of supporting persons with disabilities, improving their living standards and quality defines the following in order to:

To prevent discrimination on the basis of disability, to ensure equal conditions for the realization of the rights, freedoms and legal interests of persons with disabilities, and to ensure the inevitability of liability for their violation.

Implementation of universally recognized international norms and standards in the field of ensuring the rights of persons with disabilities into national legislation.

Introducing transparent, modern methods and criteria for medical-labor expertise and disability determination, increasing the level and quality of medical and social assistance to persons with disabilities.

To strengthen the interaction of persons with disabilities with family, society and the state, to be in a comfortable environment for them, to create the necessary conditions for access to city passenger transport, social and other infrastructure facilities without hindrance.

Improving the system of inclusive education and employment, which ensures the involvement and active participation of persons with disabilities in the socio-economic life of society.

A step-by-step transition to a social model of disability identification.

In addition, goal 68 of this document focuses on the development of the Olympic and Paralympic Movement.

At the same time, in the development of summer Paralympic sports, special attention is paid to further development of a healthy lifestyle among Paralympic athletes. In particular, promoting this initiative among citizens with disabilities;

obtaining more than 100 licenses for the Paris-2024 Paralympic Games by organizing sports included in the list of Paralympic sports in sports educational institutions.

Attracting and involving youth in sport.

By 2026, to create the necessary infrastructure in potential areas, involving the most advanced and innovative technologies, in order to develop winter and extreme sports, including skiing.

Specialization of regions for preparing athletes for the Winter Olympic and Paralympic Games based on existing potential and opportunities.

Development of appropriate sports in regions specializing in winter sports, formation of national team members and ensuring their participation in international competitions starting from 2023.

Encourage and support the development of winter sports, obtain at least 10 licenses for the 2026 Winter Olympics

#### **CONCLUSION:**

Currently, the above are the main documents that are the basis for the further improvement of the rights of persons with disabilities, a simple explanation of which is as follows:

firstly, the rights of persons with disabilities, their provision and protection have always been relevant for humanity;

secondly, there is a sufficient level of scientific-theoretical, legal and practical base, which has found its place in international and national agreements and customs, judicial practice and the works of influential scientists;

thirdly, states, as the main subjects of international law, seek to regulate cooperation on the protection of the rights of persons with disabilities on the basis of international, regional and local norms.

Also, the year-by-year improvement of international and national standards for persons with disabilities is a vivid expression of the efforts being made to fully ensure their rights in practice.

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