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## **ENSURING THE RIGHTS OF PERSONS WITH DISABILITIES: INTERNATIONAL LEGAL OBLIGATIONS AND CHALLENGES OF NATIONAL IMPLEMENTATION**

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### **Abstract**

This article analyzes the issue of ensuring the rights of persons with disabilities from the perspective of modern international human rights law. The article highlights the evolution of the concept of disability, in particular, the transition from a medical model to a social and legal model, and reveals how this change has affected the content of the legal obligations of states. The article analyzes the UN Convention on the Rights of Persons with Disabilities as a fundamental normative and legal document and systematically examines the obligations of states to respect, protect and ensure the rights of persons with disabilities. The study highlights the main problems in the implementation of international obligations, including the incomplete compliance of national legislation with international standards, weak institutional coordination, insufficient financial resources, and the negative impact of social stereotypes.

**Keywords:** Disability, inclusiveness, equality, non-discrimination, obligations of states.

### **Introduction**

Today, the issue of ensuring the rights of persons with disabilities in the human rights system is one of the most urgent and complex areas that requires special attention. This issue is directly related not only to social protection, but also to equality, non-discrimination, human dignity, and the creation of a just society.



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Turning to statistical data, according to the general estimates of the World Health Organization and the World Bank, today about 15-16 percent of the world's population, that is, more than 1 billion people, live with varying degrees of disability.<sup>1</sup> The increase in this indicator in recent years is explained by a number of factors. In particular, the aging of the population, the increase in chronic diseases, road accidents, armed conflicts, environmental problems, and the consequences of pandemics. It is worth noting that more than 80 percent of persons with disabilities live in developing countries.<sup>2</sup> A large number of them are at risk of poverty, deprived of access to education, health, employment, justice and full participation in public life. According to the International Labour Organization, the unemployment rate among persons with disabilities is several times higher than that of persons without disabilities.<sup>3</sup> Therefore, today it has become a priority of international law to consider the issue of disability not as a medical or charitable problem, but as a human rights issue.

### **I. The concept of disability**

To understand the obligations of states to ensure the rights of persons with disabilities, it is first necessary to pay attention to how the concept of “disability” itself is interpreted. For a long time, disability was interpreted mainly on the basis of the medical model. According to this approach, disability was seen as a physical or mental defect of a person and the problem was considered to be in the person himself. As a result, the main focus was on treatment, rehabilitation and social support. However, in the late 20th and early 21st centuries, this approach was criticized, and a social and legal model was formed. According to it, disability is not a limitation in the person, but the result of physical, informational, legal and institutional barriers in society. It is these barriers that limit the equal participation of persons with disabilities.<sup>4</sup>

<sup>1</sup> World Health Organization. Official website. Disability. Key facts. <https://www.who.int/news-room/factsheets/detail/disability-and-health>

<sup>2</sup>United Nations. Factsheet on Persons with Disabilities. [https://www.un.org/development/desa/disabilities/resources/factsheet-on-persons-with-disabilities.html?utm\\_source](https://www.un.org/development/desa/disabilities/resources/factsheet-on-persons-with-disabilities.html?utm_source)

<sup>3</sup> International Labor Organization. International Day of Persons with Disabilities: how disability affects labour market outcomes. [https://ilostat.ilo.org/international-day-of-persons-with-disabilities-how-disability-affects-labour-market-outcomes/?utm\\_source](https://ilostat.ilo.org/international-day-of-persons-with-disabilities-how-disability-affects-labour-market-outcomes/?utm_source)

<sup>4</sup> Michael Oliver. *The Politics of Disablement* (1990). Springer Nature. <https://doi.org/10.1007/978-1-349-20895-1>



The UN Convention on the Rights of Persons with Disabilities, adopted in 2006 and entered into force in 2008, marked a turning point in the issue of disability.<sup>5</sup> The Convention recognized persons with disabilities as subjects of rights, not as objects of assistance. The UN Convention on the Rights of Persons with Disabilities views disability not in terms of a person's physical condition, but in terms of equal opportunities in the enjoyment of human rights. This has given new meaning to the obligations of States.

## **II. State obligations on ensuring disability rights**

The obligations of States derive primarily from international human rights law. The UN Convention on the Rights of Persons with Disabilities sets out these obligations in a clear and systematic manner.

**First**, there is the obligation of States to respect. States have the obligation not to violate the rights of persons with disabilities, not to interfere directly with their rights and freedoms. This obligation includes:

- to refrain from laws and practices that discriminate against persons with disabilities;
- to refrain from forced institutionalization and compulsory treatment;
- not to automatically restrict legal capacity.

**Second**, the obligation to protect. States must protect persons with disabilities from violations of their rights by third parties, namely employers, educational institutions, the private sector, and family members. This obligation is manifested in the adoption of effective legislation against direct discrimination, the establishment of complaint mechanisms, and the availability of and access to judicial and administrative bodies.

**Third**, the obligation to provide. This obligation requires States to take active measures. These include developing an inclusive education system, creating equal opportunities in the employment market, financing social services and rehabilitation programs, and adapting public infrastructure.

States that have ratified the UN Convention on the Rights of Persons with Disabilities have specific obligations under the Convention. These obligations

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<sup>5</sup> The UN Convention on the rights of persons with disabilities. 2006. UN Treaty Database. [https://www.un.org/ru/documents/decl\\_conv/conventions/disability.shtml](https://www.un.org/ru/documents/decl_conv/conventions/disability.shtml)



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are implemented in areas such as non-discrimination and equality, legal capacity and access to justice, inclusive education, employment and labor rights. In particular, according to article 5 of the Convention, states are obliged to ensure the equality of persons with disabilities before the law. The concept of discrimination includes direct and indirect discrimination, as well as the denial of reasonable accommodation.

Article 12 of the Convention also requires the recognition of the legal capacity of persons with disabilities. States must introduce support mechanisms in decision-making and adapt judicial procedures. Article 24 requires states to ensure inclusive education at all levels. This includes not only school infrastructure, but also teacher training, appropriate teaching materials, and individualized approaches. Obligations in the field of employment and labor law are also one of the main areas that must be ensured, and article 27 of the Convention recognizes the right of persons with disabilities to work. States must create incentives for employers, prohibit discrimination and adapt working conditions. However, in practice, a number of problems are encountered by States in implementing their obligations under the Convention. Although it has been almost two decades since the adoption of international legal obligations to ensure the rights of persons with disabilities, in particular the UN Convention on the Rights of Persons with Disabilities, practice shows that in many States these obligations are not fully and systematically implemented. This situation is not due to a single factor, but to a complex of problems of a legal, institutional, financial and social nature.

### **III. Challenges of national implementation**

One of the main challenges facing states is the lack of full compliance of national legislation with international standards. While many countries have laws on disability, they are often based on outdated medical or social protection models. In practice, the concept of “disabled” is legally defined in a narrow and restrictive way. Also, the concept of discrimination is not fully explained or the obligation to provide reasonable accommodation is not enshrined in law. This contradicts the fundamental principles of the UN Convention on the Rights of Persons with Disabilities - equality, non-discrimination and the right to live



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independently. As a result, the state formally fulfills its obligation, but cannot ensure its content.

Ensuring the rights of persons with disabilities is a multi-sectoral area, that is, directly related to education, health, labor, transport, and the judicial system. However, in many countries, institutional coordination in these areas is insufficient. Often, there is no clear division of powers between responsible ministries and departments, and the issues of persons with disabilities are treated as a separate, secondary problem. As a result, state obligations are implemented in a fragmented manner, which negatively affects the provision of rights in real life.

One of the most common reasons given by governments is a lack of financial resources.<sup>6</sup> Of course, inclusive infrastructure, adapted transport, special educational materials and services require certain costs. However, the problem is not only a lack of funds, but also the misprioritization of available funds, the insufficient reflection of disability issues in development strategies, and their assessment as an “extra cost” rather than a social investment. In fact, research shows that the inclusion of people with disabilities in education and employment brings economic and social benefits to the state in the long term.<sup>7</sup>

No matter how perfect the legal reforms are, if negative stereotypes about disability persist in society, the state’s obligations will not be fully implemented. In many societies, people with disabilities are seen as “dependent”, “unfit for work” or “deserving of pity”, unable to make independent decisions and considered unable to actively participate in public life. This leads to their exclusion from education, work and political processes. States are not sufficiently active in combating such stereotypes. It should be noted that some groups of people with disabilities face double or triple discrimination. In particular, women with disabilities face gender and disability-based discrimination, children with disabilities face age and disability-based discrimination, and people with disabilities living in rural areas face regional

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<sup>6</sup> UNICEF. Global Disability Summit. Financing acceleration of disability inclusion in low and middle-income countries. March 2025. [https://www.globaldisabilitysummit.org/wp-content/uploads/2025/03/GIP03351-UNICEF-GDS-Financial-Background-Paper-v3.pdf?utm\\_source](https://www.globaldisabilitysummit.org/wp-content/uploads/2025/03/GIP03351-UNICEF-GDS-Financial-Background-Paper-v3.pdf?utm_source)

<sup>7</sup> World Bank. Official website. [https://www.worldbank.org/en/topic/disability?utm\\_source](https://www.worldbank.org/en/topic/disability?utm_source)



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inequalities. State policies often do not sufficiently take into account the specific needs of these groups.

#### **IV. Conclusion and Recommendations**

The identified problems in the field of ensuring the rights of persons with disabilities require a review of the substantive implementation of international obligations imposed on states. These problems are directly related, first of all, to the incomplete compliance of national legislation with international standards, insufficient institutional coordination, incorrect prioritization of the approach to financial resources, and the persistence of social stereotypes in society. Therefore, solutions should be developed not only in one direction, but in a comprehensive manner at the legal, institutional and practical levels.

**First**, it is necessary to fundamentally reconsider the approach to the issue of harmonizing national legislation with international standards. Foreign legal experience shows that effective legal reforms begin with a redefinition of the concept of disability. For example, in some European Union member states, the concept of discrimination is broadly interpreted, and the refusal of reasonable accommodation is recognized as a separate offense.<sup>8</sup> Such an approach will allow for real protection of the rights of persons with disabilities not only declaratively, but also through the courts. In this regard, it is important to redefine the concept of discrimination in national legislation in accordance with the interpretation of the Convention, strengthen the obligation of reasonable accommodation as a clear legal norm, and introduce effective legal liability mechanisms for its violation.<sup>9</sup>

**Secondly**, since the rights of persons with disabilities do not fall within the scope of a single area, but cover the activities of several state bodies, it is not enough to assign them to the competence of a separate ministry or department. In foreign practice, in particular, in countries such as Germany<sup>10</sup> and New Zealand, central

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<sup>8</sup> Union of equality: Strategy for the rights of persons with disabilities 2021-2030. [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/disability/union-equality-strategy-rights-persons-disabilities-2021-2030\\_en](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/disability/union-equality-strategy-rights-persons-disabilities-2021-2030_en)

<sup>9</sup> Convention on the Rights of Persons with Disabilities. Advocacy Toolkit. Professional Training Series No. 15. [https://www.ohchr.org/sites/default/files/Documents/Publications/AdvocacyTool\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/AdvocacyTool_en.pdf)

<sup>10</sup> Germany – IMM situation. Committee on the Rights of Persons with Disabilities. [https://www.ohchr.org/en/treaty-bodies/crpd/germany-imm-situation?utm\\_source](https://www.ohchr.org/en/treaty-bodies/crpd/germany-imm-situation?utm_source)



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coordination bodies on disability issues operate, which direct the policies of various ministries to a single human rights-based approach. Such a mechanism serves to ensure that state obligations are implemented in a consistent and systematic manner, rather than in a fragmented manner.<sup>11</sup> Therefore, it is advisable to create a coordination mechanism at the national level with clear authority and responsibility for ensuring the rights of persons with disabilities, and to involve civil society and organizations of persons with disabilities in its activities.

**Third**, it is necessary to change the approach to the issue of lack of financial resources. As noted, states often consider the allocation of funds for inclusive infrastructure and services as an excessive burden. However, foreign research and the experience of states show that the involvement of persons with disabilities in education and employment brings economic benefits to the state in the long term. Therefore, the approach of considering disability issues not as a social cost, but as an investment in human capital, should be strengthened in legal and financial policies. In practice, this can be done by identifying the needs of persons with disabilities as a separate priority in the state budget planning process and introducing result-oriented financing mechanisms.

**Fourth**, the fight against social stereotypes and discrimination should not be limited to legal solutions. Foreign experience shows that effective public policy, along with legal norms, also includes long-term strategies aimed at changing public consciousness. For example, in some countries, mandatory disability training has been introduced for civil servants, judges, teachers and medical workers, which has a direct positive impact on the practical application of legal norms. In this regard, states should take systematic educational and institutional measures aimed at recognizing persons with disabilities not as a “dependent” group, but as equal citizens.

Finally, the problem of multiple discrimination also requires a special legal approach. It is not enough to consider the needs of women, children and people living in rural areas with disabilities within the framework of general policies.

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<sup>11</sup> Rights of persons with disabilities. German Institute for Human Rights. [https://www.institut-fuer-menschenrechte.de/en/topics/rights-of-persons-with-disabilities?utm\\_source](https://www.institut-fuer-menschenrechte.de/en/topics/rights-of-persons-with-disabilities?utm_source)



In foreign legal practice, targeted programs for such groups are being developed, which are being combined with a human rights-based approach. Therefore, in public policy, it is necessary to consider the issue of disability not as a single and homogeneous problem, but as a legal issue intersecting with various social factors.

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