



## UNIVERSALITY OF HUMAN RIGHTS AND THE RIGHTS OF PERSONS WITH DISABILITIES: FROM THEORY TO NATIONAL LEGAL PRACTICE

Khikmatov Shukhrat Shabanovich

Doctor of Philosophy on legal science

<https://doi.org/10.5281/zenodo.18549681>

**Abstract:** This article provides a comprehensive theoretical and practical analysis of the rights of persons with disabilities based on the concepts of human dignity and the universality of human rights. The dominance of the medical model in the historical development of human rights theory is critically assessed, revealing its restrictive impact on the legal subjectivity of persons with disabilities. The study substantiates the role of the social state concept, the principle of non-discrimination, and the doctrine of reasonable accommodation as key mechanisms for ensuring substantive equality.

**Keywords:** human rights, human dignity, persons with disabilities, social state, non-discrimination, reasonable accommodation, universality, national legal system.

The concept of human rights, as the fundamental basis for the establishment of a rule-of-law state and civil society, is grounded in the principles of human dignity, equality, and universality. However, the practical realization of these principles is closely linked to the extent to which human rights are implemented in relation to persons with disabilities. Historically, the theory of human rights was formed on the basis of a model of an “average” individual possessing standard physical abilities, which led to the marginalization of the legal status of persons with disabilities. This situation has generated both theoretical and practical contradictions regarding the universal nature of human rights. From this perspective, it is essential to move beyond perceiving disability solely as a medical or social issue and to conduct a comprehensive analysis of disability as an independent legal phenomenon grounded in human dignity. The principal objective of this research is therefore to provide a scholarly examination of the interaction, harmony, and inconsistencies between international standards and national legal systems in the protection of the rights of persons with disabilities.

Human rights constitute the central idea of the concepts of the rule of law and civil society. The essence of human rights is embodied in the principles of the inviolability of human dignity, equality, and universality. These principles must be applied equally to all social groups within society, including persons with disabilities. The degree to which the rights of persons with disabilities are ensured serves as a key indicator of the actual effectiveness of the human rights system.

Historically, the evolution of human rights theory has been predominantly grounded in the conceptualization of an “average” individual, typically characterized as physically able, socially active, and functionally independent. Such a paradigm, while instrumental in the early development of human rights doctrine, implicitly excluded persons with disabilities from its normative framework. As a consequence, the legal status of persons with disabilities remained insufficiently articulated and inadequately protected. This exclusion has generated substantial theoretical and practical challenges, particularly by undermining the proclaimed universality of human rights and revealing inherent limitations within traditional human rights discourse.

In the earliest stages of legal and doctrinal research, disability was primarily interpreted through a medicalized lens. Within this framework, disability was defined as an individual pathology, bodily impairment, or functional limitation requiring medical intervention or rehabilitation. This perspective effectively reduced disability to a health-related condition, thereby marginalizing its broader social, legal, and human rights dimensions. Under such an approach, persons with disabilities were not recognized as full participants in societal processes or as equal holders of rights, but rather as passive recipients of care, protection, and treatment. Consequently, this perception significantly constrained their legal agency and diminished recognition of their capacity as autonomous rights-bearing individuals within the human rights system.

The Russian scholar E.N. Yakovleva provides a critical reassessment of this paradigm, arguing that the medical model has contributed to a substantive narrowing of the conceptual scope of human rights. According to Yakovleva, this model inherently constructs persons with disabilities as individuals defined by dependency, thereby disregarding their autonomy, decision-making capacity, and social participation. Such a conceptualization not only distorts the principle of human dignity but also reinforces systemic barriers that hinder the full and effective realization of rights by persons with disabilities. From a contemporary human rights perspective, this critique underscores the necessity of transitioning from paternalistic and medically oriented interpretations of disability toward a more holistic, dignity-based, and rights-oriented legal framework<sup>1</sup>.

Indeed, the predominance of the medical model, by its very nature, has generated systemic barriers to the participation of persons with disabilities in social and political life, thereby contradicting the fundamental principle of human dignity. By reducing disability to an individual health-related condition, this approach has historically legitimized exclusionary practices and reinforced paternalistic policies, which limited the recognition of persons with disabilities as equal participants in public life and democratic processes.

The idea of the universality of human rights represents one of the most significant achievements of contemporary legal thought. Nevertheless, such universality has not always been realized in practice. Historically, the application of human rights standards to individuals with physical, mental, or sensory impairments has been complex and often contradictory. In our view, the human rights system is most rigorously tested in relation to this particular category of individuals, as the effective protection of the rights of persons with disabilities requires not merely formal legal declarations but also profound institutional, social, and cultural transformations within society and the state.

The historical development of human rights demonstrates that early conceptualizations of rights were constructed around the model of an “independent,” “self-sufficient,” and “socially active” individual. Consequently, persons with disabilities who did not conform to this normative model frequently remained outside the scope of effective legal protection. This phenomenon may be regarded as a form of latent or structural discrimination embedded within traditional human rights theory. It is precisely for this reason that, at later stages of its doctrinal evolution, human rights scholarship shifted from the paradigm of “equality through the denial of difference” to the more progressive concept of “justice that recognizes and accommodates difference.” This transformation reflects a broader understanding that substantive equality

<sup>1</sup> Yakovleva Ye. N. Поощрение і защита прав инвалидов в международном праве: дис. – М.: IGP RAN, 2015. – С.18-21

cannot be achieved without acknowledging diversity and addressing the specific needs and circumstances of vulnerable groups.

International law has played a decisive role in shaping and advancing this conceptual transformation. In particular, in the aftermath of the Second World War, the protection of human dignity emerged as a central priority for the international community. However, early international human rights instruments contained almost no specific provisions addressing the rights of persons with disabilities. This absence clearly illustrates that the proclaimed universality of human rights was, in practice, only partially realized during that period.

An analysis of this historical context indicates that, until the late twentieth century, the rights of persons with disabilities had not been recognized within international law as an autonomous legal institution. Instead, they were primarily protected indirectly through the general framework of universal human rights norms. In our assessment, such indirect protection proved insufficient to address the specific and multifaceted needs of persons with disabilities. Although general human rights provisions were formally applicable to all individuals, their practical implementation often created additional barriers for persons with disabilities. This reality demonstrated the limitations of the traditional legal assumption that identical rules necessarily produce identical outcomes. In the context of disability rights, such an approach has repeatedly proven ineffective and, in some instances, has reinforced structural inequalities.

The transformation of theoretical approaches toward disability within human rights doctrine is closely associated with the progressive development and deepening of the concept of human dignity. Human dignity cannot be reduced to physical or intellectual capacity; rather, it must be recognized as an inherent and inalienable value possessed by every individual. The scholar T.A. Lykhina characterizes human dignity as the fundamental normative basis for the protection of the rights of persons with disabilities within international law. She emphasizes that this very concept constitutes the ideological and philosophical foundation of the provisions enshrined in the Convention, thereby reinforcing the shift toward a rights-based and dignity-centered model of disability protection<sup>2</sup>.

In our view, the concept of human dignity in the protection of persons with disabilities should not be regarded merely as a declarative or symbolic principle; rather, it must serve as a decisive normative criterion within law-enforcement and judicial practice. This concept performs a guiding and system-forming function in shaping the social and legal policies of the state, influencing legislative development, institutional design, and the interpretation of legal norms. The effective implementation of disability rights, therefore, depends on the extent to which the principle of human dignity is translated from abstract constitutional rhetoric into concrete legal guarantees and enforceable standards.

From this perspective, the analysis of the ongoing human rights reforms in the Republic of Uzbekistan acquires particular scholarly significance. Although the Constitution of Uzbekistan recognizes the individual, as well as his or her life, liberty, honor, and dignity, as the highest social value, the practical realization of this constitutional provision in relation to persons with disabilities requires comprehensive and multidimensional examination. In our assessment, it is precisely at this juncture that the divergence between the theoretical foundations of human rights and national legal practice becomes most apparent. While constitutional guarantees

---

<sup>2</sup> Lykhina T. A. Prava invalidov: problemy mejdunarodno-pravovogo regulirovaniya i mejdunarodnye obyazatelstva Rossiyskoy Federatsii. – Sankt-Peterburg: SPbDU, 2011. – S.40-44.

establish a robust normative framework, the effectiveness of such guarantees ultimately depends on their consistent implementation through legislative mechanisms, administrative practices, and judicial interpretation.

Within human rights theory, the concept of the social state occupies a particularly prominent position. The idea of a social state extends far beyond the mitigation of economic inequality or the provision of material assistance to vulnerable population groups. Primarily, it represents a comprehensive political and legal model aimed at ensuring the dignity of every individual and creating the necessary social conditions for the full realization of rights and freedoms in everyday life. In our view, the substantive meaning of the social state is most clearly manifested in public policies directed toward persons with disabilities, as this category of individuals requires not only formal legal protection but also proactive and inclusive state measures.

Within the theoretical framework of the social state, the so-called “second generation” of human rights—namely, social and economic rights—acquires central importance. The rights to education, healthcare, employment, and social protection should not be perceived as additional privileges or welfare benefits for persons with disabilities. Rather, they constitute essential preconditions for their full and effective participation in social, economic, and political life. In this sense, the concept of the social state compels the human rights system to evolve from the principle of formal equality toward the more advanced and substantively meaningful principle of equality in outcomes and opportunities.

The scholar A.P. Rakhimli characterizes the social state as the constitutional and legal foundation for ensuring the rights of persons with disabilities. He emphasizes that the active social obligations of the state constitute an inseparable component of human rights protection. According to Rakhimli, the principle of the social state should not remain merely a political declaration; rather, it must acquire concrete institutional and practical content within law-enforcement, administrative governance, and judicial practice. Such an approach underscores the necessity of transforming constitutional commitments into effective mechanisms capable of guaranteeing the real and sustainable protection of the rights of persons with disabilities<sup>3</sup>.

According to our analysis, the concept of the social state inherently excludes the possibility of a neutral or passive governmental position in ensuring the rights of persons with disabilities. The state's responsibilities cannot be limited merely to refraining from violations of rights. Rather, the state is obliged to undertake proactive and positive measures aimed at creating equal opportunities for persons with disabilities. In the absence of such measures, the very idea of the social state risks being reduced to a formally proclaimed but substantively hollow declaration, devoid of real transformative impact.

Within this context, the principle of non-discrimination acquires particular significance. Interpreting non-discrimination solely as formal legal equality inevitably oversimplifies the complexity of the human rights system and fails to address the structural inequalities faced by persons with disabilities. In practice, the effective exercise of equal rights by persons with disabilities often cannot be ensured without the introduction of specific legal, institutional, and organizational measures designed to accommodate their individual needs. For this reason, contemporary human rights doctrine has developed and incorporated the concepts of “positive

<sup>3</sup> Rakhimli A. P. Osobennosti konstitutsionno-pravovogo statusa invalidov v Rossiyskoy Federatsii: dis... – M.: Moskovskiy gosudarstvennyy gumanitarnyy universitet im. MA Sholokova, 2007. – S.15-18.



discrimination” and “reasonable accommodation,” which are now widely recognized as essential instruments for achieving substantive equality.

In this regard, T.A. Lykhina characterizes reasonable accommodation as a practical and operational mechanism for the implementation of the principle of non-discrimination. She emphasizes that the failure to provide reasonable accommodation constitutes a distinct and often concealed form of discrimination. According to Lykhina, the absence of necessary accommodation measures on the part of the state and society does not merely result in legal inequality, but rather leads to the de facto exclusion of persons with disabilities from social, economic, and political life. Such exclusion undermines the effective realization of their rights and contradicts the fundamental principles of human dignity, inclusiveness, and equality that underpin modern human rights law<sup>4</sup>.

At this juncture, it is essential to emphasize that the issue of human rights and disability cannot be regarded as a narrowly specialized problem confined to the domain of legal scholarship. Rather, it reflects the broader legal consciousness of society, its system of values, and its fundamental attitude toward the individual. In our view, the degree of success or failure in ensuring the rights of persons with disabilities serves as a reliable indicator of society’s genuine commitment to the principle of human dignity. It is precisely these factors that determine the urgency and relevance of the issue. Consequently, the need for a comprehensive analysis of the human rights of persons with disabilities from the perspectives of international standards, universal human values, and the legal system of the Republic of Uzbekistan is increasingly emerging as both a scholarly and practical necessity.

The research process has demonstrated that a human rights-based approach allows disability to be understood not merely as a social or medical concern, but as a complex legal phenomenon intrinsically linked to the positive obligations of the state. In our assessment, this conceptual approach has served as the principal methodological foundation of the study, enabling a more comprehensive understanding of both the theoretical and practical dimensions of the issue.

One of the key conclusions of this research is that the rights of persons with disabilities within the human rights system should not be interpreted as “secondary” or “special” rights derived from general human rights provisions. Rather, they constitute an autonomous legal institution grounded in the principle of human dignity. Certain scholars attempt to limit these rights within the framework of the social state concept by linking their realization to the economic and institutional capacity of the state. While acknowledging the practical relevance of resource-based considerations, we do not fully support this approach. In our view, rights derived from the principle of human dignity must not be made contingent upon the economic or organizational capabilities of the state, as such conditionality risks undermining the universality and inalienability of human rights.

Furthermore, although a legislative framework aimed at ensuring the rights of persons with disabilities has been established in the Republic of Uzbekistan, its human rights based content has not yet been fully articulated or systematically developed. In particular, the legal regulation of such essential concepts as reasonable accommodation, substantive equality, and non-discrimination remains insufficiently defined at the normative level. In our opinion, this lack of conceptual clarity creates significant difficulties in the practical implementation and

---

<sup>4</sup> Lykhina T. A. Prava invalidov: problemy mejdunarodno-pravovogo regulirovaniya i mejdunarodnye obyazatelstva Rossiyskoy Federatsii. – Sankt-Peterburg: SPbDU, 2011. – S.45-46.

enforcement of relevant legislation. Moreover, even well-developed legal provisions cannot achieve their intended effectiveness in the absence of clearly delineated competencies, effective coordination, and accountability mechanisms among state authorities. We believe that institutional fragmentation represents one of the principal systemic obstacles to the effective protection and realization of human rights in this sphere.

At the same time, particular emphasis must be placed on the role of the judiciary and legal protection mechanisms in ensuring the rights of persons with disabilities. Where courts fail to actively apply international human rights standards in their jurisprudence, the protection of the rights of persons with disabilities risks remaining merely formal and declarative. It is equally important to underline that the effective protection of disability rights cannot be achieved solely through state action. Sustainable and meaningful realization of human rights in this sphere is possible only when civil society institutions particularly organizations representing persons with disabilities are fully involved in decision-making, monitoring, and evaluation processes. Such participatory governance not only strengthens accountability mechanisms but also ensures that policies and legal measures genuinely reflect the needs and lived experiences of persons with disabilities.

Our final conclusion relates to the process of implementation. The findings of this research demonstrate that the effectiveness of legislative and institutional reforms is directly dependent on the mechanisms through which they are implemented in practice. In our view, without comprehensive state programs, adequate financial guarantees, and effective systems of monitoring and evaluation, human rights protection risks remaining purely declarative. Some scholars tend to associate implementation exclusively with the activities of executive authorities; however, we do not fully support this position. Instead, we consider implementation to be a multi-actor process involving legislative, executive, and judicial bodies, as well as civil society institutions and independent oversight mechanisms.

Accordingly, the development of an effective national model for ensuring the rights of persons with disabilities should be based on the integration of several interrelated elements: a normative framework grounded in the principle of human dignity; effective institutional coordination; an active and progressive role of the judiciary; partnership with civil society; and result-oriented implementation mechanisms. In our assessment, such an integrated approach provides the necessary foundation for establishing a scientifically grounded and practically effective national model of human rights protection in the Republic of Uzbekistan.

In conclusion, the protection of the rights of persons with disabilities constitutes a decisive criterion for assessing the genuine effectiveness of the human rights system. These rights should be recognized not as derivative or auxiliary guarantees, but as an autonomous legal institution grounded in the fundamental principle of human dignity. A human rights-based approach requires the social state concept, substantive equality, non-discrimination, and reasonable accommodation to be endowed with concrete and enforceable legal content, while the positive obligations of the state must be realized through clearly defined institutional mechanisms within law-enforcement and governance practices. The analysis conducted in the context of the Republic of Uzbekistan confirms that the mere existence of a legislative framework is insufficient; its effectiveness depends on institutional coordination, an active judicial role, meaningful partnership with civil society, and effective implementation mechanisms. Therefore, the formation of a national model for ensuring the rights of persons with disabilities—grounded in the principle of human dignity, supported by rigorous academic

analysis, and oriented toward practical application—emerges as an urgent and strategically significant scientific and policy objective.

