

# **Doctoral (PhD) dissertation**

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**International comparison of central administration in the  
education system**

Doctoral (PhD) dissertation

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*signature*

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**Budapest, 01.08.2024**

## **DECLARATION**

I, Zhansulu Muratova, hereby declare that the PhD dissertation titled “International comparison of central administration in the education system” is the result of my work. The information derived from the literature has been duly acknowledged in the dissertation, and a list of references has been provided. No part of this dissertation was previously presented or submitted for another scientific degree or diploma at this or any other institution.

Signature

Date:2024.08.01

## **ABSTRACT**

The Republic of Kazakhstan and the Republic of Uzbekistan are two post-Soviet countries that have successfully established and developed unique education systems after the collapse of the totalitarian regime of the Soviet Union. Additionally, these two post-Soviet Central Asian states have overcome various challenges and introduce new approaches that distinguish their educational policies from those of the Soviet Union.

Kazakhstan and Uzbekistan were proud to announce their decision to transition from Soviet policies to new approaches. Both countries adopted a policy of separating religion from the government, while allowing freedom of religion for their citizens, in contrast to the former Soviet Union's restrictive policies. It is crucial to note that the approach was successful until recently when some disputes have emerged. One of them is the question of the manifestation of Islamic religious garments in secular educational institutions and its prohibition.

The question of Islamic religious garments presents a controversy in the secular states of the Republic of Kazakhstan and the Republic of Uzbekistan. The dissertation aims at investigating the current issue that has sparked extensive discussions in both countries. This topic is crucial as it pertains to human rights, specifically the right to education and the right to religious freedom. Therefore, this study explores whether the legal frameworks of both states comply with international obligations regarding the right to education and the right to freedom of religion. The Republic of Kazakhstan and Uzbekistan have chosen a path that emphasizes democratic values, the rule of law, and human rights.

Additionally, this research aims to examine how the right to education has evolved historically within the context of the Republic of Kazakhstan and Uzbekistan. Thus, it presents the evolution of the right to education across various historical periods.

Finally, yet importantly, the dissertation examines how education systems have been established and administered. Therefore, a detailed analysis of the education system including all levels of education and specific characteristics is provided.

## ABSTRACT IN HUNGARIAN

A Kazah Köztársaság és az Üzbég Köztársaság két olyan posztszovjet ország, amely a Szovjetunió totalitárius rendszerének összeomlása után, sikeresen hozott létre és fejlesztett ki egyedülálló oktatási rendszereket. Emellett, ez a két posztszovjet közép-ázsiai állam különböző kihívásokkal is megbirkózott, és olyan új megoldásokat vezetett be, amelyek megkülönböztetik oktatáspolitikájukat a korábbi Szovjetunióban követett oktatáspolitikától.

Kazahsztán és Üzbegisztán büszkén jelentette be, hogy a szovjet politikától új megközelítések felé kívánnak elmozdulni. Mindkét ország olyan politikát fogadott el, amely elválasztja a vallást a kormányzati hatalomtól, miközben a korábbi Szovjetunió korlátozó politikájával ellentétben, lehetővé teszi a vallás szabad gyakorlását polgárai számára. Fontos kiemelni, hogy ez a megközelítés egészen a közelmúltig sikeres volt, amikor is bizonyos viták alakultak ki az állam és az egyház között. Ezen viták egyike, az iszlám vallás szerinti ruházat világi oktatási intézményekben való viselésének és annak tilalmának kérdése volt.

A szekularizált államokban, mint a Kazah Köztársaság és az Üzbég Köztársaság, az iszlám vallási öltözékek viselésének kérdése komoly vitát vált ki. A disszertáció célja ennek az aktuális kérdésnek a vizsgálata, amely mindkét országban széles körű vitákat váltott ki. Ez a téma kulcsfontosságú, mivel az emberi jogokat érinti, különösen az oktatáshoz való jogot és a vallás szabad gyakorlásához való jogot. Ezért a disszertáció azt vizsgálja, hogy a két állam jogi keretei megfelelnek-e az oktatáshoz és a vallásszabadsághoz való jogra vonatkozó nemzetközi kötelezettségeknek. A Kazah Köztársaság és Üzbegisztán olyan utat választott, amely a demokratikus értékeket, a jogállamiságot és az emberi jogokat hangsúlyozza.

A kutatás célja továbbá annak vizsgálata, hogy az oktatáshoz való jog történelmileg hogyan alakult a Kazah Köztársaság és Üzbegisztán kontextusában. Így a dolgozat ismerteti az oktatáshoz való jog fejlődését is az egyes történelmi korszakokban.

Végül, ami még fontosabb, a disszertáció azt is vizsgálja, hogyan alakult ki és hogyan működik az oktatási igazgatás a két országban. Ezért részletesen elemzi az oktatási rendszert, valamennyi oktatási szintre kiterjedően, valamint az oktatás sajátos jellemzőit.

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I would especially like to thank my supervisor, Dr. Peres Zsuzsanna, for her invaluable advice, continuous support and patience during my PhD study. I could not have completed this dissertation without her immense knowledge and extensive experience.

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## LIST OF ABBREVIATION

CADE	Convention Against Discrimination in Education
CAT	Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Racial Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECOSOC	Economic and Social Council
GA	General Assembly General Assembly
HEI	Higher Education Institutions
HRC	Human Rights Committee
HR	Human Resources
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICRMW	International Convention on the Protection on the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organization
JSC «Center for International Programs»	Join-Stock Company «Center for International Programs»
JSC «Finance center»	Join-Stock Company «Finance center»
NHRI	National Human Rights Institutions
NPCHR	Independent Standing Commission on Human Rights
OIC	Organization of Islamic Cooperation

OSCE	Organization for Security and Co-operation in Europe
SAMK	Spiritual Administration of Muslims of Kazakhstan
SRC Youth	Scientific Research Center Youth
UDHR	Universal Declaration of Human Rights
UN	United Nations
USSR	Union of Socialist Soviet Republics
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNESCO	United Nations Educational, Scientific and Culture
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
WHO	World Health Organization

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# **CHAPTER ONE**

## **INTRODUCTION**

- 1.1 The importance of the research issue
- 1.2 Reasons for choosing the subject
- 1.3 Statement of problem
- 1.4 Research questions and hypothesis
- 1.5 Dissertation structure
- 1.6 Thesis outline
- 1.7 Summary

# CHAPTER ONE

## INTRODUCTION

### 1.1 THE IMPORTANCE OF THE RESEARCH ISSUE

One of the most relevant topics in the modern world is the functioning of the education system. Currently, the field of education holds tremendous significance for many states around the world.

Education is known to be a powerful tool leading to prosperity and progress. Therefore, considering this fact, governments take steps to reform and develop their education systems.

Since the collapse of the Soviet Union, the newly-formed 15 independent states have begun to reform almost all fields on their own including politics, economics, culture, language policy, religion, and education.<sup>1</sup> Changes in education in post-soviet countries impacted all levels of education and primarily concerning new education programs, curricula, language of instruction, and teaching staff. However, some elements of the Soviet education system remained unmodified in the current education landscapes of the former Soviet countries.

The dissertation intends to examine the education systems of the two post-Soviet countries such as the Republic of Kazakhstan and the Republic of Uzbekistan, their administration on various levels (local, regional, and state), and the new challenges that have appeared in the education systems.

Particularly, the research focuses on achieving the following:

- to study the legal development of the right to education in the present territory of the Republic of Kazakhstan during various historical periods such as the time of the Russian Empire, the Soviet Union, and contemporary times;

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<sup>1</sup>The USSR consisted the following current independent states: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Ukraine, and Uzbekistan



- to consider the evolution of the right to education throughout history within the historical aspect of the present territory of the Republic of Uzbekistan;
- to explore within the framework of the legal aspect whether the legislation of both states complies with international obligations related to the right to education;
- to observe the administration of education systems and identify predominant traditions or elements;
- to investigate the current challenge that has sparked wide discussions in both countries, specifically the right to display religious clothing in schools, which will be a case study in this research.

To uncover the above, the comparative case study has been chosen to demonstrate similarities and differences in governmental policies towards people's right to education.

Additionally, this method aims to comprehend the organization and governance of education. Providing recommendations and solutions based on the findings will be a key outcome of this thesis.

Uzbekistan has been selected as a comparative case. Uzbekistan is an appropriate example for several reasons. First, there are significant similarities between Uzbek and Kazakh development, particularly in their historical and cultural backgrounds. Kazakhs and Uzbeks share common Turkic roots. Both countries were under the Russian Empire for an extended period and later under strict Soviet control during the 20<sup>th</sup> century. This history has influenced their political models regarding education. Also, the Republic of Uzbekistan was a center of scientific thought and developed rapidly.

Second, Uzbekistan faces challenges similar to those in Kazakhstan, such as the issue of dress codes in schools, specifically the prohibition of religious elements in secular educational institutions.

Additionally, today both countries share a rich past and promising future in many spheres. The cooperation between the two countries nowadays is strengthening. Many agreements in different fields have been signed since the presidency of the current president of the Republic of Uzbekistan, Shavkat Mirziyoyev. Both countries are member states of

numerous organizations, such as the Turkic Council. Pál Gyene notes that the strengthening of Kazakh-Uzbek cooperation is very crucial, as these two countries seem to have the best chance to be leaders in the Central Asian region.<sup>2</sup>

I believe that a comparative study between Kazakhstan and Uzbekistan will yield many indispensable conclusions.

## 1.2 REASONS FOR CHOOSING THE SUBJECT

There are many reasons why I decided to research this topic. The reasons are bound to a short, professional experience and personal interests.

First and foremost, my interest in public administration in the education sector began during my final year of undergraduate studies. Since education has always been a priority for the Republic of Kazakhstan, I wrote my thesis on «Mechanisms of public administration in the education system» at the L.N.Gumilyov Eurasian National University in Astana.

The second reason that prompted me to select this subject is the relevance of the topic. Since the two republics have gained their independence, many changes have occurred in the education and administration processes.<sup>3</sup> It is worth examining since the shift from the Soviet to new reforms is evident. Both states have committed to the principle of human rights since gaining independence.

The significance of the realization of human rights rises worldwide due to the establishment of international agencies, non-governmental organizations, and the adoption of international documents on the protection of human rights. Such global instruments require countries to fulfill their duties towards human rights. The obligations of states may differ, but the main responsibilities are to respect, protect, and implement measures to promote and protect human rights. Indeed, the adoption of the Universal Declaration of Human Rights has invoked countries to preserve the set of human including the right to education. Consequently, national legislations have incorporated provisions to protect human rights. Given the immense

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<sup>2</sup> Pál Gyene.,2021. Uzbekistan in a new role?Mirziyoyev's policy of opening to the neighborhood. In: Zoltai, Alexandra (szerk.) Recent Geopolitical Trends in Eurasia Kecske-mét, Magyarország : Neumann János Egyetem, Eurázsia Központ (2021) pp. 63-81

<sup>3</sup> Huisman J., Smolentseva A., Froumin I., (eds) 25 Years of Transformations of Higher Education Systems in Post-Soviet Countries. Palgrave Studies in Global Higher Education. Palgrave Macmillan, Cham.pp.199-229, 435-461

importance of education, states strive to regulate this area by establishing and implementing relevant laws.

### 1.3 STATEMENT OF PROBLEM

It is well-known that the Republic of Kazakhstan and the Republic of Uzbekistan maintained centralized systems for governing education for an extended period. Immediately following the abolition of this centralized structure, the post-Soviet states, including Kazakhstan and Uzbekistan, encountered a complex array of challenges. Those issues encompassed legislation, finance, establishment of new responsible bodies, the organization of new programs, and language policy.

One of the most significant challenges was the development of a national ideology and the preservation of social stability among diverse ethnic groups. Recognizing this importance at the onset of independence, the Republic of Kazakhstan declared itself a secular state upon gaining independence from the Soviet Union in December 1991.<sup>4</sup> The secular nature of the government of the Republic of Kazakhstan has been influenced by the French concept of secularism.<sup>5</sup> The notion of secularism implies that religion is separated from all fields of law, namely from political, economic, social, cultural, and educational aspects of life.

Although Kazakhstan is secular in nature, some disputes have emerged recently. One contentious issue involves the presence of schoolgirls wearing religious Islamic attire in secular educational institutions, prompting the Ministry of Education and Science of the Republic of Kazakhstan to prohibit such displays.

Demonstration of religious symbols in school is forbidden by the Ministerial decree of the Republic of Kazakhstan.<sup>6</sup> The Ministry's ban on the demonstration of religious clothes in

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<sup>4</sup>According to the Constitution, Kazakhstan is a democratic, secular, legal, social state whose highest values are a person, his life, rights, and freedoms

<sup>5</sup> French concept of secularism or “Laïcité” that is widely known as the concept of separation of the state and church was presented in the detail in the paper “Laïcité”: a model or a threat for freedom of religion? Alexandre Le Coz..., 2019. A conversation on Religious Freedom and its social implications. Religious Freedom Institute. No.252.pp.1-4

<sup>6</sup> On approval of the Requirements for compulsory school uniform for secondary education organizations

school has been resisted by some students and their parents in various cities in Kazakhstan. As a result, some schoolgirls have been expelled from educational institutions. In reference to the report issued in 2020 by the United States Commission on International Religious Freedom, at least 11 girls just in one city of Aktobe have been enrolled in an Internet school rather than attend a state school.<sup>7</sup>

The issue of religious attire remains controversial in the Republic of Kazakhstan. On one hand, the Republic of Kazakhstan is defined as a secular state according to the Constitution.<sup>8</sup> On the other hand, individuals have the right to freedom of religion based on the Constitution which is accompanied by such customs as the wearing of distinctive clothing or head-coverings.<sup>9</sup>

According to the first and second subparagraphs of Article 12 of the Constitution of the Republic of Kazakhstan:

- “1. Human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed under the Constitution.
2. Human rights and liberties shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory and legal acts.”<sup>10</sup>

The same concern presents in the compared state, the Republic of Uzbekistan. The issue has been debatable for some years.

## 1.4 RESEARCH QUESTIONS AND HYPOTHESIS

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Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated January 14, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085

<sup>7</sup>Annual report of the U.S. Commission on International Religious Freedom 2020, p.75. Available at: <[http://www.uscirf.gov/sites/default/files/USCIRF%202020%20Annual%20Report\\_42720\\_new\\_0.pdf](http://www.uscirf.gov/sites/default/files/USCIRF%202020%20Annual%20Report_42720_new_0.pdf)> [Accessed 10 August 2021]

<sup>8</sup>Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 11 August 2021]

<sup>9</sup> Ibid

<sup>10</sup> Ibid

The purpose of this dissertation subchapter is to introduce the research questions and hypotheses. Taking into consideration the above-mentioned, the core research questions have been formulated in this subchapter of the thesis:

- 1. What are the similarities and differences in the education system of the Republic of Kazakhstan and Uzbekistan?**
- 2. What are the similarities and differences in the administration in both countries?**
- 3. What is the role of the Soviet legacy in the present education systems of the two republics?**
- 4. What traditions are predominant in the systems of education of both republics? Are the Soviet ones, new tendencies, or any other influences?**
- 5. What are the new challenges connected to education or the right to it?**

Also, a set of hypothesis has been developed that are the following:

- 1<sup>st</sup> hypothesis (H1): The education systems of the two republics have similar elements of education structure and governing;**
- 2<sup>nd</sup> hypothesis (H2): The legislation of the Republic of Kazakhstan and the Republic of Uzbekistan does not comply with international obligations ensuring the right to education;**
- 3<sup>rd</sup> hypothesis (H3): The Soviet heritage<sup>11</sup> has left a significant mark that is visible in the policy towards education;**

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<sup>11</sup> The Soviet legacy is a notion that is widely used after the dissolution of the USSR. It is important to note that there was an ideology developed that the Soviets aimed to reach a mono ideological state. Education was considered as an influential tool that the Soviets widely used to shape an ideological and economic situation. Thus, the Soviet authorities implemented and passed various laws and policies to all union republics. It is argued that there were some models such as the education system from 1917 until 1930, the year 1931 and the 1953, which is commonly called the Stalinists years, the Khrushchev reforms, the years from Brezhnev to Gorbachev, and the education system within the Perestroika (in the Russian language it means the course of economic and structural reforms).

It is noted that since taking the power over the country, the Soviets, guided by the principles of communism, started a completely new course towards education. The agenda of the course consisted of the introduction and provision of free compulsory general and polytechnic education, the establishment of a system of preschool education to assist in the emancipation of women, the openness of higher education institutions to the working class, the expansion of vocational and training for the persons from the age of 17, the creation of a system of mass education for adults, and finally, the elimination of religion from the education process. It is worth mentioning that the communist ideology first characterized the nature of the education process in the Soviet Union with the absence of traditional religion-based values. In other words, religion and religious subjects were not included in the academic curriculum. This was related to the fact that religious and communist ideologies are not uncompromising. Also, behind that decision was an intention to achieve multiple goals. For instance, it tried to be done through the education and upbringing of kids. They believed that communist

- **4<sup>th</sup> hypothesis (H4): The Soviet elements are predominant over the new ones in the education systems of the Republic of Kazakhstan and the Republic of Uzbekistan;**
- **5<sup>th</sup> hypothesis (H5): The right to religious freedom cannot be restricted while fulfilling the requirements of education.**

The hypotheses were formulated and developed through the following stages:

- Initially, a "working" version of the hypotheses was established based on common facts and current knowledge, rather than an exhaustive analysis of the literature. The internship at the Ministry of Education and Science of the Republic of Kazakhstan provided substantial insights into the country's education system, which was a major factor in the formation of the hypothetical assumptions;
- The second stage involved refining and specifying the hypotheses. This process relied heavily on the literature review, which provided a foundation for understanding the characteristics of the education systems, the human rights situation—particularly the right to education—and an examination of the facts and circumstances surrounding the issue;
- The last stage included the process of proving and disproving the hypotheses; The results will be displayed in the next chapter.

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feelings should be grounded from the early age. Therefore, one of the aims was to create of its "soviet citizen". Nevertheless, the Soviets did not forget about its adults while forming the type of soviet people. Moreover, one of the principal aims relied on the increase of literacy of people that was achieved.

## 1.5 DISSERTATION STRUCTURE

This dissertation is structured into nine chapters, as outlined in the table below.

The first chapter of the dissertation (Introduction) begins with the importance of the research issue, the reasons for choosing the subject, the statement of the problem, and the research questions and hypotheses. The introduction also consists of the significance of the research and the outline of the thesis. The first part concludes with a summary of the chapter.

The first part of the chapter flags the importance of investigating the problem in the Republic of Kazakhstan, notes the necessity to make a comparison and justifies the chosen country in comparison, one of the Central Asian states of Uzbekistan.

The second chapter of the dissertation, Methodology, Research design, and Literature Review, discloses the methodology and research design applied in the study. Thus, the current part lists all approaches, namely the historical research method, the qualitative research method, and the comparative research method, with their reasoning. This part of the dissertation also centers on the literature review.

Chapter three focuses on the right to education in the Republic of Kazakhstan from its legal development throughout history. This thesis focuses on the privilege of acquiring education under the generation of human rights and the concept of the right to education. Additionally, it centers on the evolution of the right to education during various periods, such as the Russian Empire, the Soviet Union, and, finally, contemporary times.

The following part of the dissertation considers the evolution of the right to education in the compared state, the Republic of Uzbekistan. As in the chapter above, the development of the right has been viewed within various periods.

The fifth chapter thoroughly examines the education system of the Republic of Kazakhstan. In particular, all levels of education starting from primary to higher education

have been contemplated in detail. In addition, religious education in Kazakhstan has been presented in the chapter as well.

Chapter six of the dissertation introduces the complete details of the education system of the Republic of Uzbekistan. It sheds light on all levels of the education system of the country. Thus, it comprehensively observes the level of preschool education and upbringing, general secondary education, vocational education, higher education, postgraduate education, retraining and advanced training of specialists, and out-of-school education. In addition to it, the current chapter of the dissertation also considers religious education in the country.

The seventh part of the thesis is dedicated to an overview of the administration of education in both states. In this section, a special focus is given to the main features of the administration of education in both republics. Moreover, another point is to review the key actors in the process of administration of education in the republics.

Chapter eight discusses current challenges facing the education systems of Kazakhstan and Uzbekistan, addressing controversial issues within the dissertation.

The final chapter presents the main conclusions drawn from the study and discusses implications for future research. It also outlines the limitations of the study.



## 1.6 THESIS OUTLINE

Figure 1-1: Outline of the dissertation

<b>Chapter I</b>	<ul style="list-style-type: none"> <li>• Introduction</li> </ul>
<b>Chapter II</b>	<ul style="list-style-type: none"> <li>• Methodology, Research Design, and Literature Review</li> </ul>
<b>Chapter III</b>	<ul style="list-style-type: none"> <li>• The evolution of the right to education over time in the Republic of Kazakhstan</li> </ul>
<b>Chapter IV</b>	<ul style="list-style-type: none"> <li>• The legal development of the right to education in Uzbekistan throughout its history</li> </ul>
<b>Chapter V</b>	<ul style="list-style-type: none"> <li>• Education system in modern Kazakhstan</li> </ul>
<b>Chapter VI</b>	<ul style="list-style-type: none"> <li>• Education system in modern Uzbekistan</li> </ul>
<b>Chapter VII</b>	<ul style="list-style-type: none"> <li>• Overview of administration of education</li> </ul>
<b>Chapter VIII</b>	<ul style="list-style-type: none"> <li>• Challenges</li> </ul>
<b>Chapter IX</b>	<ul style="list-style-type: none"> <li>• Main conclusion and suggestions, research results</li> </ul>

Source: Author's own compilation

## **1.7 SUMMARY**

The first section of the dissertation entitled Introduction provides the importance of the research issue, reasons for choosing the subject, and a statement of the problem in a nutshell.

The first chapter of the dissertation also consists of research questions and research hypotheses that have been set.

Besides, this part also includes the dissertation structure, the contribution and the significance of the research. Lastly, the section presents the thesis outline, where all chapters are indicated in the table.

## **CHAPTER TWO**

### **METHODOLOGY, RESEARCH DESIGN, AND LITERATURE REVIEW**

- 2.1 Introduction and overview
- 2.2 Research methodology
  - 2.2.1 Historical Research method
  - 2.2.2 Qualitative Research method
  - 2.2.3 Comparative Research method
- 2.3 Data
  - 2.3.1 Legislation of the Republic of Kazakhstan
  - 2.3.2 International Law
  - 2.3.3 Legislation of the Republic of Uzbekistan
  - 2.3.4 International Law
- 2.4 Discussion
- 2.5 International overview on the ban of religious dress
- 2.6 Review of literature
- 2.7 Review of literature on the issue of religious clothes
- 2.8 Review of literature on comprehension of “collision” in science
- 2.9 Theoretical approach
  - 2.9.1 The concept of secularism
  - 2.9.2 Structural- functional theory
- 2.10 Summary

## **CHAPTER TWO**

### **METHODOLOGY, RESEARCH DESIGN, AND LITERATURE REVIEW**

#### **2.1 INTRODUCTION AND OVERVIEW**

This chapter presents the methodology that was utilized in the dissertation, as well as the research design. It is common knowledge that methodology is a system of methods. Thus, the applied methods in the thesis were listed with their reasoning. The data acquired and analyzed was also introduced in this section of the dissertation.

The second part of the dissertation focuses on the discussion regarding the researched issue. It also reviews significant previously published literature that has contributed to understanding the evolution of the right to education in both Kazakhstan and Uzbekistan. This section examines the structure of the education systems in these two states, highlighting key areas of debate.

#### **2.2 RESEARCH METHODOLOGY**

The research conducted in this thesis was based on mixed methods. The analysis was done primarily in an exploratory and qualitative manner to comprehend many key points and suggest findings and solutions. For this aim, various methods were applied that will be listed below.

##### **2.2.1 HISTORICAL RESEARCH METHOD**

A historical research method is a practical approach utilized in the dissertation that enabled me to collect necessary information about the historical development of human rights across various periods. Owing to the historical approach, the evolution of the right to education was considered. Specifically, it traced the legal progression of educational rights

from the era of the Russian Empire to the present-day context in Kazakhstan.

The legal development of the right to education in the Republic of Uzbekistan throughout history was covered with the same research frame too. This research method has given me valuable insights into the development of human rights among Kazakhs and Uzbeks during various times.

## **2.2.2 QUALITATIVE RESEARCH METHOD**

In addition to the historical method, the qualitative approach was exercised in the dissertation. The qualitative data was collected while writing academic papers and attending scientific conferences. The method has helped to understand the scale of the issue in the Central Asian countries as in other states. It also stimulated acknowledgment of the country-specific scale of the problem.

Other crucial aspects were recognized owing to the qualitative research method, for instance, the nature of the education systems of the Republic of Kazakhstan and the Republic of Uzbekistan. Thereby, it was claimed about its secular type.

Additionally, it was identified that religious garments are present in many states, including the researched ones, due to various ideologies. In this sense, the two theoretical approaches, such as the concept of secularism and the structural-functional theory, were examined. It was done since there are debates about which model is the best for a state, namely, for a democratic state. Therefore, it is still under discussion whether the model of secularism or the model of support for religious freedom with checks and balances is more appropriate.

Second of all, it is argued that the researched issue is evoked due to the collision of legal documents. Respectively, an analysis of the literature on comprehension of collision in science was undertaken. Several local and international scholars researched the topic of the collision. In addition, the grounds that call for collision were listed. It identified that conflicts arise primarily from discrepancies between legal norms. Consequently, the study delves into the legislative frameworks concerning education and human rights in both Kazakhstan and Uzbekistan.

Apart from the national legislation, international legal instruments were taken into account too. Also, the legal norms on the manifestation of religious dress were investigated in the dissertation.

### **2.2.3 COMPARATIVE RESEARCH METHOD**

A comparative research method is a core approach that was applied in the thesis. There are a few reasons that were behind the chosen approach. It is known that the aims of the comparative research method are making judgments, appreciating, and analyzing.

Thus, the comparative method was applied to investigate the restriction of religious attire worn by Muslim females in the two Central Asian states. The study comprehensively examined this restriction by evaluating adherence to both national and international legislation and case law. It also considered various perspectives on the prohibition of religious clothing within the educational sector. Thus, the most up-to-date information regarding the ban on religious dress in the Republic of Kazakhstan and the Republic of Uzbekistan was provided within the comparative approach.

Besides, the comparative research method was exercised in the dissertation to achieve the following goals:

- First of all, to better understand the issue in own state;
- Secondly, to recognize if another state (in this case, the Republic of Uzbekistan) found different solutions to the same issue.

Thus, some comparisons between the states were displayed in detail in the 8<sup>th</sup> chapter of the dissertation.

## **2.3 DATA**

### **2.3.1 LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN**

In this chapter subsection, the reference would be assigned to some legal documents

related to the researched subject. All those national documents delivered information about the current status of human rights (the right to education and freedom of religion) in the Republic of Kazakhstan. Specifically, the listed documents reveal which rights and freedoms are granted and restricted to the citizens of the Republic of Kazakhstan.

Thus, the Constitution of the Republic of Kazakhstan<sup>12</sup>, the Law on the Rights of Children<sup>13</sup>, the Law on Education<sup>14</sup>, the Law on Religious Activities and Religious Associations<sup>15</sup>, and the Order of the Minister of Education on the approval of Requirements for Compulsory School Uniforms for Secondary Education Organizations<sup>16</sup> are just a piece of legal documents that were turned while considering the issue.

### 2.3.2 INTERNATIONAL LAW

The researched problem was examined from the perspective of international law. Thereby, writing the dissertation, it was essential to consider many international instruments such as the Convention on the Rights of the Child<sup>17</sup>, the UNESCO Convention against Discrimination in Education<sup>18</sup>, the International Covenant on the Elimination of All Forms of Racial Discrimination<sup>19</sup>, the Convention on the Elimination of All Forms of Discrimination against Women<sup>20</sup>, and the Convention on the Rights of Persons with Disabilities<sup>21</sup>.

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12 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 11 August 2021]

13 “On the Rights of a Child in the Republic of Kazakhstan”. Available at: [https://adilet.zan.kz/eng/docs/Z020000345\\_](https://adilet.zan.kz/eng/docs/Z020000345_)

14 “On Education”. Available at: [https://adilet.zan.kz/eng/docs/Z070000319\\_](https://adilet.zan.kz/eng/docs/Z070000319_)

15 “On Religious Activities and Religious Associations”.

Available at: <https://adilet.zan.kz/eng/docs/Z1100000483#:-:text=Activities%20of%20religion%2Dbased%20parties,to%20violence%20and%20other%20illegal>

16 “On approval of the Requirements for compulsory school uniform for secondary education organizations”

Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated January 14, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085. Available at: <https://adilet.zan.kz/rus/docs/V1600013085>

17 Convention on the Rights of the Child. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

18 UNESCO Convention against Discrimination in Education. Available at: <https://www.unesco.org/en/right-education/convention-against-discrimination>. The Republic of Kazakhstan ratified in 2016. The ratification in the Republic of Uzbekistan was in 1998

19 International Covenant on the Elimination of All Forms of Racial Discrimination. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>. Accession in Kazakhstan and Uzbekistan in 1998

20 Convention on the Elimination of All Forms of Discrimination against Women. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>. Accession in Kazakhstan in 1998, in Uzbekistan in 1995

21 Convention on the Rights of Persons with Disabilities. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>. Kazakhstan ratified in 2015, Uzbekistan in 2021

These international legal frameworks hold significance for both countries since they have either been signed and ratified or acceded. Thus, for instance, the Convention on the Rights of the Child was ratified in the Republic of Kazakhstan and the Republic of Uzbekistan in 1999 and 1992 respectively. The dates with the accession or ratification of the mentioned documents are indicated in the footnotes.

Besides, the data about the researched problem was held from another block of legal documents, for instance, the International Covenant on Civil and Political Rights<sup>22</sup> and the International Covenant on Economic, Social and Cultural Rights<sup>23</sup>, and the Universal Declaration of Human Rights<sup>24</sup>.

In addition, the UN Charter<sup>25</sup>, the Convention on the Prevention and Punishment of the Crime of Genocide<sup>26</sup>, determined the understanding the researched subject.

### 2.3.3 LEGISLATION OF THE REPUBLIC OF UZBEKISTAN

Since this thesis was designed as a case study, the legal documents of the Republic of Uzbekistan will be mentioned individually in this subparagraph of the chapter.

The national legislation of the Republic of Uzbekistan, such as the Constitution of the Republic of Uzbekistan<sup>27</sup>, the Law on Education<sup>28</sup>, various laws and documents on different levels of education (the Law on preschool education and upbringing<sup>29</sup>, the National program for training in the Republic of Uzbekistan<sup>30</sup>, the decree of the President of the Republic of

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22 International Covenant on Civil and Political Rights. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>. Kazakhstan ratified in 2006, Uzbekistan accession in 1995

23 International Covenant on Economic, Social and Cultural Rights.

Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>. Kazakhstan in 2006, Uzbekistan accession in 1995

24 Universal Declaration of Human Rights. Available at: <https://www.ohchr.org/en/universal-declaration-of-human-rights>. Kazakhstan is party to the International Covenant on Civil and Political Rights which gave legal status to the Declaration of Human Rights

25 UN Charter. Available at: <https://www.un.org/en/about-us/un-charter>. Kazakhstan and Uzbekistan became member states of the UN in the 1990s

26 Convention on the Prevention and Punishment of the Crime of Genocide. Available at: [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1\\_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf). Accession in Kazakhstan in 1998, in Uzbekistan in 1999

27 Constitution of the Republic of Uzbekistan. Available at: <https://constitution.uz/en>

28 Law on Education. Available at: <https://lex.uz/docs/5700831>

29 Law on preschool education and upbringing. Available at: <https://lex.uz/ru/docs/4826427>

30 National program for training in the Republic of Uzbekistan. Available at: <https://cis-legislation.com/document.fwx?rgn=16602>



Uzbekistan on additional measures to further improve the vocation education system<sup>31</sup>, the Program for comprehensive development of higher education<sup>32</sup>, the Decree of the President on approval of the concept of development of the higher education system<sup>33</sup>), and the Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious organizations<sup>34</sup> are the crucial laws of the country. Similar to Kazakhstan's legal framework, these laws illuminate the rights and freedoms afforded to the citizens of Uzbekistan.

### **2.3.4 INTERNATIONAL LAW**

Among the data reviewed to comprehend the researched issue, several instruments that help to ensure human rights and freedoms in Uzbekistan were considered.

Firstly, the focus was given to the national human rights mechanism. In particular, all national organizations and institutions that preserve human rights were listed in chapter 4 of the dissertation.

Secondly, the international instruments in detail were considered. Thus, the international instruments were categorized into universal and regional. Within the universal international mechanism, various committees and bodies cooperating with the Republic of Uzbekistan to promote and protect human rights and freedoms were reviewed.

The regional international mechanism that was eager to preserve human rights and freedoms was also observed. Similarly to the universal approach, some organizations and institutions operate to grant and protect human rights by taking into account many aspects were taken into account.

## **2.4 DISCUSSION**

To answer the proposed questions of the research, this subsection of the dissertation

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31 Decree of the President of the Republic of Uzbekistan on additional measures to further improve the vocation education system. Available at: <https://lex.uz/ru/docs/4500929>

32 Program for comprehensive development of higher education. Available at: <https://www.uzdaily.uz/ru/post/32251>

33 Decree of the President on approval of the concept of development of the higher education system. Available at: [https://www.samdu.uz/upload/content-files/Concept\\_of\\_Higher\\_Education\\_of\\_Uzbekistan\\_until\\_2030\\_EN\\_NEO\\_UZ.pdf](https://www.samdu.uz/upload/content-files/Concept_of_Higher_Education_of_Uzbekistan_until_2030_EN_NEO_UZ.pdf)

34 Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious organizations. Available at: <https://cis-legislation.com/document.fwx?rgn=133315>

focuses on ascertaining the structure and governing of the education systems of the two republics. Thus, primarily, it was aimed to discover similarities and differences between the education systems of the Republic of Kazakhstan and the Republic of Uzbekistan. Therefore, the first hypothesis that has been set in the research was:

- 1<sup>st</sup> hypothesis (H1): The education systems of the two republics have similar elements of education structure and governing.

After conducting a thorough analysis, particularly in revising the education systems of both republics, it is evident that there are notable similarities and differences. One significant similarity is the structuring of educational levels. Both countries encompass seven levels within their education systems, spanning from preschool education and upbringing to postgraduate education.

However, a notable difference lies in the realm of higher education. Specifically, Kazakhstan distinguishes itself as a full member of the European Educational Area, having acceded to the Bologna Declaration. This membership has prompted substantial reforms in Kazakhstan's higher education system, as discussed in Chapter 5.

Kazakhstan employs a three-tiered model for training students—bachelor's, master's, and Doctor PhD. In contrast, Uzbekistan's higher education system follows a two-stage model comprising bachelor's and master's degrees. Additionally, attributes such as education standards, academic mobility, and the European Credit Transfer System are integral components of the Bologna process.<sup>35</sup>

The similarity of the two education systems is perceivable in the governing of education. Thus, the state policies in those countries are determined by the Presidents and are implemented by the governments. The state administration is carried out by the Ministries. There are local bodies that implement politics in education as well. This statement is based on the analysis that was carried out in detail in Chapter 7 of the dissertation.

The education systems of the Republic of Kazakhstan and Uzbekistan have a similar

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<sup>35</sup> European Higher Educational Area was created in 2010 that aims to help member states to establish and develop inclusive education and training systems

nature that is traced to their secularity. Unquestionably, it is the legacy that has been left from the Soviet time. Both Central Asian countries have constitutionally proclaimed the separation of religion and education. Therefore, the third hypothesis states the following:

- 3<sup>rd</sup> hypothesis (H3): The Soviet heritage has left a significant mark that is visible in the policy towards education.

The above statement applies to both countries since the Republics of Kazakhstan and Uzbekistan have greatly been influenced by the Soviets.

Therefore, it is observed that there are similarities and differences between the education systems of the Republic of Kazakhstan and the Republic of Uzbekistan. The first hypothesis stating that the education systems of the two republics have similar elements of education structure and governing is not completely true since some differences have been revealed.

Another hypothesis that was set in the thesis was:

- 4<sup>th</sup> hypothesis (H4): The Soviet elements are predominant over the new ones in the education systems of the Republic of Kazakhstan and the Republic of Uzbekistan.

The preceding statement lacks relevance, as it is evident that the education systems of both states have remained some features that were inherited from the Soviet rule. Thus, the secular nature of the education system is currently present. However, noticeable changes have occurred or are underway, with aspects of the former Soviet system gradually being replaced. Some new tendencies are visible such as the Bologna process. It must be highlighted that the Republic of Uzbekistan is also interested in joining the European educational space.

One of the crucial aims of the research was to investigate whether the legislation of the Republic of Kazakhstan and Uzbekistan comply with international obligations regarding the right to education. Consequently, one of the first hypotheses of the dissertation claimed the following:

- 2<sup>nd</sup> hypothesis (H2): The legislation of the Republic of Kazakhstan and the Republic of Uzbekistan does not comply with international obligations ensuring the right to education.

The analysis of the acquired data (from national legislation) provides a clear picture of human rights and freedoms in the Republic of Kazakhstan. Following the national legal documents of the country, we can state that the Republic of Kazakhstan acts under international standards ensuring human rights and freedoms. The protection of human rights in the Republic of Kazakhstan was considered in the scope of international legislation.

It was also set to examine the practice of one of the Central Asian countries, in this regard, the Republic of Uzbekistan.

Consequently, compliance with the standards of guaranteeing the right to education and religious freedom in the Republic of Uzbekistan was also checked. The legislation of the Republic of Uzbekistan certainly adheres to the principles of promoting and ensuring human rights. Thus, hypothesis 2 does not prove true.

Although the right to education is constitutionally ensured in both states, after the revision of legal documents on the human rights of the two Central Asian states, some limitations and restrictions can be found. Therefore, the 5th hypothesis has been formed which is the following:

- 5<sup>th</sup> hypothesis (H5): The right to religious freedom cannot be restricted while fulfilling the requirements of education.

In particular, it is related to the prohibition of displaying religious attire in secular educational institutions that resulted in some conflicts in the country. For example, one of those cases will be introduced here as well as the international experience.

## **2.5 INTERNATIONAL OVERVIEW ON THE BAN OF RELIGIOUS DRESS**

## **1.The case of Bilkiz Kenzhegalieva versus the Kazakh Law**

One of the cases in the Republic of Kazakhstan was the case of Bilkiz Kenzhegalieva. The schoolgirl could not attend school since the Charter<sup>36</sup> of her school prohibits the manifestation of a headscarf within its walls. According to her parents, the girl wears a headscarf due to her beliefs and set norms of religion. Therefore, the school administration refused to accept her. The girl's parents sued the school twice; however, the court dismissed the claims on both occasions.<sup>37</sup>

It is argued that the right to religious freedom collides with the right to education. This conflict arises notably due to the contradictive legal codes such as the Constitution of the Republic of Kazakhstan (which ensures the right to religious freedom that entails manifestation of the religious dress too) and the Ministerial Order On the Approval of the Requirements for Compulsory School Uniforms for Secondary Education Organizations (which obliges the exclusion of elements of garments of religious affiliation).<sup>38</sup>

After analyzing the two legal documents of the country on the ban of religious attire, it can be argued that the restriction of religious dress in educational organizations is legit in the Republic of Kazakhstan. Thus, in this chapter of the dissertation, the arguments for the legitimacy of the ban on religious attire and the legislation on religious clothes were presented. Among those were various principles, including secularism, domestic law, and considerations of public safety and order.

Thus, the religious dress restriction in educational organizations is justified due to the principle of secularism. Mainly, secularism is a direct reason for restricting religious attire in educational organizations. The states such as the Republic of Kazakhstan, driven by the principle of secularism, do not aim to exclude religion absolutely; instead, it intends to

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36 On approval of the Requirements for compulsory school uniform for secondary education organizations"

Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated January 14, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085. Available at: <https://adilet.zan.kz/rus/docs/V1600013085>

37 Коллектив авторов., 2019. Имплементация норм Международных договоров в области прав человека (гражданские и политические права) в Законодательство Республики Казахстан. «Институт законодательства Республики Казахстан». pp. 114-132

38 On approval of the Requirements for compulsory school uniform for secondary education organizations"

Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated January 14, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085. Available at: <https://adilet.zan.kz/rus/docs/V1600013085>

prevent conflicts based on religion in the multinational and multiethnic society. The Republic of Kazakhstan's government is adhering to the principles of human rights, namely the right to education, which pursues to provide equal conditions to believers and atheists to receive an education. Thereby, by following secular rules, the government seeks to protect all members regardless of their position on religion.

Since the regulation of the field of education relates to the absolute competence of the state based on domestic and international law, another principle legitimizes the ban on religious attire. It is the principle of domestic law.

It is essential to note that schools and universities in the Republic of Kazakhstan are administered and sponsored by the state body represented by the Ministry of Education and Science.<sup>39</sup> Thereby, the state body organizes and provides education to all. As a result, the Ministry of Education and Science is eligible to set norms and rules followed by adopting internal decrees and orders. Certainly, orders and decrees of the Ministry must be complied with by its students. In this case, the Ministerial Order on the Approval of Requirements for Compulsory Uniforms for Secondary Education Organizations has to be followed.

As we can conclude, the right to freedom of religion can be limited, although the international instruments on the protection of human rights state that religion cannot be a matter of any violations from a state. However, turning to the United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief<sup>40</sup>, the right to freedom of religion can be restricted if it is essential to protect public safety, public order, health and morals, or the fundamental rights and freedoms of others. Thus, states are legit to limit or restrict the right to religious freedom based on the principle of public safety and order.

Since the issue of the ban on religious dress challenges many states<sup>4142</sup>, it is yet crucial to

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39 Ministry of Education of the Republic of Kazakhstan is the state authority performing management in the spheres of education, science, and protection of children's rights. Available at: <https://www.gov.kz/memleket/entities/edu/about?lang=en>

40 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-all-forms-intolerance-and-discrimination>

41 According to the report titled "Restrictions on Women's Religious Attire" conducted by the Pew Research Center, the following countries such as Canada in Americas, Australia, Azerbaijan, China, India, Kyrgyzstan, Singapore, Tajikistan, Thailand, Turkey, Turkmenistan, Uzbekistan in Asia Pacific, Austria, Belgium, Bulgaria, Croatia, Denmark, France, Germany, Italy, Kosovo, Netherlands, Norway, Macedonia, Russia, Spain, Sweden, Switzerland, Ukraine, UK in Europe, Algeria, Egypt, Israel, Oman in Middle East and North Africa, and Ethiopia, Kenya, Mali, Mozambique, and Nigeria in Sub-Saharan Africa where some level of government restricted wearing religious

look at international standards. Similarly to the consideration of the right to freedom of religion and the right to education in the view of international law, it is essential to perceive what international law and the international organizations on human rights say about religious attire.<sup>43</sup>

Undoubtedly, from the analysis of international law on the protection of human rights, we can argue that international law seeks to ensure rights and freedoms.<sup>44</sup> However, it shall be noted that the ethnic, historical, and cultural factors have to be respected while reviewing the problem of the ban on religious dress in educational organizations in a particular state. Generally speaking, there is no unambiguous approach to regulating the wearing of religious attributes in school. Even international organizations dealing with the problem have made different decisions on the issue.<sup>45</sup>

Some high-profile cases in the world that had different decisions from international organizations will be reflected and cited here.

## **2. The case of Leyla Sahin versus the Turkish Law**

The case of Leyla Sahin is notable for its public visibility.<sup>46</sup> The Turkish student was not allowed to attend university on a headscarf (could not take the written exam, was not included in the list of participants for the seminar, and could not be present at some lectures) due to the

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garments in certain circumstances in 2012 and 2013. The reasons behind such restrictions vary from state to state, but the most common expounded is ensuring equality between men and women, protecting public safety and order, and preserving secularism.

42 "Restrictions on Women's Religious Attire".2016.Pew Research Center. Available at: <https://www.pewresearch.org/religion/2016/04/05/restrictions-on-womens-religious-attire/>

Speaking of the case of the Republic of Kazakhstan, there is one more reason apart from the above-mentioned. Thus, this topic is crucial since wearing religious Islamic dress is a foreign norm that might result in such consequences as the loss of national identity and spiritual roots.

43 Some of the international organizations such as the European Court of Human Rights and the Human Rights Committee that dealt with the cases of wearing religious dress in educational organizations were considered below. These two organizations are the main international standards since oversee the implementation of international documents on the protection of human rights and freedoms.

44 International law defines the legal duties of States under which they are obliged to act in certain ways or refrain from certain actions in order to promote and protect the human rights and fundamental freedoms of individuals or groups

45 The decisions that have been made were considered in the detail below

46Ibid

issued circular of the university.<sup>47</sup>

Subsequently, the student appealed to the administrative courts to annul the circular. However, her petition was rejected by the courts. The courts justified its decision based on the legislation in force as well as following the decisions of the Constitutional Court and the Council of State of Turkey.<sup>48</sup> In accordance with the court, the Vice-Chancellor had the power to issue the circular to maintain order in the university.

The European Court of Human Rights made the same decision. The ECtHR did not satisfy the student's complaint on the circular, although the ECtHR considered that the university's order was an act of interference by the public authorities in the exercise by the applicant of her right to manifest her religion. However, the circular was issued in pursuance of the statutory established powers of the University administration, as supplemented by the decision of the Turkish Constitutional Court in 1991<sup>49</sup>, in which the court followed its precedents. In addition, the Council of State of Turkey, many years before the events in question, stated that the wearing of a traditional Muslim headscarf is incompatible with the fundamental principles of the Republic.

Besides, the European Court of Human Rights stated that the regulation of the manifestation of religious dress (religious scarf) existed long before the student was admitted to the university. Firstly, as a result, there was a basis in Turkish law for this act of interference by the public authorities toward the applicant's right to manifest her religion. Secondly, the norms of the law on this issue were accessible to citizens and entirely predictable. Consequently, the student was aware of the existing rules and norms of the university.

Therefore, in accordance with the European Court of Human Rights, the act of interference pursued the legitimate aim of protecting the rights and freedoms of other persons

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<sup>47</sup>The Vice-Chancellor of Istanbul University issued a circular which stated that female students wearing traditional Muslim headscarves would not be allowed to attend lectures, seminars and consultations with professors on 23 February 1998.

<sup>48</sup> The document was provided by the Russian edition of the Bulletin of the European Court of Human Rights ([www.echr.today](http://www.echr.today)). Permission to re-publish this translation into Russian has been granted for the sole purpose of its inclusion in the Court's database HUDOC. [online] Available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-70956%22%5D%7D> > [Accessed 17 November 2022].

<sup>49</sup> Yaniv Roznai, Serkan Yolcu.,2012. An unconstitutional constitutional amendment—The Turkish perspective: A comment on the Turkish Constitutional Court's headscarf decision.*International Journal of Constitutional Law*, Volume 10, Issue 1, January 2012,pp.175-207



and protecting public order. The ultimate reason for the prohibition of a religious scarf and the suspension of the student from the educational organization was the principle of secularism. The idea of secularism is quite a valid ground for prohibiting religious attire aimed at safeguarding the democratic system of government.

It is crucial to note that none of the researched states (the Republics of Kazakhstan and Uzbekistan) is a member of the Council of Europe. However, the Republic of Kazakhstan is an associate member and the practice of this international organization is relevant.

Another international organization on human rights represented by the Human Rights Committee has chosen the opposite decision while reviewing another similar case.

### **3. The case of Bikramjit Singh versus the French Law**

The case of Bikramjit Singh is similar to the one mentioned earlier in the dissertation. Specifically, the case concerns Bikramjit Singh who was expelled from the school for refusing to remove symbols of religious affiliation during school lessons in France.<sup>50</sup>

Notably, the United Nations Human Rights Committee (UN HRC) ruled on this issue. The UN HRC has upheld the complaint of Bikramjit Singh argued about the illegitimacy of the school's action. The arguments that the UN HRC relied on were predominantly the fact that France does not provide convincing evidence that wearing religious headwear threatens other pupil's rights and freedoms. Furthermore, following the United Nations Human Rights Committee, expelling a pupil because of wearing religious clothing is disproportionate and unnecessary and therefore finds a violation of freedom of religion.<sup>51</sup>

The position of the United Nations Human Rights Committee on each case is assuredly varying.

### **4. The case of Singh Bhinder versus the Canadian Law**

For instance, in the case of Singh Bhinder versus Canada, the Committee did not support

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50 ACT No. 2004-228 of 15 March 2004 governing, in application of the principle of secularism, the wearing of signs or outfits showing religious affiliation in public schools, colleges and schools. In accordance with the law, religious symbols are prohibited in public educational organizations in France

51 Коллектив авторов., 2019. Имплементация норм Международных договоров в области прав человека (гражданские и политические права) в Законодательство Республики Казахстан. «Институт законодательства Республики Казахстан». pp. 114-132

the plaintiff who challenged the legality of the restriction on wearing religious headwear in the workplace. Consequently, it was stated that the positions of the United Nations Human Rights Committee are based on specific threats to the rights and freedoms of others and the proportionality of limitation.<sup>52</sup>

Therefore, it is evident that international organizations have come up with fundamentally different verdicts.

After a detailed analysis of the cases and the position of the international institutes on human rights, it is clear that there are arguments supporting the ban on religious garments. The arguments favoring such bans in the Republic of Kazakhstan and the Republic of Uzbekistan have already been discussed earlier in this dissertation. However, the current subsection would provide arguments for the ban based on the experience of other countries, mainly the European Union states.

The reasons behind the legal restrictions of religious dress based on the experience of the European Union states have been noted by Sukiainen in the book “Islam and human rights in the dialogue of cultures and religions”.<sup>53</sup> According to the author, those grounds are political, cultural, and socio-psychological.<sup>54</sup>

It was stated that the conflict over the seemingly minor issue of Islamic religious attire had highlighted the essence of contradictions between the European (secular) and Islamic (religious) views of the relationship between law, religion, morality, and custom. The issue of religious dress has clearly demonstrated the fundamental differences between the two legal cultures.<sup>55</sup>

Thus, the first and foremost argument for the ban on religious dress is the principle of equality. In other words, the principle of secularism has already been referred to while considering the cases of the Republic of Kazakhstan and the Republic of Uzbekistan. The essence of the restriction is related to the fact that all students and teaching staff should be treated equally, regardless of their religious beliefs.

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<sup>52</sup> Ibid

<sup>53</sup> Л.Р.Сюкияйнен.,2014. Ислам и права человека в диалоге культур и религий.рр.143-201

<sup>54</sup> Ibid

<sup>55</sup> Ibid

In addition, another argument for the ban on religious garments is the protection of gender equality for pupils. Following the author, the display of religious dress violates the given principle.<sup>56</sup>

One of the key points of the restriction is explained by the need to avoid coercion to accept a particular religion. In this sense, it concerns the Islamic religion. It is stated that children are easily affected by external influences. Consequently, the manifestation of a particular religious dress might indicate a certain inducement or even compulsion to convert to a religion. As a result, such indirect pressure in the secular education system has to be removed.<sup>57</sup> It especially applies to the teaching staff since it is proved that pupils tend to emulate teachers.

Secular educational institutions are mandated to provide a secular education. Thereby, educators in these institutions, whether school, college, or university, take responsibility for tolerating some limitations concerning the freedom of external expression of one's attitude towards religion since they represent the secular state.<sup>58</sup> Additionally, a teacher wearing religious garments could signify an unequal treatment of students, who may come from diverse religious backgrounds or have no religious affiliation at all.<sup>59</sup>

Thereby, there is a necessity to keep a balance between students with different views on religion. Such a measure would keep the public order, and importantly, protect personal rights and eliminate any discrimination based on attitude towards religion.<sup>60</sup>

As many authors claim, the limitation or even the ban of religious dress guarantees that people regardless of their feelings (positive or negative) towards a particular religion or atheism, would not treat religion from a favorable or discriminative position. Consequently, it is believed that neutral dress does not say anything about the commitment to religion or atheism.<sup>61</sup>

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<sup>56</sup>Ibid

<sup>57</sup>Ibid

<sup>58</sup>Ibid

<sup>59</sup>Ibid

<sup>60</sup>Ibid

<sup>61</sup>Ibid

Another important reference to restricting religious clothing is called public safety and public order. It has been argued that the restriction on Islamic religious garments is the concerns of many states about challenges such as radicalization and terrorism. Consequently, the ban is related to the political justification for enacting the legislation apart from the legal ground.<sup>62</sup>

Generally speaking, it is declared that the ban on religious clothing is based on a complex combination of legal and political arguments.

In addition to the previously mentioned arguments, there are more important reasons for restricting Islamic religious dress.

One of the strong arguments for adopting the ban on religious clothing in various states is the traditions of society. Thus, it has already been marked in another chapter of the dissertation that Islamic religious dress is perceived as a symbol of women's subordinate position in society. In addition, it is also considered as the restriction of women's freedom.

It is noted that this argument, along with the argument in favor of the principle of equality, is one of the dominant ones.

Briefly, the arguments that have been highlighted are the main ones that are most cited in justifying the ban on Islamic religious clothing.

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<sup>62</sup>Ibid

## 2.6 REVIEW OF LITERATURE

The review of literature began firstly by analyzing the works of various scholars on the comprehension of the concept of human rights. Thus, the papers of Karel Vasak have taught me the categorization of human rights.<sup>63</sup> Importantly, the right to education has been closely reviewed within his classification.

The right to education has been studied in detail owing to the works of some Russian scholars, for example, Mongush Alla and Rakhinskiy Dmitry in the paper titled “The right to education: some issues of theory and practice”<sup>64</sup>. To fully understand the right to education, it was essential to turn to the works of well-known scholars such as Katarina Tomasevski. One of her pieces of work "Human Rights Obligations in Education: The 4-A Scheme” has been studied since it gives a wide comprehension of the right to education<sup>65</sup>.

To learn about the evolution of the right to education in the Republic of Kazakhstan and Uzbekistan, many books and articles written by Kazakh and Uzbek authors have been examined. For example, the work History of Kazakhstan by Kuzembayuly Amanzhol and Abyl Erkin has shed light on the situation with education and its right to it in the middle of the XIX century.<sup>66</sup>

Speaking of the development of the right to education in Uzbekistan, it is essential to underline the paper “An overview of the education system in the Middle Ages in the territory

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63 Spasimir Domaradzki., Margaryta Khvastova., David Pupovac.2019. Karel Vasak's Generations of Rights and the Contemporary Human Rights Discourse. Available at: <https://link.springer.com/article/10.1007/s12142-019-00565-x>

64 Монгуш, А. and Рахинский, Д., 2016. Право на образование: некоторые вопросы теории и практики. Общество: политика, экономика, право, pp.80-82. Available at: <https://cyberleninka.ru/article/n/pravo-na-obrazovanie-nekotorye-voprosy-teorii-i-praktiki>

65 Katarina Tomasevski. One of her piece of work "Human Rights Obligations in Education: The 4-A Scheme”. Available at: [https://www.researchgate.net/publication/312103344\\_The\\_Right\\_to\\_Education\\_The\\_Work\\_of\\_Katarina\\_Tomasevski](https://www.researchgate.net/publication/312103344_The_Right_to_Education_The_Work_of_Katarina_Tomasevski)

66 Кузембайұлы, А. and Абыл, Е., 2006. История Казахстана. 8th ed. Костанай: : Костанайский региональный институт исторических исследований, pp.193-194. Available at: <http://elibrary.kstu.kz/fulltext/EPP%20rus/Kuzembayuly%20IK.pdf>

of present day Uzbekistan” written by Abdullaeva, Zaynitdinova, and Khalikova.<sup>67</sup>

The progress of the right to education in both states was reviewed within the legal documents of the state. Thus, the Constitutions of the two republics and other legal documents were examined apart from academic papers and books. In addition, international instruments were considered as well.

The above-mentioned sources were used to learn about the education systems in the Republic of Kazakhstan and Uzbekistan too. The literature on the debatable issue has been formed separately and will be presented in the next subparagraph.

## **2.7 REVIEW OF LITERATURE ON THE ISSUE OF RELIGIOUS CLOTHES**

In my point of view, the chosen topic represents significance and relevance. Nowadays, the importance and preservation of human rights is being a central element of the agenda of many states around the world. Owing to the high attention and actions of governments and international organizations, people freely exercise their freedoms and rights.

However, there are cases when the realization of one human right might contradict another one. As a result, two human rights conflict. It is argued that the right to freedom of religion can collide with the right to education, and collisions might arise based on various grounds. For instance, it is stated that the ban of religious symbols in secular educational organizations is not legitimate and provokes the violation of the right to freedom of religion while exercising the right to education.

It is worth mentioning that the statement mentioned above is a concern for many actors such as international and non-governmental organizations on the protection of human rights, for example. It is also important to note that each case has been considered

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<sup>67</sup> Шахзода Абдуллаева, Масуда Зайнитдинова, Гулбахор Халикова. 2017. История педагогики. Available at:

[https://www.researchgate.net/profile/Shaxzoda-Abdullaeva/publication/336835548\\_Istoria\\_pedagogiki-2017/links/5db53b3e92851c577eca0ee0/Istoria-pedagogiki-2017.pdf](https://www.researchgate.net/profile/Shaxzoda-Abdullaeva/publication/336835548_Istoria_pedagogiki-2017/links/5db53b3e92851c577eca0ee0/Istoria-pedagogiki-2017.pdf)

individually by states and international organizations. Consequently, there is no clear approach seen regarding the legitimacy of the decision to prohibit certain clothing.

In my view, whether the prohibition of religious garments in educational organizations leads to the collision between the two fundamental rights the right to religious freedom and the right to education is not well- researched.

In particular, it applies to my motherland, the Republic of Kazakhstan, where some discussions concerning it occur from time to time. Although this issue has not been studied deeply, there are numerous books, articles, reports, statistical data, and brief policies of local and international scholars on the different subthemes such as the right to education, the right to religious freedom, religious trends, human rights issue, and government policy on education and religion.

Since the concept of the right to education has been studied separately and framed in the other chapters of the dissertation (chapter 3 and 4), this section of the thesis intends to focus on the literature relevant to the other subtopics related to the studied issue.

To begin with a review of literature, it is worth taking note of the work “Central Asia: A Space for “Silk Democracy”. “Islam and State”<sup>68</sup> that was written by prominent academicians such as Nogoybayeva, Kushkumbayev, Tolipov, Mamadazimov, Ibraimov, and Salimov. Firstly, their valuable paper has given me some insights to formulate the questions of the dissertation.

Secondly, their work has helped me to comprehend the current position of Islam in the four independent Central Asian states which are the Republic of Uzbekistan, the Republic of Kazakhstan, the Republic of Tajikistan, and the Republic of Kyrgyzstan. Key points, such as the legal frameworks governing religion in each country, the special institutions operating there, the concepts, strategies, and agreements on religion, and the security initiatives against Islam in Central Asia, have been structured systematically. Moreover, the other important data presented by comparative research have illustrated the changes over the past 25 years.

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<sup>68</sup> Nogoybayeva, Kushkumbayev, Tolipov, Mamadazimov, Ibraimov, Salimov, 2017. Central Asia: A Space for “Silk Democracy”. “Islam and State”. pp.23-33

What is more, it has shown the interaction between the Islamic religion and each state individually. In the case of the Republic of Kazakhstan, the authors touched on the sensitive issue of debates on religious dress. They pointed out that the disputes have raised the question of its acceptability in state and educational institutions, although the number of people wearing it is not significant.

The paper has also provided a picture of these four states' practices and the changing policies toward religion covering the entire period from the years of independence until the year 2016.

The detailed policy of the Kazakh government towards religion has been presented in the chapter "Kazakhstan: Islamic Revival and Trajectories of State-Society Relations" in the book titled "Religion, Conflict, and Stability in the Former Soviet Union" written by Nargiz Kassenova.<sup>69</sup>

The author made a broad analysis of the relationship between the state and society in the religious field while taking into consideration the tensions and contradictions. She began with the statistical data regarding the Islamic revival, namely the ethnic identity, the level of religiosity, the proliferation of religious education and information, the level of inter-religious tolerance, and the level of secular preferences. She presented traditional and non-traditional Islam and underlined the backgrounds and motivations for engaging people in non-traditional Islam, its emergence in the territory of the Republic of Kazakhstan, the approximate number of believers, and the principal features of non-traditional Islam followers. It should be noted that there is a link between her work and the studied issue. For example, she underlined a connection between the people in Kazakhstan who are followers of non-traditional religions and religious symbols. In particular, Kassenova argues that those people usually do not let their children attend school without religious clothes since they reject the state and society and try to live separately in their communities.

Certainly, the increase of believers in non-traditional religions forces the government to interfere in religious life and imply strict policy. It has already been ticked in the thesis that the transformation of state policies toward Islam over time took place.

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<sup>69</sup> Kassenova, N., 2018. Kazakhstan: Islamic Revival and Trajectories of State-Society Relations. Religion, Conflict, and stability in the former Soviet Union, pp.115-136



Svante E.Cornell, S.Frederick Starr, and Julian Tucker refer to the government policy of the Republic of Kazakhstan as well in the paper titled “Religion and the Secular State in Kazakhstan”.<sup>70</sup> They also agree that the country takes it upon itself to regulate religion by distinguishing between traditional and non-traditional. They are convinced that despite following the principle of secularism, the state does not have a neutral attitude towards religion in practice. They refer to the Skeptical/ Insulating type of government policy that is based on the practice of France and Turkey. In addition to the above, the authors note that the model of the Republic of Kazakhstan has incorporated the features of the Dominant religion type with its highlight. In other words, it does not privilege one particular religion, but the traditional ones are privileged over novel interpretations.

The control of the religious sphere in Kazakhstan by the state has been indicted in the works of other scholars as well. Although the religious field of the Republic of Kazakhstan is becoming a topic of interest for research, there are a few academicians who dedicate their attention to this complex and delicate issue. One of them is Sergei Marinin who has published the paper titled “State regulation of religion in Kazakhstan: a reconsideration of approaches”.<sup>71</sup> He has pointed out the principal points in the religious sphere that is followed by the government of the Republic of Kazakhstan. Those key moments have already been reflected in another chapter of the dissertation.

Another leading researcher who has examined many issues that arose in line with religion in the Republic of Kazakhstan is Roman Podoprighora. He made an analysis of many topics and presented them in the following articles: “Church Autonomy in Kazakhstan”, “Islam in Kazakhstan from a Legal Perspective”, “Religion in Kazakhstan: A General View”, and “Religious Freedom and Human Rights in Kazakhstan”, “Legal framework for religious activity in post-Soviet Kazakhstan: from liberal to prohibitive approaches”, “International Instruments Influencing Religious Freedom in Kazakhstan”, “Freedom of Religion and Belief and Discretionary State Approval of Religious Activity”, “Religious Pluralism and State Paternalism in Kazakhstan”, “Religious situation and problems of freedom of religion and belief in Kazakhstan”, and “State and religious associations in Kazakhstan: Legal regulation and political context”.<sup>72</sup>

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<sup>70</sup> Svante E.Cornell, S.Frederick Starr, J.Tucker., 2018. Religion and the Secular State in Kazakhstan.pp.5-96

<sup>71</sup>Marinin, S., 2015. State Regulation of Religion in Kazakhstan: Reconsideration of Approaches. Central Asia Security Policy Brief., pp.1-19

<sup>72</sup>Podoprighora, R., 2001. Church Autonomy in Kazakhstan.pp.1-13

Podoprigora mentions the religious sphere of the Republic of Kazakhstan in the article “Religious Freedom and Human Rights in Kazakhstan” noting its distinctive nature, which is certainly a result of many factors including historical, geographical, ethnic, and political as well. He advocates for the consideration of these elements while analyzing human rights in the country. The specific characteristics that have been underlined by the author are the following:

- The insignificant role of religion during the different periods of the history, and as a result, the underdevelopment of religious institutions and church-state relationships;
- Due to the migration and deportation of many nations from and to the Republic of Kazakhstan during various political regimes, there is no one dominant religion;
- The predominantly secularized Kazakhstan nowadays is the consequence of the intensive policy of the Soviet Union against religion in the past.

Podoprigora has highlighted that many positive changes have occurred in the religious sphere in Kazakhstan since the era of communism. However, he assigns that the legislative proclamation of the noninterference of the state in the religious field activity, in reality, is not in practice. In other words, he believes that there is a mismatch between the legislation of the country and practice.

The above statement has been remarked on in the majority of the papers of the author.

In the article “Freedom of Religion and Belief and Discretionary State Approval of Religious Activity”, the author has examined certain types of recurrent issues that usually convoy to violations of religious freedom.<sup>73</sup> He claims that administrative actions of

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Podoprigora, R., 2001. Religion in Kazakhstan: A General View.pp.581-588

Podoprigora, R., 2019. Religious Freedom and Human Rights in Kazakhstan.pp.113-127

Podoprigora, R., 2018. International Instruments Influencing Religious Freedom in Kazakhstan.pp.90-95

Podoprigora, R., 2020. Religious Pluralism and State Paternalism in Kazakhstan.pp.63-73

Podoprigora, R., 2017. State and religious associations in Kazakhstan: Legal regulation and political context.pp.75- 85

Podoprigora, R., 2020. Legal framework for religious activity in post-Soviet Kazakhstan: from liberal to prohibitive approaches

73 Podoprigora, R., 2004. Freedom of Religion and Belief and Discretionary State Approval of Religious Activity

government such as approvals, licenses, and permits provoke the violation of the right to religion rather than a form of legislation. He stressed the models of the relationship between church and state, namely specifying that the position of religion depends on religions' relationship with the state and their role in the state. The two statuses of religion were classified that could exist in any society.

Thus, on one hand, religion is considered a crucial element of the state that coexists inseparably with state power. On the other hand, religion is not perceived as an important part of life following a negative attitude towards it. Therefore, religious activity and associations as well as religion in general can fall under a strict policy of states.

Also, Podoprigora distinguished the other types of relationships between state and church. For example, the first type is state churches with colossal privileges and an impact on state affairs. The second model is enclosed in the separation between church and state, where all religious associations are equal and treated equally by the state. The last one is based on the fact that the state formally pertains equally to all, however, privileges one particular religion.

What is more, in the article he argues that the state may impose different requirements and such administrative decisions can restrict the presence of believers in certain types of places. For example, educational institutions have been remarked as those places.

Some specific legal issues that come between educational institutions namely schools and religion in the Republic of Kazakhstan were also analyzed by him. Thus, they have been traced in the article called "School and Religion in Kazakhstan: No Choice for Believers".<sup>74</sup>

In the article "School and Religion in Kazakhstan: No Choice for Believers", the author declares that the government of the Republic of Kazakhstan and society are concerned about religious institutions in many fields of social life, including education.<sup>75</sup> The scholar attempts to find reasons behind that attitude and additionally illustrates some significant issues. For example, Podoprigora has examined a general overview of religious education and

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<sup>74</sup> Podoprigora, R., 2018. School and Religion in Kazakhstan: No Choice for Believers. pp.588-604

<sup>75</sup> Ibid, pp.588-604

teaching about religion in schools in Kazakhstan.

More importantly, considering that the right to religious freedom is a form of human right that can be realized either independently or in conjunction with other human rights, he has focused on the relationship between the right to education and the right to freedom of religion in the Republic of Kazakhstan. In particular, a case (religious dress in school) that evokes disputes in the country was propounded in the paper.

The issue of dress code in schools in Kazakhstan was also reviewed by Podoprighora in the paper titled “Kazakhstan - On the headwear ban in Schools” in the book “Religious and ideological rights in education. Judicial perspectives from 32 legal systems”.<sup>76</sup>

The book is beneficial for the researched topic since it presents cases of the issues arising from pluralism in the education system and of judicial responses to them around the world. The book consists of chapters that are divided based on the issues and national court’s decisions in each continent which are America, Europe, Africa, Australia, and Asia.

It must be said that Podoprighora is one of the local scholars who raise delicate topics in the country. It is known that the questions about human rights, in particular, its collision require a cautious and tactful attitude. In the article “Kazakhstan - On the headwear ban in Schools”<sup>77</sup>, Podoprighora begins by reviewing the legislation of the Republic of Kazakhstan regarding the issue of religion and education, and the rights to education and religion. According to the author, it is described as very laconic in the state.

The essence of the article lies in the examination of two court cases that took place in the western part of the Republic of Kazakhstan. The cases that have been presented in the paper concern the issue of religious dress in educational organizations (namely headscarf and hijab).

According to Podoprighora, they are very unique in the practice of Kazakhstani courts. Generally speaking, it relates to the fact that many disputes and conflicts usually do not reach the courts. However, the question of religious dress became problematic in society.

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<sup>76</sup> Podoprighora, R., 2017. Kazakhstan - On the headwear ban in Schools, pp.512-519

<sup>77</sup> Ibid, pp.512-519

Both cases involve judicial reviews of actions taken by state schools that prohibited attendance due to the display of religious symbols. It was submitted by a citizen of the Republic of Kazakhstan on behalf of the interest of his minor daughter (the case was also presented in the dissertation).

The court was unsatisfied with the application of the applicant primarily referring to the “Law of the Republic of Kazakhstan” and the School Internal Rules that prohibit the headwear inside the school building. Secondly, it was pointed out that the applicant agreed with the teaching conditions in the General Education School. It is worth emphasizing that since state bodies organize and provide education, the mechanism of the form of education is chosen by the state. Thus, it is a secular form of education and pupils must observe School Internal Rules or other legislations that have been adopted by the state. Thirdly, the author lists the following point of the court: the considerations of the applicant regarding discrimination rights of his daughter’s rights on religion are groundless. The court arguments it with the fact that the school administration only required to follow the rules of a secular school. The administration of the school is not against religion and agrees to allow a pupil to attend school. However, all pupils must maintain all rules and norms established by the school and the government. In this regard, the court has resolved that the school administration’s actions requiring school attendance without headwear do not violate legislation of the Republic of Kazakhstan and the constitutional rights of the applicant’s daughter.

Podoprigora argues that the court has used a formal approach without consideration of the fact that the rights and freedoms of a citizen may be limited in specific circumstances such as the protection of the constitutional system, defence of the public order, human rights and freedoms of others, and health and morality of the population. Also, the author questions whether the state school has the right to set the headwear ban. The Republic of Kazakhstan does not have legislation that prohibits religious clothes in the country. However, in the upcoming legislative session (in 2024), Kazakhstan is gearing ready to pass a new law that will control religious activities, especially those deemed unconventional or possibly dangerous. This law will deal with a number of issues related to religious expression, such as wearing religious garments in public.

Additionally, Podoprigora underscores that the substance of religious freedom, including the wearing of distinctive clothing or head coverings, was not addressed by the

court. He also noted that the court failed to acknowledge that the existing educational system in the Republic of Kazakhstan does not provide for secular education outside of educational institutions. This implies that the ban on headwear and actions based on this ban effectively deprive believers of their right to education.

The author also reflected on the standpoint of some official bodies of the state such as the Ministry of Justice and the Ministry of Education and Science and the viewpoint of the former president on the problem. It has been emphasized in the thesis that the responsible body for education (the Ministry of Education and Science of the Republic of Kazakhstan) issued an order “On the approval of the Requirements of Compulsory School Uniform for Secondary Education Organizations” in 2016. The document primarily aims at realizing the secular nature of education and eliminating social, property and other differences between students in secondary education institutions.

Certainly, this order also can help to abolish differences based on religious beliefs between students. The wearing of traditional clothing and items that are characteristic of the followers of any religion such as hijabs, scarves, turbans, and any other garments expresses affiliation to a particular group.

The legal act which has been adopted by the Ministry of Education and Science consists of the general provisions for compulsory school uniforms, the detailed description of uniforms for both schoolboys and schoolgirls that must correspond the secular values (the inclusion of elements of religious affiliation in the school uniform is not permitted), and the implementation of the mandatory school uniform requirement for secondary education institutions. Although this document has been accepted, the issue of religious garments worn by schoolgirls in the Republic of Kazakhstan is considered unsolved. Thus, Podoprigora in the article mentioned above states that the situation with hijabs in Kazakhstan is still unresolved.

The cases when the legal regulations of a public authority that prohibits wearing religious clothes and symbols would be considered discriminatory were analyzed by several scholars of the Republic of Kazakhstan as well as Kulzhabayeva, Kulikbayeva, Sarsembayev, Abaydeldinov, Irzhanov, Abylayuly, Dairova, Abdildina, Kazhibekov, Aituarova, Adilshin, and Salikova within the scientific publication “Implementation of Norms of International Treaties in the Field of Human Rights. Civil and Political Rights into the Legislation of the

Republic of Kazakhstan”<sup>78</sup>.

Thus, in analyzing the issue of wearing religious clothes in organizations of education, the scholars refer to subparagraph 2 of Article 18 of the International Covenant on Civil and Political Rights. According to the authors, coercion that impairs the right to hold or adopt a religion or belief is prohibited. This includes the use or threat of physical force or criminal sanctions to compel believers or non-believers to adhere to a particular religion or belief, to renounce their religion or belief, or to convert to another. They argue that policies or practices pursuing the same objectives, such as those limiting access to education, health care, employment or the rights guaranteed by Article 25 and other provisions of the Covenant are also incompatible with article 18, paragraph 2. The same protection is guaranteed to those holding any non-religious convictions.

As they note the acts of a public authority prohibiting wearing religious garments will only be considered discriminatory if it can be shown that the state aims to compel or discourage the wearing of the purpose of the state is to force people to either renounce their religion or belief or to change their beliefs.

The tension between the right to education and the right to freedom of religion has been reviewed by international scholars as well. For instance, one of those academicians is Charles J. Russo. He is an American scholar, who focuses on educational law and international education. Russo has various books that are devoted to the correlation between education and religion such as “Law, Education, and the Place of Religion in Public Schools: International Perspectives.”<sup>79</sup>, “Legal Issues in Faith-Based and Other Non-public Schools”<sup>80</sup>, “Religion and Law in Public Schools”<sup>81</sup>. In addition, several publications are “Is Religion the Lost Diversity in Education in an Era of Militant Secularists”<sup>82</sup>, “An Update on Catholic Schools in the United States: An Ongoing Gift to the Church and the Nation”<sup>83</sup>, “When are Teachers in Faith-Based Schools “Ministers” for Purposes of the Ministerial

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78 Kulzhabayeva, Kulikbayeva, Sarsembayev, Abayeldinov, Irzhanov, Abylayuly, Dairova, Abdildina, Kazhibekov, Aituarova, Adilshin, Salikova., 2019. Implementation of Norms of International Treaties in the Field of Human Rights. Civil and Political Rights into the Legislation of the Republic of Kazakhstan.pp.114-132

79 Charles J.Russo., 2021. Law, Education, and the Place of Religion in Public Schools: International Perspectives

80 Charles J.Russo., 2018. Legal Issues in Faith-Based and Other Non-public Schools

81 Charles J.Russo., 2017. Religion and Law in Public Schools

82 Charles J.Russo., 2020. Is Religion the Lost Diversity in Education in an Era of Militant Secularists?.pp.1-21

83 Charles J.Russo., 2019. An Update on Catholic Schools in the United States: An Ongoing Gift to the Church and the Nation.pp.133-143

Exception?”<sup>84</sup>, “Expanding the Rights of Student Religious Groups on College and University Campuses: The Implications of *Trinity Lutheran Church v. Comer*.”<sup>85</sup>, “The Right of Religious Education: Global Perspectives”<sup>86</sup>, and the others.

One of his articles that is “Religious Freedom in Education: A Fundamental, Yet Elusive Right”<sup>87</sup> states that although both human rights have been enshrined in international instruments on the protection of human rights, a question of whether the right to freedom of religion of people can be exercised in state-funded educational organizations remains open. His article devoted to the comprehension of the two fundamental rights (the right to education and the right to religious freedom) and some challenges between these rights. He has introduced those key problems between the right to freedom of religion and the right to education student dress, student-initiated religious activities in school, curricular concerns, and celebrations of religious holidays based on the legal court cases of the United States of America.

Considering the issue of the dress of students, a few examples of the violation of the right to free exercise of religion because of religious clothes were presented in the article as well as decisions of courts. In those cases, Russo illustrated that although safety in school is crucial, the least restrictive measures should be taken to prevent students from wearing religious symbols to school.

It is worth mentioning that the United States of America applies the principle of “the wall of separation”. The origin of the definition “the wall of separation” goes to the early 19<sup>th</sup> century which was made and used by the president of the United States of America, Thomas Jefferson.

“The wall of separation” is a concept meaning of strict separation of state and church. As Russo specifies, the wall of separation concerning religious instructions in public schools is used by American courts. However, he remarks that educators in public educational

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84 Charles J.Russo., 2019. When are Teachers in Faith-Based Schools “Ministers” for Purposes of the Ministerial Exception?.pp.731-747

85 Charles J.Russo., 2018. Expanding the Rights of Student Religious Groups on College and University Campuses: The Implications of *Trinity Lutheran Church v. Comer*

86 Charles J.Russo., 2017. The Right of Religious Education: Global Perspectives.pp.211-221

87 Charles J.Russo., 2020. Religious Freedom in Education: A Fundamental, Yet Elusive Right



organizations can teach about religion in the same way as history. In other words, it is allowed to be taught as long as they do not seek to teach religion or to inculcate religious values. Russo observes that, given this context, American educational leaders often avoid and prohibit discussions on religion to prevent potential conflicts.

The cautious and restrictive approach towards religion can be identified in many states around the world. It has already been claimed that it applies to discussions about the issue of religious clothes and symbols in public places including in educational organizations.

There are two researchers Peter Cumper and Tom Lewis, who have investigated the topic of religious garments in Europe in the paper titled “Taking Religion Seriously? Human Rights and Hijab in Europe- Some Problems of Adjudication”<sup>88</sup>.

The authors argue that religious clothes evoke controversy in a secular society. However, they indicate that Islamic dress typically evokes uncertain tensions and feelings in a secular state. The three reasons behind that have been specified by them. Those points in detail have been marked in chapter eight of the dissertation (Challenges).

Mindful of the situation with a right to manifest religious clothes in public places in Europe, Cumper and Lewis argue that it varies. For example, they highlight that on the one hand, there are states such as France and Turkey that prohibit certain types of clothes. On the other hand, there are countries such as the United Kingdom where young people are relatively free to wear religious clothes of their choice.

In addition to the above, the approach of the European Court and Commission of Human Rights to religious clothes and symbols, the challenges of accommodating Islamic dress under the European Convention, and the relationship between freedom to wear religious garments and some liberal values related to democracy have been studied.

Cumper and Lewis while analyzing the issue of religious dress and related symbols within Article 9 of the European Court of Human Rights noted the two elements of the Article. One of them is internal (which guarantees the right to freedom of religion, thought,

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<sup>88</sup>Cumper, P. and Lewis, T., 2008. “Taking Religion Seriously”? Human Rights and Hijab in Europe— Some Problems of Adjudication. *Journal of Law and Religion*, 24(2), pp.599-627

and conscience), while the second is the external dimension, which encompasses the right to manifest one's religion or belief through worship, teaching, practice, and observance. Nevertheless, the state may enforce some restrictions on manifestations of religion or belief, when it is necessary to protect public safety, order, health, morals, and freedoms of others, and are necessary in a democratic society. As they highlight the last point is understood that any limitation on religious freedom must be proportionate to the goal of the state.

It is expressed that a balance between the rights of individual and societal aims is allowed, but it is argued that a fair balance has rarely been achieved on the issue of religious dress in respect of Article 9 of the European Court of Human Rights.

They claim that the European Court grants states a wide margin of appreciation when it comes to delicate issues. To rephrase it, it is said that the domestic authorities are better than an international tribunal to assess whether the restrictions are proportionate to the aim pursued.

The importance of international documents on the protection of human rights has already been referred to in this dissertation. International law certainly impacts the situation with rights and freedoms. It also has provisions regarding religious dress and symbols. Therefore, it is crucial to understand what international organizations and documents say about the right to wear religious clothes.

Since the role of international organizations in solving disputes and achieving a balance between certain human rights is enormous, I would like to refer to the position of the entity of the United Nations Committee which is the Office of the High Commissioner for Human Rights.

The work of the UN is valuable for human rights since one of its principal aims is the promotion and protection of a wide range of human rights worldwide that became established in the Universal Declaration of Human Rights.

The United Nations Committee's position towards religious clothes and symbols encloses the practice of religion including the display of symbols, and the performance of religious precepts and rituals may include the wearing of certain clothing or head coverings.

It must be said that a similar approach is evident in the other profile international organizations. Certainly, those parties protrude against any restrictions based on the legal international norms. However, limitations are observable in more states that from time to time result in a collision of human rights.

## **2.8 REVIEW OF LITERATURE ON COMPREHENSION OF “COLLISION” IN SCIENCE**

The word collision coming from Latin (*collisio*) is one of the definitions that is widely utilized in many disciplines namely in law. The issue of collision is not novel. Consequently, it is an object for lawyers, researchers, and practitioners.

Collision as a phenomenon can be interpreted differently since it has a few meanings. On one hand, collision is the consequence of two norms that differ from each other. On the other hand, collision is understood as two uncoordinated norms of law. Therefore, collision is the presence of discrepancies or contradictions in the content of individual legal acts that regulate the same or related social relations and contradictions that have arisen in the enforcement and exercise of the powers of officials and competent authorities.

The topic of collision has been examined by scholars worldwide since the prevention of collision facilitates the smooth running of the law when dealing with different issues. For instance, the problem of collisions of law and ways to resolve them was studied by Komissarova. In the paper of the same name “Conflicts of law and ways to resolve them”<sup>89</sup>, the scholar first quotes various conceptions of collision. Secondly, she presents the general reasons behind the collision referring to other academicians. For instance, the imperfect nature of laws, the miscarriages of justice, arbitrary interpretation of the Constitution and other acts, and the departure of certain bodies going beyond their powers have been identified as the causes of the collision.

Finally, Komissarova argues that law has internal contradictions that are a source of its development. In turn, it results in the disappearance of one legal norm and the appearance of a new one. As it is highlighted when a new one is issued, it does not supersede the old version.

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<sup>89</sup> Komissarova.A., 2020. Conflicts of law and ways to resolve them. pp.148-153

Usually, it operates on an equal footing with it.

Considering the above, the author underlines the mechanisms and tools of their prevention that have been suggested by Matuzov. Following her, the ways to resolve legal collisions are the following: interpretation, adoption of a new legal act; repeal of an old legal act (both outdated and already illegal legal acts are repealed), outdated legal acts as well as unlawful ones); amendments to existing acts; judicial, administrative, arbitration and arbitration proceedings, systematization of legislation; elimination of conflicts; negotiation process, setting up conciliation commissions; constitutional justice; improvement of legal understanding, interconnection of theory and practice, and international procedures.

Among all the mechanisms that have been mentioned earlier, the author stresses the interpretation as one of the efficient methods against the collision. Indeed, the interpretation is crucial since each legal norm contains numerous terms and principles. It is argued that interpretation is necessary due to the unclear and imprecise language of some laws and regulations, which results in vagueness.

To summarize all the above stated, we can argue that the collision has a negative tint.

It is argued that collision can be as negative as positive as well. Positive collision is a clash of rules of law that regulate one type of social relationship and express the objectively formed needs of people. A negative collision is a clash of law norms, one of which appears in the legal system as a result of an error by the lawmaker.

For example, one of the Russian scholars, Milinchuk, states that discussions are going on about the negativity or positivity of collisions.<sup>90</sup> However, he mentions that the majority of scholars who research collisions are coming round to an opinion about its negativity. It is worth mentioning that the author himself also holds the same opinion. In his understanding, the existence of conflicts in law is a negative phenomenon that has been supported by the following points:

- The uncertainty and ambiguity of legal regulation lead to a situation of

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<sup>90</sup> Milinchuk.D.S., 2018. Conflicts of Laws as obstacles for uniform use of legal norms in Russia.pp.133-139

instability, and therefore the law cannot be considered a reliable regulator;

- The lack of unified rules of conduct produces a negative impact on people's attitudes towards the legislative and executive branches of government, which are unable to coherently create a sustainable system of hierarchical legislation.

In addition, he certifies that the nature of collision is different. Consequently, the groups of collisions based on the essence have been classified. Thus, four types of collisions are temporal (they are also known as horizontal), hierarchical, spatial, and terminological.

The first type of collision is temporal which represents a conflict between two or more norms of law, contained in regulations of equal legal force adopted at different times. As Milinchuk writes, it is a collision between “new” and “old” norms of legal documents. Generally, in cases of temporal conflicts, social relations are governed by the most recently adopted and effective legal act. However, if conflicts are contained in both general and special normative legal acts, the norms of the special action should be applied. The following category is hierarchical. It usually occurs between legal norms adopted by legislative and executive bodies at different levels. The third one is spatial collisions that arise in international relations where the parties are from different countries and the legislation of these countries regulates identical laws. The laws of these countries regulate the same social relations in different ways. The final type is terminological collisions that are expressed in a semantic contradiction of definitions enshrined in different articles of one normative legal act.

Milinchuk, as the first mentioned academician Komissarova, also tries to explain the reasons that induce collisions. He also claims that the reasons vary. For example, legal regulation of social relations in different countries, unclear delineation of powers of executive authorities of powers of the executive bodies that adopt normative legal acts, errors in norm-setting juridical legal drafting errors in lawmaking techniques (imprecision in the wording of legal instruments), legal drafting errors (inaccurate wording of legal provisions, use of ambiguous terms, non-compliance with linguistic rules), the rapid pace of development of social relations in which new conditions for the emergence of legal conflicts are constantly being created and which is sometimes difficult for positive law to keep up with are just a few examples for the emergence of collisions.

The reasons for collision represent a vast interest among the researchers. For example,

there is a viewpoint of Ilynykh that believes to overcome some consequences of negative phenomena such as collisions, first and foremost, the reasons for it must be found. Thus, the principal causes of collision have been presented in his article "The Notion and The Types of Causes of Collisions in Law".<sup>91</sup>

According to Ilynykh, the majority of scholars divide all the causes of the collision into two groups that are objective and subjective. The objective causes of collision are defined by him as those that exist in objective reality and are linked to the activities of the totality of a certain group of individuals and bodies and do not depend on the will of the individual subjects of law. The second group which is the subjective one is understood as those that are directly dependent on the will and conscience of specific subjects of law, primarily deputies, politicians and other parties.

These two groups of reasons for collisions have been explained deeply in the paper based on the opinions of other scholars. Thus, the author introduces the views of various academicians on the main causes of collisions in law. For instance, he refers to Matuzov that sees the objective reasons for collision in law as "inconsistency, dynamism and variability of social relations regulated by law, their discontinuous development, ("aging", "conservatism") of law, which as a result usually does not keep up with the course of real life. He quotes the other basis for the collision that has been suggested by Matuzov that are poor quality of laws, gaps in the law, lobbyism, ill-conceived or poorly coordinated rulemaking, disorderly legal material, lack of proper legal culture, economic turmoil, social tensions, political struggle, confrontation, and criminal lawlessness.

The subjective grounds for collision have also been presented in the paper while considering the viewpoints of other scholars such as Vlasenko, Vengerov, and Matuzov. Thus, Matuzov argues that the subjective reasons for collision in the law can be a manifold variety of them. Among subjective reasons, Vlasenko singles out unclear delimitation of legislative competence and lack of information on the legal regulation of an issue. The author himself highlights that one of the subjective causes of collision in law is the extreme complexity of the wording of the rules of law in the articles of legal acts. According to him, it relates to most regulations. Also, he argues that lawmakers set out a norm that is too large in one sentence,

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<sup>91</sup> Ilynykh., 2015. The Notion and The Types of Causes of Collisions in Law.pp.91-98

which does not facilitate understanding and interpretation. Therefore, it leads to collisions in most cases.

Apart from the above-mentioned ones, the lack of experience of the legislator, poor quality of laws, and inconsistent systematization of regulations have been classified as subjective ones.

As we can see, many reasons give rise to collisions.

## **2.9 THEORETICAL APPROACH**

### **2.9.1 THE CONCEPT OF SECULARISM**

Nowadays secularism is one of the crucial ideologies that exist in the majority of the democratic states worldwide. Many debates are observable nowadays among politicians and academia concerning the best for democracy. To be more specific, it is argued between the model of political secularism and the model of support for religious freedom with checks and balances.

The word secularism derives from Latin. Secularism, as a concept, has deep historical roots. Secularism is associated with many sociologists and philosophers such as Max Weber, Georg Wilhelm Friedrich Hegel, Auguste Comte, Karl Marx, Emile Durkheim, and Ferdinand Tönnies. It is stated that the use of the word traces back to the 19<sup>th</sup> century, owing to the British writer George Holyoake.

Secularism as a theory is understood variously. As Reaves notes, different groups of people consider this definition of positive and negative prospects. Thus, on one hand, it is perceived as a crucial accelerant of progress and liberation of the mind. On the other hand, it is related to many negative terms such as de-Christianization, for instance. Nevertheless, secularization nowadays is widely present.

Secularization was defined by many prominent academicians. Among them is Peter Berger. He disclosed it as “the process by which sectors of society and culture are removed

from the domination of religious institutions and symbols”.

According to Berger, there are three variations of secularism. Thus, the first type is simply called moderate. It applies to the traditional American society, where church and religion are separated. The second one is more radical. It is observable in the French concept of laicite, where religion is restricted to a private sphere. The last one is similar to the Soviet type, where religion is privatized.

The works of Peter Berger have played a crucial role in comprehending secularism. Many researchers nowadays rely on his ideas and thoughts while examining the theory of secularism. For instance, Maxim Paraschevin is one of those scholars, who has analyzed the different existing variants of secularization and presented it in the article titled “Secularization theory in European Scientific discourse”.<sup>92</sup>

Paraschevin has stressed some points about the theory of secularization. Firstly, he emphasizes that the theory of secularization should be viewed as a process and fact, namely as loss of influence by religious organizations and liberation of worldviews from religious dogma. In opposition, it is proposed to consider it from institutional and individual levels.

Thus, on the institutional level, secularization means the loss of the role and significance of religious organizations. On the personal level, secularization comprehends as the individual's worldview in the direction of predominance, if not domination, of secular elements over religious elements. As the author notes, the two levels are interrelated.

It is said that secularization originates from Europe namely Western Europe. The theory of secularization was built on some prerequisites. For example, one of the dominant statements is that secularization is a worldwide phenomenon. By this, it is meant that certainly, it would involve all the states around the globe.

The other important prerequisite is that secularization is irreversible. There is a viewpoint that the fast evolution of science led to secularization. Also, it is said that secularization is related to deinstitutionalization (decline in the influence of religious

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<sup>92</sup> Paraschevin.M., 2006. Secularization theory in European Scientific discourse.pp.90-102



institutions on the cultural and political life of society) as well as the decline in individual religiosity. However, one of the principal provisions that are indicated as the cause and driver of secularization is the modernization of all aspects of human life and society that has made it known since the mid-nineteenth century. Modernization manifests itself in industrialization, urbanization, rationalization, the availability of education, and the steady increase in the influence of the media.

The connection between secularization and modernization was examined by Chigirev in the paper “Formation of Secular Society: Social and Philosophical Bases of Research”.<sup>93</sup>

Chigirev begins the analysis by defining secularization as well. He points out that secularization is grouped into three conceptual directions for understanding its essence. Thus, under the first definition, secularization is the process of supplanting religion from culture and society with secular elements such as science, rational thought, secular ethics, and secular humanism. Within the second conceptual direction, Chigirev understands secularization as "the loss of the sacred", where religion ceases to be the central, sacred symbol of unity, meaning and path. Secularization - the liberation from the influence of religion not only on institutions and spheres of society but also on the consciousness of the individual. Finally, secularization is a variant of the evolutionist interpretation, which draws attention to two aspects: firstly, the process of change (historical development) of religion is inevitable. Secondly, this does not mean its disappearance as such.<sup>94</sup>

The scholar notes that the process of secularization is associated with Max Weber. The ideas on the secularism of Max Weber were introduced in depth in the book “The end of religion? A History of the Theory of Secularization” by Dmitry Uzlaner.<sup>95</sup>

The author argues that Max Weber was a key figure in the establishment of the theory of secularization because he turned the notion of 'secularization' into a value-neutral scientific category suitable for analyzing social transformations. Indeed, the well-known German scholar dedicated his attention to the process of transition from traditional society to secular.

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<sup>93</sup> Chigirev.S.V., 2013. Formation of Secular Society: Social and Philosophical Bases of Research.pp.50-53

<sup>94</sup> Ibid

<sup>95</sup> Uzlaner.D., 2019. The end of religion? A History of the Theory of Secularization.pp.1-240

The author remarks on the year 1904 as a start of an interest in Max Weber in the role of religion. His interest in religion was expressed in one of his books “The Protestant Ethic and the Spirit of Capitalism”.<sup>96</sup> Max Weber displayed his interest in the relationship between economics and religion. The modern, rationalized world is finding its logic of development. It no longer needs religious ideas and motivations. It is secularization by Max Weber.

Dmitry Uzlaner in the book emphasizes that Weber believed in the statement that in the future a rational and non-religious society would be present.

The thoughts on the secularism of the other scholars mentioned above (Georg Wilhelm Friedrich Hegel, Auguste Comte, Karl Marx, Emile Durkheim, and Ferdinand Tönnies) in the chapter were also presented in the book of Dmitry Uzlaner. In general, the paper is dedicated to the role of religion in modern society and religious processes. However, the principal focus has been put on the history of secularization theory which was considered the incompetence of religion and modern society. In addition, the author has looked into the background of the sociological theory of secularization, the history of the definition of secularization, the secularization in different periods, the critics of the theory, and the crisis of the theory and its decline.<sup>97</sup>

Speaking of the crisis of the theory, it is crucial to notice that many scholars, within the theory of secularization, were arguing that secularization would lead to the disappearance of religion in society and complete atheisation of it. However, there is a fairly strong camp of opponents of this theory that has formed among academicians. There are different opinions on it. Some think that secularization is an irreversible process that will weaken the role of religion or even eliminate it, while others believe that secularization means only a modification of religion that outmoded forms of religion are replaced by new ones, but religion continues to exist. It is argued by some researchers such as Paraschevin that, in practice, there is a transformation of the forms and technologies of the existence of religion, but not the elimination of its essence and functions. Overall, it may be said that secularization has occurred; however, religion has not been completely eliminated.

The significance of religion as one of the elements of a stable society would be

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<sup>96</sup> Weber.M. The Protestant Ethic and the Spirit of Capitalism

<sup>97</sup> Ibid

considered within the structural-functional theory.

## **2.9.2 STRUCTURAL-FUNCTIONAL THEORY**

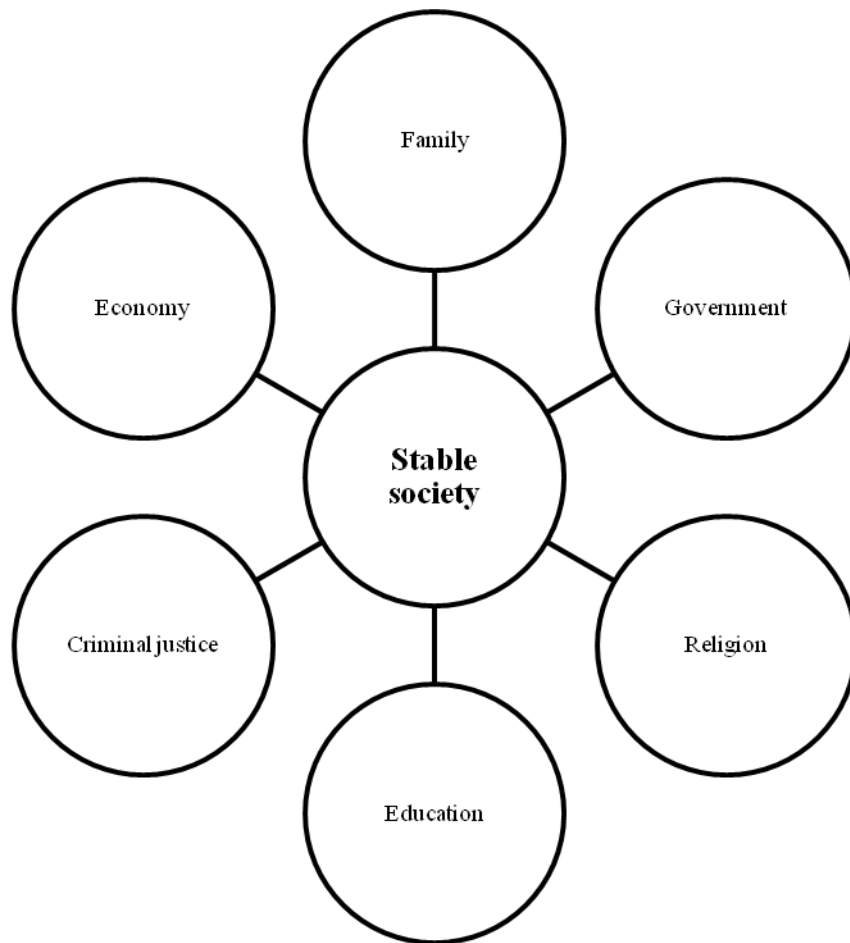
Structural-functional theory plays a tremendously significant role in social sciences since it helps to better comprehend society and its elements. This theory also known as functionalism is understood based on the two premises, according to Garner. Thus, structural-functionalism consists of structural analyses and functional explanations.

Following Garner, structural analysis means that society is viewed in terms of the patterning of roles, relationships, and institutions. Functionalism is explained as the existence, persistence, and form of institutions in terms of their contribution to the stability of society.<sup>98</sup> In other words, by theory, society is a system with its structure and elements. The dominant components of the system are illustrated in the diagram below:

Figure 2-1: The components of stable society, according to the theory

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<sup>98</sup> Garner, R., 2019. Structural Functional Theory. The Blackwell Encyclopedia of Sociology, pp.1-4.



Source: Author's own compilation based on the article<sup>99</sup>

According to the diagram, all the above features are interrelated. In addition to this, it is argued that they keep society stable. Many scholars emphasize that this structure can be compared with the human body. Thus, the Organicist Metaphor among academicians was proposed.<sup>100</sup>

Functionalism as a concept has been developed by many outstanding scholars. Thus, Comte, Durkheim, Parsons, and Merton are generally perceived as pioneers of this theory.

Emile Durkheim is a French scholar and sociologist who has injected more information about society, its structures, and people into science. It is claimed that he has justified a completely different view of society which is known as social realism. The main

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<sup>99</sup> Ibid

<sup>100</sup> Ibid, pp.1-4

essence of the view is that although society emerges as a result of the interaction of individuals, it finds an independent reality. What is more, it is autonomous concerning other kinds of reality, develops according to its ways, and there is a primacy of the structures and the functions of society to the individual and the functions of his or her consciousness and behavior.

The main ideas of the scholar have been formulated in one of his works titled “The Rules of Sociological Method”.<sup>101</sup> According to Durkheim, morals, values, norms, collective consciousness, and collective perceptions and beliefs are related to social facts of a nonmaterial kind. There are also social facts that have a material reality. Thus, society, its social structures such as the state, the system of law, and religion were placed as social facts of the material kind.

Generally speaking, religion has been considered in many works of Emile Durkheim. For instance, Trophimov recognizes that his theory of Durkheim is a significant source for the study in the article called “Emile Durkheim on the Role of Religion in Public Life. Substantiation of the Choice of Elementary Religion”.<sup>102</sup> He writes that Durkheim searched for the answer to the question of the essence of religion. As he marks religion is seen by him as a product and manifestation of social life, as the simplest social phenomenon from which other forms of social consciousness and social institutions.

It is argued that Durkheim has regarded religion as a positive effect on society since it is a tool of social cohesion. However, the approach to religion within the theory has been criticized. The main criticism concerned that faith may justify violence. The above statement is relevant, particularly in the present time since violent movements or extremist groups operate under the guise of religion.

The structural-functional theory stipulates that the absence or the limitation of one component will lead to the collapse of the community as a whole system. Therefore, this

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<sup>101</sup> Durkheim.D., The Rules of Sociological Method

<sup>102</sup> Durkheim.D., Emile Durkheim on the Role of Religion in Public Life. Substantiation of the Choice of Elementary Religion

theory is very relevant to the studied issue. Both religion and education as the two elements of society and the right to it must not be limited or violated.

## **2.10 SUMMARY**

The second chapter of the thesis was written to introduce the methodology and research design. Consequently, all methods utilized in the dissertation, namely the historical research method, the qualitative research approach, and the comparative research methods, were listed. In addition, the acquired and analyzed data were presented in the form of legislation of the two countries (the Republic of Kazakhstan and the Republic of Uzbekistan).

A focal point in this section of the dissertation was assigned to a discussion of the evidence and refutation of the hypothesis put forward. Apart from this, some cases on the researched issue were considered and the general arguments for the ban on religious Islamic dress were classified.

The literature review was introduced in this chapter of the dissertation. This part of the section intended to present the literature on the evolution of the right to education in both states and the establishment of the education systems.

A special focus has been set on the literature review of Kazakhstan's current position on religion, the government policy of the state, and the ongoing issues in line with religion and education. In addition, a review of the literature on comprehension of "collision" in science was listed in the section of the thesis. The analysis of local and international scholars that have researched the collision of human rights, namely the clash between the right to freedom of religion and the right to education based on religious symbols, was also presented.

In addition, since the collision of the two human rights (the right to religious freedom and the right to education) occurs primarily due to reference to secularism, the theory of secularization was closely studied. Finally, the structural-functional concept was analyzed as well.

## **CHAPTER THREE**

### **THE EVOLUTION OF THE RIGHT TO EDUCATION OVER TIME IN THE REPUBLIC OF KAZAKHSTAN**

3.1 Introduction and overview

3.2 The right to education under the generation of human rights

3.3 Concept of the right to education

3.4 The historical development of the right to education during the time of the Russian Empire

3.5 The right to education in the framework of the Soviet Union

3.6 Realization of the right to education in contemporary Kazakhstan

3.7 The right to education under the International documents on the protection of human rights

3.8 Summary



## CHAPTER THREE

# THE EVOLUTION OF THE RIGHT TO EDUCATION OVER TIME IN THE REPUBLIC OF KAZAKHSTAN

### 3.1 INTRODUCTION AND OVERVIEW

Nowadays the right to education is one of the crucial human rights that is guaranteed by the Constitution and international documents on the protection of human rights.

This section centers on the legal development of the right to education throughout history. Although the set of some human rights among the ancient Kazakhs was formulated and guaranteed based on the laws and regulations of customs before the rule of tsarist Russia<sup>103</sup>, the chapter sets the timeframe starting from the Russian Empire until present-day Kazakhstan.

### 3.2 THE RIGHT TO EDUCATION UNDER THE GENERATION OF HUMAN RIGHTS

Prior to examining the legal development of the right to education under the different regimes, this section begins with an exploration of the right to education within the context of human rights generations.

There are lots of different ways of describing and understanding human rights as a system. The first person who distinguished human rights globally into categories was Karel Vasak.<sup>104</sup> His approach is the most common nowadays, and he categorized human rights into

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<sup>103</sup>The formation of the rights and obligations of the ancient Kazakhs dates back far longer. Specifically, it scratches back to the 15th--18th centuries, where the following legal codes such as «Kasym Khannyn Kaska Zholy» («Shining Path of Kasym Khan»), «Yesim Khannyn Yeski Zholy» («Ancient Path of Yesim Khan»), and «Zheti Zhargy» («Seven Codes») of Tauke Khan were developed. All the mentioned documents contained different norms of the administrative, criminal, civil, and military law that aimed to legally regulate political and social relations in the Kazakh society

<sup>104</sup>Domaradzki, S., Khvostova, M. and Pupovac, D., 2019. Karel Vasak's Generations of Rights and the Contemporary Human Rights Discourse. *Human Rights Review*,

three categories or dimensions. When we talk about the categories, we have to remember the French revolution.

The French revolution had a model of liberty, equality and fraternity. It is a simple way of remembering the three dimensions because the first one is civil and political rights; the second dimension is economical, social and cultural. They have to do with equality. The third one is simply called collective or sometimes green rights. If we look at the first dimension of civil and political rights, its development happened between the Magna Carta<sup>105</sup> and the Universal Declaration of Human Rights.<sup>106</sup> The civil and political dimension includes the following rights: the right to life, liberty and personal security, the right to vote, the right to ownership, the right to speech and the right to religion. Civil and political rights are negative ones, which mean that that people cannot be deprived of these rights.

The economical, social and cultural dimensions were identified as positive rights. The economical, social and cultural dimensions can be subdivided into socio-economical and cultural. The socio-economical rights contain the following rights: the right to a family, the right to health, the right to education, and the right to social security. Moreover, it has to deal with the concept of housing and employment. Cultural rights allow people to receive the benefits of culture, bilingual education, in case they belong to a minority, and the right to speak their language.

The final dimension is more complex and pertains to collective rights. This category includes rights such as self-determination or rights to the protection of the environment and resources. The complex component of collective rights is that there is no evident agent. It means it is not clear who is responsible for enforcing these rights. Moreover, there are not enough documents to establish these collective rights.

Figure 3-1: Categories of human rights by Karel Vasak

1	Liberty	Civil and Political rights	Voting, ownership,	Negative rights (-)
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20(4), pp.424-426

105 Magna Carta charter is still in an amended way part of the English non-written constitution

106 The Universal Declaration of Human Rights is a historic document which outlined the rights and freedoms everyone is entitled to. It was the first international agreement on the basic principles of human rights. It was adopted by the UN General Assembly in Paris on 10 December 1948

			speech and religion	
2	Equality	Economic, Social and Cultural rights	Education, employment, housing	Positive rights (+)
3	Fraternity	Collective rights	Environment, resources, self-determining	Negative rights (-)

Source: Compiled on the basis of the article<sup>107</sup>

The rights in the above-designed chart were classified into two categories. The first category is the negative rights and, the second category is the positive rights. It is stated that the difference between two human rights is enclosed in:

- A negative human right is a right that protects an individual from another person or state's interference with their liberties;
- A positive human right is a right, which on the contrary, calls for action from another individual, group, or state.

Following the above chart, the right to get an education has been included among the economical, social, and cultural rights. Additionally, it has been identified as a moral justness. In this regard, I will investigate the right to get an education in the following subsection.

### 3.3 CONCEPT OF THE RIGHT TO EDUCATION

The right to education is one of the principal rights covered in the human rights system. The protection of the right to education is tremendous since education contributes to society and states' development. Therefore, the task of the fulfillment of the right to education is evoking attention from governments, international organizations and non-governmental organizations on the protection of human rights, scholars, and practitioners.

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<sup>107</sup> Ibid, pp.424-426

The right to education as a concept has been defined differently by many scholars worldwide.

For instance, Kuritsyna<sup>108</sup> argues that there are many interpretations of the right to education in legal literature. She has outlined some of the approaches of the right to an education that Russian scholars have proposed.

Thus, for example, Nozdrachev understands the right to education as "the right of a person to acquire a certain amount of knowledge, cultural skills and professional orientation necessary for normal functioning in modern society".<sup>109</sup>

According to Kuritsyna, the definition of the right to education has been clarified more broadly by Shkatulla. Shkatulla defines the right to education as "a fundamental and natural right, which has as its purpose the satisfaction of human needs for information and education itself". What is more, the right to get an education is an inalienable and subjective human right that is based on the principle of equality.<sup>110</sup>

The other two Russian researchers Mongush Alla and Rakhinskiy Dmitry, view the right to academic studies through objective and subjective prisms. "In the objective sense, the right to education is the general potentialities of proper behavior contained in positive law, focused on the realization of each person's needs in the field of education and provided with positive measures. From the subjective angle, the right to education can be defined as a set of personal rights of a specific person in the field of education that arise from the moment an individual enters legal relations as a result of his purposeful training and upbringing".<sup>111</sup>

Moreover, they highlight that many academicians believe that the very notion of the right to education contains elements of a duty (legal obligation). The juridical commitment can be applied to both parties: state and person.

Thus, Yagovarov thinks that the right to education is a set of rights and obligations, i.e. a "legal obligation". In support of his point of view, he cites the following arguments: "In the

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<sup>108</sup>Курицына, Е., 2014. Конституционное право на образование в Российской Федерации: понятие и содержание. Наука.Общество.Государство, р.3

<sup>109</sup>Ibid, р.3

<sup>110</sup>Ibid, р.3

<sup>111</sup>Монгуш, А. and Рахинский, Д., 2016. Право на образование: некоторые вопросы теории и практики. Общество: политика, экономика, право, pp.80-82

very concept of the right to education", there are immanently elements of obligation (legal obligation), not just opportunities. In other words, the right to education is also the obligation to receive (have) an education.<sup>112</sup>

However, the legal obligation is mainly imposed on the states. Jost Delbruck specifies that the right to education manifests a double nature such as a liberal (classical) and social human right. On the contrary, the liberal (classical) human right to education protects individual freedom from the interference of the state. On the other hand, following the social human right demands active involvement and participation of the state.<sup>113</sup>

Indeed, the importance of the realization of human rights is significant worldwide due to the establishment and functioning of international agencies and non-governmental organizations, and the adoption of international treaties on the protection of human rights that require states to fulfill their duties towards human rights in the following way: respect, protect, and implement measures to promote the right to education.

Thus, the duty to respect the right to education primarily "prohibits the state from acting in contravention of recognized rights and freedoms, interfering with or constraining the exercise of such rights and freedoms. States must, inter alia, respect the liberty of parents to choose private or public schools for their children and ensure the religious and moral education of their children in conformity with their convictions. The need to educate boys and girls equally should be respected, as should the rights of all religious, ethnic and linguistic groups".<sup>114</sup>

The obligation to protect involves that states must provide legislation to prevent and prohibit the violation of individual rights and freedoms by third persons. In addition to this, states must regulate and coordinate educational organizations that do not apply discriminatory practices to students. The last legal obligation to fulfill means that states must take steps and achieve the standards (the minimum requirements are: free and compulsory primary education, available secondary education, accessible higher education based on capacity, and fundamental education intensified for those not having completed primary education, and establishment of an adequate fellowship system and continuous improvement of the teachers'

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<sup>112</sup>Курицына, Е., 2014. Конституционное право на образование в Российской Федерации: понятие и содержание. Наука.Общество.Государство, pp.1-11

<sup>113</sup>Delbruck, J., 1992. The Right to Education as an International Human Right. Articles by Maurer Faculty, pp.91-104

<sup>114</sup>Benedek, W., 2012. Understanding Human Rights. Manual on Human Rights Education. 3rd ed. NWV Neuer Wissenschaftlicher Verlag, pp.251-277

position) that have been indicated in the international documents on the protection of human rights.<sup>115</sup>

The international instruments on the protection of human rights are the principal tool that reveals the concept of the right to education.

Jootaek Lee has indicated this in his article "The Human right to Education: Definition, Research and Annotated Bibliography". He has emphasized the following: "to have a better understanding of the right to education, there is no choice but to get its definition from international law, especially human rights instruments, which provides a more consistent approach to the right to education among states and better protection to humans around the world. Although, he claims that international instruments give functional and narrow definitions of education and leave room for various interpretations and definitions of education".<sup>116</sup> He points out that the notion of education can be more concrete and specific, including concepts such as the purpose, function, quantity, quality, access, subjects, contents, facilities, and funds.<sup>117</sup>

However, Katarina Tomasevski offered insight into the right of academic studies. Tomasevski was the special UN Reporter who researched the right to education deeply and formulated her work into the following prominent list of books and reports: "Education Denied: Costs and Remedies", "Development Aid and Human Rights", "Responding to Human Rights Violations", "Women and Human Rights", "The State of the Right to Education Worldwide Free or Fee: Global Report", and "Human Rights Obligations in Education: The 4-A Scheme".

In the book mentioned earlier, "Human Rights Obligations in Education: The 4-A Scheme", the scholar has identified the four cores as the ground essence of the right to education. These four are availability, accessibility, acceptability, and adaptability. Tomasevski argued that the adherence of all the roots is the fulfillment of the right to education.<sup>118</sup>

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<sup>115</sup>Ibid, pp. 251-277

<sup>116</sup>Lee, J., 2020. The Human Right to Education: Definition, Research and Annotated Bibliography. *Emory International Law Review*, pp.758-823

<sup>117</sup> Ibid

<sup>118</sup>Tomasevski, K., 2009. Human rights obligations: making education available, accessible, acceptable and adaptable. *Right to education primers*, p.12

In Tomasevski's view, availability is based on the government's obligation to provide free and compulsory primary education. Tomasevski has pointed out that availability is not that "people have an entitlement to all the education they may want, throughout their life, at government expense."<sup>119</sup>

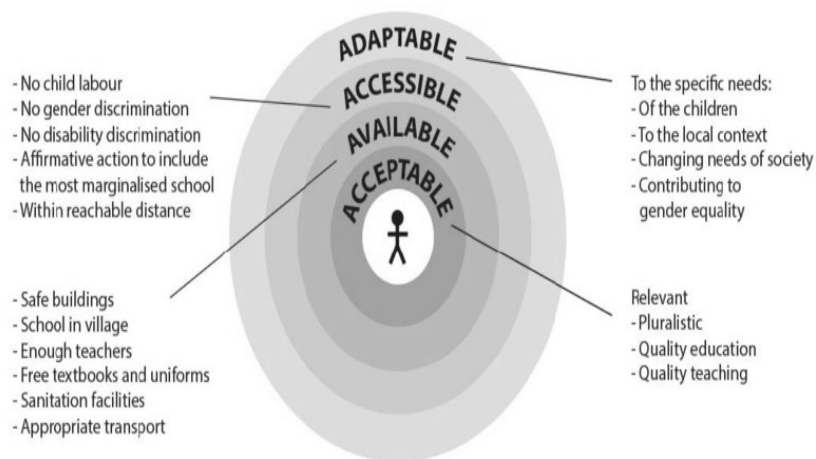
Accessibility has been defined as a core that may be obstructed, although education is nominally available. The obstacles distinguished are gender, citizenship, migrant status, disability, race, ethnicity, language, and religion. Acceptability is one of the cores that have been proposed.<sup>120</sup>

Acceptability requires the following: quality education, safety during the education process, qualified staff, and what is essential, it has to be controlled by the government.<sup>121</sup>

Adaptability is the last core developed in the framework of the 4-A Scheme. Under the scheme, adaptability requires schools to adapt to children following the yardstick of the best interests of each child in the Convention on the Rights of the Child.<sup>122</sup>

The primary obligations that have been formulated in the framework of the 4-A scheme are illustrated in the diagram below:

Figure 3-2: 4-A Scheme



<sup>119</sup>Klees, S. and T

<sup>120</sup>Ibid, pp. 506-51

<sup>121</sup>Ibid, pp. 506-51

<sup>122</sup>Ibid, pp. 506-51

Source: Taken from the article: the application of 4-A scheme in the context of higher education in Macedonia.<sup>123</sup>

Thus, the above cores allow people to enjoy the right and develop their abilities that would help to succeed in life.

### **3.4 THE HISTORICAL DEVELOPMENT OF THE RIGHT TO EDUCATION DURING THE TIME OF THE RUSSIAN EMPIRE**

It is argued that education before the time of the Russian Empire was developed mainly along the religious line. Thereby, the right to education in the Kazakh nation existed due to Islamic education conducted in madrasahs and mektebs.<sup>124</sup> The accession of the territories of the Kazakhs to the Russian Empire had an entirely new impact on many spheres including education and its right to it.<sup>125</sup>

The development of the right to education during the time of the Russian Empire was implemented through the organization of schools, as well as religious education.<sup>126</sup> The education policy of the Russian Empire was planned with the focus on providing the right to an education that intended to integrate the Kazakh society into the imperial environment.<sup>127</sup> What is more, it aimed to bring the penetration of Russian culture and, above all, Russian education and schools with instruction in Russian.

Therefore, the number of Kazakh-Russian schools increased, and the Russian language expanded its introduction into the curriculum. As Anokhina notes, "educational policy was a set of measures of legislative, administrative, socio-cultural and pedagogical nature. It was implemented through the organizational institutions of school and out-of-school education and religious education, designed to spread the influence of the Russian language and Russian

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<sup>123</sup>Hajrullai, H. and Saliu, B., 2016. The Application of 4-A Scheme in the Context of Higher Education in Macedonia. *Procedia - Social and Behavioral Sciences*, pp.70-74

<sup>124</sup>Mekteb (in Kazakh language means school) is a school (mostly primary school) that taught children reading, writing, grammar, and Islam

<sup>125</sup>The accession of Kazakhstan to the Russian Empire dates back to 1731, when the Kazakh Khanate was weakened due to the grueling war and the Abyl Khair khan accepted the citizenship of the Russian Empire

<sup>126</sup>Шалгимбекова, А., 2021. Особенности Государственной Политики в Образовательной Системе Казахстана в начале XX столетия (1901-1917 гг.). [online] Ngmu.ru. Available at: <[http://ngmu.ru/cozo/mos/article/text\\_full.php?id=45](http://ngmu.ru/cozo/mos/article/text_full.php?id=45)> [Accessed 12 October 2021]

<sup>127</sup>Ibid, [online] Ngmu.ru. Available at: <[http://ngmu.ru/cozo/mos/article/text\\_full.php?id=45](http://ngmu.ru/cozo/mos/article/text_full.php?id=45)> [Accessed 12 October 2021]



Orthodox culture.<sup>128</sup>

The tsarist rule sought to open schools and remove restrictions on education based on gender, ethnic and religious grounds.

Sturova argues that girls and boys were equally allowed to attend school. Thus, at the legislative level, this idea was enshrined in the "Charter of gymnasiums and schools of county and parish, which are under the authority of the universities of St. Petersburg, Moscow, Kazan and Kharkov" dated December 8<sup>th</sup>, 1828 and corrected by circulars of the Ministry of Public Education of August 9<sup>th</sup>, 1861 and January 16<sup>th</sup>, 1868: children of all states and both genders, but not younger than eight years old, and girls not older than 11 years old, children of all confessions can enter schools ".<sup>129</sup> Besides, restrictions based on ethnic and religious grounds were lifted. As a result, the absence of ethnic or religious restrictions on the education of Kazakh children was enshrined in the Provisional Regulations of 1868. The 1868 Provisional Regulation on the Administration of the Urals, Turgai, Akmola and Semipalatinsk Provinces.<sup>130</sup>

As Kuzembayuly and Abyl note, the measures implemented under tsarist rule, such as the establishment of schools, were driven by both the desire to increase literacy among the local population and the need for the tsarist government to prepare individuals for its administrative apparatus in Kazakhstan.<sup>131</sup> "The ultimate aim of granting the right to education should undoubtedly be their integration and merging with the Russian people.

### **3.5 THE RIGHT TO EDUCATION IN THE FRAMEWORK OF THE SOVIET UNION**

It is argued that the right to education during the Soviet time was protected.<sup>132</sup> Education in the Soviet Union was secured as a constitutional right to all people provided through state schools and universities. It is well known that the USSR was communist in

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128Анохина, И., 2007. Государственная политика в деле просвещения нерусских народов Поволжья (вторая половина XIX начало XX века). Известия Пензенского государственного педагогического университета им. В.Г. Белинского, р. 85-90

129Стурова, М., 2017. Система начального школьного образования в степном крае во второй половине XIX - начале XX века: этноконфессиональный аспект. PhD. Алтайский государственный университет.р.45

130Ibid, 46

131Кузембайулы, А. and Абыл, Е., 2006. История Казахстана. 8th ed. Костанай: : Костанайский региональный институт исторических исследований, pp.193-194

132The USSR (Union of Soviet Socialist Republics) existed from 1922 until 1991

nature, where massive attention to education and educating people was placed. Thus, the first leader of the Soviets, Vladimir Lenin, marked the importance of education from the first day of the formation of the union.<sup>133</sup> Therefore, the legal documents preserving the right to education were proclaimed in the Soviet Union.

The principal document that ensured the fundamental rights and freedoms of the citizens was the Constitution of the Union of Socialist Soviet Republics. The basic rights and freedoms of citizens of the USSR were established in Chapter 7 (fundamental rights, independence, and duties of citizens of the USSR) of the Constitution of the Union of Socialist Soviet Republics. Thus, Article 39 guarantees the following:

"Citizens of the USSR enjoy in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR and by Soviet laws. The socialist system ensures the enlargement of citizens' rights and freedoms and the continuous improvement of their living standards as social, economic, and cultural development programmes are fulfilled. Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens".<sup>134</sup>

The right to education during the Soviet time was established in the Constitution of the USSR in 1977 as well. Article 45 of the Constitution (Fundamental Law) of the Union of Soviet Socialist Republics stated:

"This right is ensured through the provision of free education at all levels, including universal, compulsory secondary education, and the extensive development of vocational, specialized secondary, and higher education, with instruction oriented toward practical activity and production. It also includes the development of extramural, correspondence, and evening courses; the provision of state scholarships, grants, and other student benefits; the free issuance of school textbooks; the opportunity to attend schools where instruction is conducted in the native language; and the availability of facilities for self-education.<sup>135</sup> Hence, the availability of all levels of education was constitutionally enshrined. Apart from being available, educational institutions in the Soviet time were accessible to all.

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<sup>133</sup>Мнекина, И., 2014. Система Народного образования в СССР. Саратовский государственный аграрный университет имени Н.И. Вавилова, p.8

<sup>134</sup> Article 39 Departments.bucknell.edu. 2021. 1936 Constitution of the USSR, Part I. [online] Available at: <<https://www.departments.bucknell.edu/russian/const/77cons02.html#chap06>> [Accessed 12 September 2021]

<sup>135</sup> Ibid, Article 45

Education was accessible on the whole territory of the Soviet Union and was provided to all despite race, ethnicity, language, and religion. It was guaranteed based on the approved document of the Supreme Soviet of the USSR, which was "The Fundamentals of the Legislation of the Union of Soviet Socialist Republics and Union education". In addition to it, the article regarding the right to education was established in the Kazakh SSR Constitution too.<sup>136</sup> The Soviet rule aimed to eradicate illiteracy and increase a highly educated population by providing access to education to all.

Kuzembayuly Amanzhol and Abyl Erkin highlight that the development of public education and the implementation of universal literacy was one of the unquestionable achievements of the Soviet regime.<sup>137</sup>

The adoption of the "Declaration on the Single Labor School" and the "One Labor School Regulations" proclaimed the basic principles of the Soviet educational system: free education, collaborative education of girls and boys, and the exclusion of religious subjects.<sup>138</sup> Also, to make education accessible, the Soviets modernized schools, approved the curricula and established special schools such as community schools and boarding schools for the Kazakh orphans. For example, 2025 schools with 128000 pupils were registered in 1923 in the Kazakh SSR, according to the book "History of Kazakhstan".<sup>139</sup> 2713 schools already operated on the territory of the Kazakh SSR. Thus, based on the Soviets' measures the number of schools and pupils increased reasonably. In this way, the Soviet rule made tremendous steps to cover all the students with education and made education accessible.

The right to education within Soviet rule was guaranteed as a constitutional right to all

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<sup>136</sup> The first Constitution of the Kazakh SSR was adopted in 1926 by the Resolution of the Central Executive Committee of the Kazakh ASSR from February 18, 1926 after the establishment of the USSR. The Kazakh Constitution was amended several times in 1937 and in 1978

Article 43 of the Constitution of the Kazakh SSR stated: This right is ensured by free provision of all forms of education, by the institution of universal, compulsory secondary education, and broad development of vocational, specialized secondary, and higher education, in which instruction is oriented toward practical activity and production; by the development of extramural, correspondence and evening courses, by the provision of state scholarships and grants and privileges for students; by the free issue of school textbooks; by the opportunity to attend a school where teaching is in the native language; and by the provision of facilities for self-education"

E-history.kz. 2021. The history of the Constitution of the Republic of Kazakhstan. [online] Available at: <<https://e-history.kz/en/projects/show/23358/>> [Accessed 12 September 2021]

<sup>137</sup> Кузембайұлы, А. and Аби́ль, Е., 2006. История Казахстана. 8th ed. Костанай: : Костанайский региональный институт исторических исследований, pp.193-194

<sup>138</sup> The USSR (Union of Soviet Socialist Republics) existed from 1922 until 1991

<sup>138</sup> Кузембайұлы, А. and Аби́ль, Е., 2006. История Казахстана. 8th ed. Костанай: : Костанайский региональный институт исторических исследований, p.294

<sup>139</sup> Ibid, pp.294-295

people provided through universities. The law of the country secured the right to education by expanding the number of higher education institutions and access to higher education as well. The establishment of higher education institutions in the republic of Kazakhstan will be considered in detail in another chapter of the dissertation, namely in the section about the education system in the Russian Empire, its destruction in the Soviet Union and later on the situation in the Republic of Kazakhstan and Uzbekistan.

### **3.6 REALIZATION OF THE RIGHT TO EDUCATION IN CONTEMPORARY KAZAKHSTAN**

Due to the dissolution of the Soviet Union in 1991, fifteen newly independent states appeared; among them was the Republic of Kazakhstan. After gaining its independence after 70 years under Soviet rule, the Republic of Kazakhstan has encountered opportunities and challenges at once. One of the biggest and crucial tasks was the formation of the Kazakh society from scratch. Ariel Cohen outlines that the first president of the Republic of Kazakhstan, Nursultan Nazarbayev, took Kazakhstan through a crash course in nation-building.<sup>140</sup> It started with the transition to a market economy and democracy that required the government to adopt some fundamental decisions concerning the economic and political foundations of the state.

The Republic of Kazakhstan, within the years of its sovereignty, has adopted a block of legal documents that deal with the issues of protecting and promoting human rights. Primarily, the official document, the Constitution of the Republic of Kazakhstan, has been endorsed. The current Constitution of the Republic of Kazakhstan was adopted in 1995, in which the principal norms and provisions of the Universal Declaration of Human Rights are reflected. The first article of the Constitution states that the Republic of Kazakhstan is a democratic, secular, legal, and social state whose highest values are a person, his life, rights, and freedoms.<sup>141</sup> 29 Articles out of the 98 Articles of the document are dedicated to the rights and freedoms of human beings and citizens. Article 12 of the Constitution of the Republic of Kazakhstan proclaims the following:

"Human rights and freedoms in the Republic of Kazakhstan shall be recognized and

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<sup>140</sup>Cohen, A., 2008. Kazakhstan: The Road to Independence: Energy Policy and the Birth of a Nation. Central Asia- Caucasus Institute and Silk Road Studies Program. p.17

<sup>141</sup>Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 12 October 2021]

guaranteed according to Constitution".

"Human rights and liberties shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory and legal acts".<sup>142</sup>

Iskakova marks that the Constitution of the Republic of Kazakhstan is based not only on universally recognized norms of international law but also has much in common with the latter in its approach to the issue of human rights: firstly, both international law and the Constitution of the Republic of Kazakhstan reject any discrimination on the grounds of gender, race, language, religion, national and social origin. Secondly, there is a straightforward approach in international and federal law to determining a person's status based on age. Thirdly, basic civil rights and freedoms are protected; restrictions on human rights and liberties are permitted in exceptional cases provided for by law. Finally, proclaimed human rights and freedoms in all areas of the state and public life are guaranteed.<sup>143</sup>

The Constitution of the Republic of Kazakhstan contains other universally recognized norms of international law and is the basis for the formation of national legislation.

The right to education in modern Kazakhstan is widely protected since education plays an enormous role in the strategic task of building a knowledge-intensive and innovative economy. Therefore, the right to education is established in the Constitution of the Republic of Kazakhstan under Article 30. Thus, following Article 30, the citizens of the Republic of Kazakhstan are entitled to the following:

"Citizens shall be guaranteed free secondary education in state educational establishments. Secondary education shall be obligatory".

"A citizen shall have the right to obtain a higher education on a competitive basis in a state higher educational institution".<sup>144</sup>

Additionally to the above provisions of the article, the Constitution provides the following:

"Fee-based education in private educational institutions shall be carried out on the grounds and in the manner prescribed by law".

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<sup>142</sup>Ibid, Article 12

<sup>143</sup>Искакова, Г., 1999. Права человека в Республике Казахстан. Алматы: "Білім". p.68

<sup>144</sup>Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 13 October 2021]

"The state shall set uniform compulsory standards in education. The activity of any educational institution must comply with these standards".<sup>145</sup>

The right to education in the Republic of Kazakhstan is granted to the people based on other laws and legal acts as well. Since education begins from an early age, one of the important documents is the Law on the Rights of Children.

The legal document dates back to the year of 2002 and consists of 10 chapters and 53 articles. The provisions of the law regulate relationships arising from the implementation of fundamental rights and legal interests of children as guaranteed by the Republic of Kazakhstan. These provisions are based on the principles of prioritizing the preparation of children for full participation in society, fostering their development through socially important and creative activities, nurturing high moral qualities, patriotism, and civic consciousness, and forming national consciousness grounded in universal human values and global civilization.<sup>146</sup>

Article 15 of the document is related to the right of a child to education. It includes the following:

"Each child shall have the right to education, and he (she) shall be guaranteed by receipt of gratuitous basic, main secondary and general secondary education and on a competitive basis – gratuitous technical and professional, post-secondary and higher education according to the legislation of the Republic of Kazakhstan on education".<sup>147</sup> Therefore, the right to education is guaranteed at all levels of the education process.<sup>148</sup>

The right to education is established in other numerous documents such as the "Law on Education".<sup>149</sup> The law is dedicated to ensuring the constitutional right to education of citizens of Kazakhstan, as well as foreigners and stateless persons permanently residing in Kazakhstan. What is more, the law regulates social relations in education and defines the

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<sup>145</sup>Ibid, Article 30

<sup>146</sup>Adilet.zan.kz. 2021. On the Rights of a Child in the Republic of Kazakhstan - "Adilet" LIS. [online] Available at: <[https://adilet.zan.kz/eng/docs/Z020000345\\_](https://adilet.zan.kz/eng/docs/Z020000345_)> [Accessed 14 October 2021]

<sup>147</sup>Ibid, Article 15

<sup>148</sup>The education system was founded on the principle of a continuous educational process through four levels: preschool education and upbringing, primary and secondary education, higher education and postgraduate education. Secondary education in Kazakhstan in the 1990s consisted of three stages: elementary (four-year programme, Grades 1–4); basic (five years, Grades 5–9) and senior secondary (two years, Grades 10–11). Secondary (basic) education was compulsory.

Yakovets, N., 2014. Educational Reform in Kazakhstan: The First Decade of Independence. Cambridge University Press. p.10.

<sup>149</sup>Adilet.zan.kz. 2021. On Education - "Adilet" LIS. [online] Available at: <[https://adilet.zan.kz/eng/docs/Z070000319\\_](https://adilet.zan.kz/eng/docs/Z070000319_)> [Accessed 23 November 2021]

basic principles of state policy in education. "It is laid down in Article 3 of the Law on Education and includes the following:

- equality of rights of all to obtain quality education;
- priority of development of the academic system;
- accessibility of education at all levels for the population in recognition of the mentality, physiological and individual peculiarities of each person;
- secular, humanistic and developed nature of schooling, the priority of civil and national values, life and health of a person, free personality development;
- respect for human rights and freedoms;
- stimulation of education of personality and development of giftedness;
- continuity of the process of education, secure continuity of its levels;
- unity of training, education and development;
- democratic nature of management of education, transparency of activity of educational system;
- variety of educational organisations on forms of ownership, training forms and education, the direction of education".<sup>150</sup>

Yakavets equally notes that one of the key purposes of the Law on Education<sup>151</sup> relies on the necessary creating conditions for bringing up and developing individuals based on shared human values. Additionally, she underlines chronologically other strategic policy documents of the country between 1991-2000 that ratify the democratic nature of the education system, such as Law on Higher Education (1993), Concept of Secondary Schools of the Republic of Kazakhstan (1996), Program of preparation of textbooks and teaching materials for comprehensive schools (1996), the Law on Languages (1997), Resolution of the Government 'On measures of further reform of the secondary education system in the Republic of Kazakhstan' (1998), National Programme on Education (2000), and the Government Resolution on a Guaranteed State Minimum for Educational Organisations' Network (2000).<sup>152</sup> These laws are a tiny piece of the vast list of legal documents the Republic of Kazakhstan approved on education and its provision to the citizens.

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<sup>150</sup>Bekker, D., 2017. Realization of the right to education of citizens in the Republic of Kazakhstan. *Universum: Экономика и юриспруденция*. pp.1-3

<sup>151</sup> Law on Education. Available at: [https://adilet.zan.kz/eng/docs/Z070000319\\_](https://adilet.zan.kz/eng/docs/Z070000319_)

<sup>152</sup>Yakavets, N., 2014. *Educational Reform in Kazakhstan: The First Decade of Independence*. Cambridge University Press. p.10

Education and its realization as a constitutional right is a priority in the two crucial long-term strategic documents of the country are the Strategy "Kazakhstan 2030: Prosperity, Security and Improvement of the Well-being of all Kazakh Citizens"<sup>153</sup> and the Strategy "Kazakhstan-2050: New Political Course of the Established State"<sup>154</sup>.

It is widely known that qualified and talented individuals are the most valuable assets of a state. Therefore, an investment in human capital through education is crucial since it will turn back beneficially. Considering all, knowledge and professional skills have been marked as key landmarks of the modern education, training and retraining system.<sup>155</sup>

Insight to the framework of the document "Kazakhstan-2050: New Political Course of the Established State", many objectives have been put on the continuation of providing the right to education. For instance, one of the tasks covered 100% of children with preschool education within the program Balapan.<sup>156</sup> The implementation of the program has brought benefits in the increased number of kindergartens and mini-centers. Thus, 3,956 new kindergartens and mini-centers have been opened since the start of the program.<sup>157</sup>

The main focus was also devoted to supporting students at the higher education level. Specifically, it was taken note to help students financially (who can't pay for their studies) by taking the following steps:

- to create a network of public-private partnerships for the development of higher and mid-level education.
- develop a multistage system for education grants.
- create a specialised education system of R&D and applied education, including regional specialisations across the whole country.
- to make education in production practices obligatory by law during secondary

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153 Strategy "Kazakhstan 2030: Prosperity, Security and Improvement of the Well-being of all Kazakh Citizens. Available at: [https://www.akorda.kz/public/en/official\\_documents/strategies\\_and\\_programs](https://www.akorda.kz/public/en/official_documents/strategies_and_programs)

154 Strategy "Kazakhstan-2050: New Political Course of the Established State. Available at: [https://www.akorda.kz/public/en/official\\_documents/strategies\\_and\\_programs](https://www.akorda.kz/public/en/official_documents/strategies_and_programs)

1552021. [online] Available at: <[https://www.akorda.kz/en/addresses/addresses\\_of\\_president/address-by-the-president-of-the-republic-of-kazakhstan-leader-of-the-nation-nazarbayev-strategy-kazakhstan-2050-new-political-course-of-the-established-state](https://www.akorda.kz/en/addresses/addresses_of_president/address-by-the-president-of-the-republic-of-kazakhstan-leader-of-the-nation-nazarbayev-strategy-kazakhstan-2050-new-political-course-of-the-established-state)> [Accessed 15 October 2021]

156Balapan (2010-2020) is the national program for providing children with pre-school education and training. The program was initiated by the first president N.Nazarbayev to equalise opportunities for children in the early years

157Mini-centers are set up for the all-round development of children aged 1 to 6 (7) years and for advisory and methodological support for their parents in organizing the child's upbringing and education and the social adaptation of children



The right to education in Kazakhstan is provided through the choice of language of instruction. The languages of instruction in education institutions in Kazakhstan are Kazakh and Russian.

It is important to note that the Russian language was privileged over the Kazakh language during both the Soviet era and the post-independence period. The preference for Russian in educational institutions is attributed to various factors.

First of all, the politics of the Soviet Union in the past, proximity to the Russian Federation, lack of the number of professors who are fluent in the Kazakh language, and lack of materials in the state language. Secondly, the government is conducting politics that give freedom of choice to all citizens from the language perspective. The citizens of the state can choose a language of instruction in educational organizations.

According to Article 19 of the Constitution of the Republic of Kazakhstan, everyone shall have the right to use his native language and culture, and to freely choose the language of communication, education, instruction and creative activities.<sup>159</sup>

The Russian language has official status and is the country's second official language.<sup>160</sup> The language holds a strong position in the country, according to the article on the language policy of Kazakhstan and the state language in government service.<sup>161</sup>

Therefore, language is a priority and is demanded in the country. Third, the authority of the country reminds us of the importance of the Russian language and the necessity of building neighborly relations with Russia.

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158 2021. [online] Available at: <[https://www.akorda.kz/en/addresses/addresses\\_of\\_president/address-by-the-president-of-the-republic-of-kazakhstan-leader-of-the-nation-nazarbayev-strategy-kazakhstan-2050-new-political-course-of-the-established-state](https://www.akorda.kz/en/addresses/addresses_of_president/address-by-the-president-of-the-republic-of-kazakhstan-leader-of-the-nation-nazarbayev-strategy-kazakhstan-2050-new-political-course-of-the-established-state)> [Accessed 15 October 2021]

159 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 1 February 2022]

160 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 1 February 2022]

161 Aksholakova, A. and Ismailova, N., 2013. The Language Policy of Kazakhstan and the State Language in Government Service. *Procedia - Social and Behavioral Sciences*, 93, pp.1580-1586

However, the situation of choice of studying process in Kazakhstan is changing nowadays.

More and more students prefer to study in their mother tongue. Despite students' desire to study in the Kazakh language, the government has implemented a project to learn three languages (Kazakh, Russian and English) in schools and higher education institutions.<sup>162</sup>

The trilingual program was offered by the first president of the country. The project itself promotes learning languages and the main goals are to increase citizens' proficiency and make them competitive in the labor market.

There is no country in the world where only one nationality or ethnic group lives. Kazakhstan is an example of a country having different races and ethnicities. It serves as a reason for the government to implement various programs and projects to improve the knowledge of the people. It helps stimulate migration to the country and undoubtedly keeps peace and calm in the multiethnic society.

The Ministry of Education and Science started implementing the Trilingual Education program in all regions of the Republic of Kazakhstan.<sup>163</sup> The project began to be implemented in steps because it is a very sensitive issue. For instance, Russians of Kazakhstan mostly live in the Northern parts of Kazakhstan and some cities in the West and East part of the country. They do not speak the Kazakh language. Moreover, the Kazakh people of that territory also have a low command of the Russian language.

To solve the existing problem, the first president of the Republic of Kazakhstan, in his annual address to the people in 2007, spoke of the necessity to increase the quality of teaching the Kazakh language.<sup>164</sup>

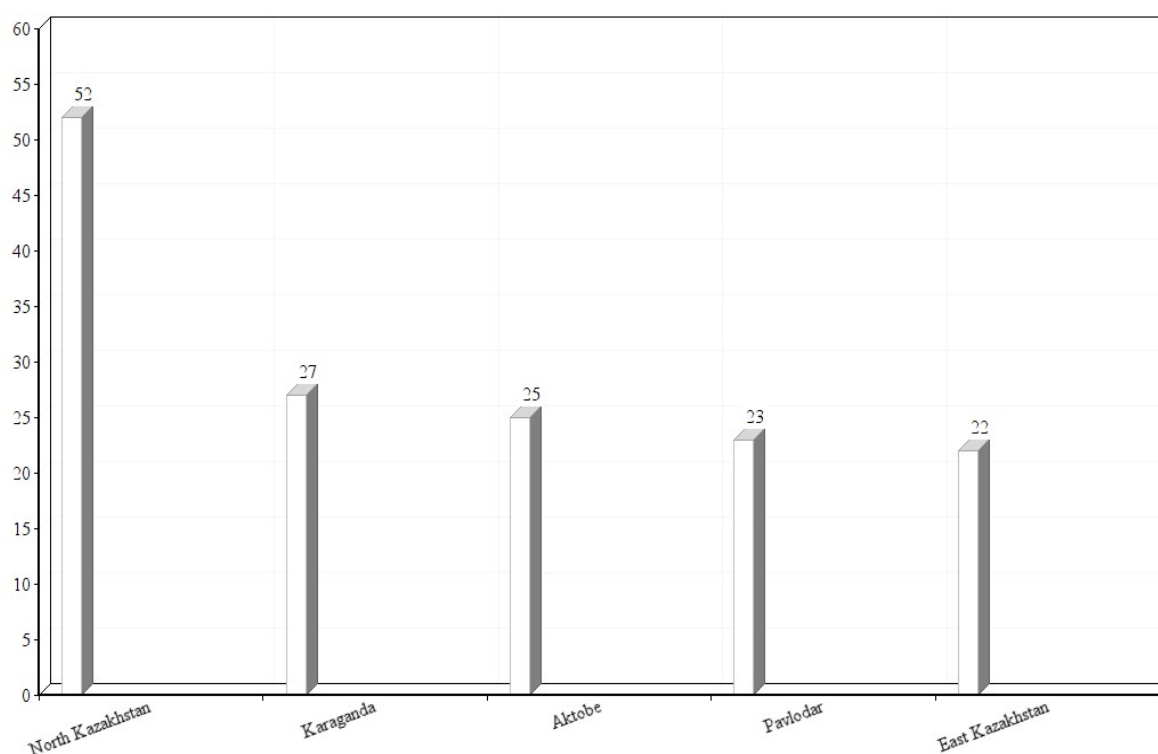
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<sup>162</sup> The Trilingual Education Program has been developed by the Ministry of Education and Science and aimed to implement three (Kazakh, Russian, English) languages in the education process at every level

<sup>163</sup> Ibid

<sup>164</sup> Akorda.kz. 2022. Address of the President of the Republic of Kazakhstan Nursultan Nazarbayev to the People of Kazakhstan February 6, 2008 — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/addresses/addresses\\_of\\_president/address-of-the-president-of-the-republic-of-kazakhstan-nursultan-nazarbayev-to-the-people-of-kazakhstan-february-6-2008](https://www.akorda.kz/en/addresses/addresses_of_president/address-of-the-president-of-the-republic-of-kazakhstan-nursultan-nazarbayev-to-the-people-of-kazakhstan-february-6-2008)> [Accessed 1 February 2022]

Figure 3-3: Command of the Kazakh language across the region and % of respondents with a low level of Kazakh knowledge



Source: Taken from the survey Trilingual Education in Kazakhstan: what to expect.<sup>165</sup>

In particular, it is necessary to use innovative methods in a teaching process in order to reach the settled goal.

According to the same document, one of the goals of the trilingual program is to reach 95% of people to be fluent in the Kazakh language.

Thus, according to a survey<sup>166</sup> which has been published on the 24<sup>th</sup> of May 2019 and conducted by the "Alternativa" Center of Current Studies with the support of the "Open Society" Institute of Regional Studies in August 2008 revealed that 98.4 percent of Kazakhs

<sup>165</sup>Moldagazinova, Z., 2019. Trilingual Education in Kazakhstan: what to expect?. Central Asia Program Paper, pp.1-8

<sup>166</sup>Ibid, pp.1-8

identify the Kazakh language as their native tongue even though only 74.7 percent speak fluent Kazakh: 14.4 percent speak Kazakh but cannot write in Kazakh; 6.2 percent understand and speak Kazakh but cannot write in Kazakh; 2.9 percent understand Kazakh but cannot speak or write it; and 2 percent do not know the Kazakh language at all. To this day, there are some regions of Kazakhstan where the Kazakh language is not widely used.<sup>167</sup>

From the chart above, we can see cities where the command of the Kazakh language is the lowest. These are the following cities: Karaganda, Aktobe, Pavlodar and cities in the North of Kazakhstan and the East of Kazakhstan.

Noticeably, Kazakhs prefer to study in educational institutions with programs conducted in the Russian language. It has been mentioned above that the trend of studying Russian in higher education institutions has been invoking discussions and debates in society.

There are many reasons. First of all, knowledge of the Russian language is a historical advantage of the nation. People cannot ignore the fact that knowing Russian is a big plus, which helps them get additional knowledge and degree, make friends, increase their horizons, and get jobs.

To sum up, knowledge of the Russian language is a considerable advantage for each citizen of the Republic of Kazakhstan. Even though the Russian language remains strong in the country, Kazakhstan has given itself to change its alphabet from the Cyrillic script to Latin. It was a serious step for the country, which meant a separation of Kazakhstan from the Russian world.

Kazakhstan is the last country in Central Asia that has started the process of changing its alphabet. The reasons for changing the alphabet are different, according to many scholars.

In the article "Analysis of Arguments in the Public Debate on the Alphabet Change in bilingual Kazakhstan," by Kimanova, the author highlights the importance of a public social debate on language policy in Kazakhstan.<sup>168</sup>

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<sup>167</sup>Ibid, pp.1-8

<sup>168</sup> Kimanova, L., 2011. Analysis of Arguments in the Public Debate on the Alphabet Change in bilingual Kazakhstan, pp.1021-1035

Special attention is given to the English language in the higher education system. The Ministry of Education and Science of the Republic of Kazakhstan is improving methods and techniques of the teaching process, implementing programs and issuing quality books in English. With these efforts, the Ministry of Education and Science aims to internationalize the education process and attract international students.

Accordingly, the Republic of Kazakhstan's government is taking steps to realize the constitutional right to education by implementing different measures such as improving the legal framework, developing the education system, and creating the necessary conditions for education. Besides, the right to education in Kazakhstan is realized under international law which would be considered detailed in the following subparagraph of the chapter.

### **3.7 THE RIGHT TO EDUCATION UNDER THE INTERNATIONAL DOCUMENTS ON THE PROTECTION OF HUMAN RIGHTS**

The Republic of Kazakhstan as a member of the global community recognizes human rights and, consequently, implements the norms of international law. Article 4 of the Constitution points to the following:

"1. The provisions of the Constitution, the laws corresponding to it, other regulatory and legal acts, international agreements and other commitments of the Republic, as well as regulatory resolutions of the Constitutional Council and the Supreme Court of the Republic, shall be the functioning law in the Republic of Kazakhstan.

2. The Constitution shall have the highest juridical force and direct effect on the entire territory of the Republic.

3. International agreements ratified by the Republic have primacy over its laws. Republic legislation determines the procedure and conditions of operation of international agreements in the Republic of Kazakhstan, to which Kazakhstan is a party.

4. All laws and international agreements which the Republic is a party shall be published. Official publication of regulatory and legal acts, dealing with the rights, freedoms, and responsibilities of citizens shall be the necessary condition for their application".<sup>169</sup>

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<sup>169</sup>Article 4, Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at:

Within almost 30 years of its sovereignty, the country is committed to the principles of international law. It displays in the high number of signed and ratified international documents on the protecting of human rights. The fundamental basis for respecting and protecting human rights is the Universal Declaration of Human Rights which obliges to save the set of human rights, which is the right to education. Article 26 of the Universal Declaration of Human Rights promulgates that everyone shall have the right to education.<sup>170</sup>

The right to education has been displayed in international documents such as the Convention on the Rights of the Child, the UNESCO Convention against Discrimination in Education, the International Covenant on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families.

One of the first treaties concerning human rights that have been adopted and ratified by the Republic of Kazakhstan was the Convention on the Rights of the Child. The country's first president signed the Convention in 1994 in New York and ratified it with the president's decree on August 28<sup>th</sup>, 1999.<sup>171</sup> The document is focal because it is committed to protecting the rights of every human being below the age of eighteen. The basic principles of the international instrument are the equal rights of all children to life, development, protection and freedom from discrimination. To wit, Article 29 of the Convention states the following:

"(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, their own cultural identity, language and values, for the national importance of the country in which the child is living, the country from which they may originate, and for civilizations different from their own;

(d) The preparation of the Child for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic,

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<[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 16 October 2021]

170Article 26, Nations, U., 2021. Universal Declaration of Human Rights | United Nations. [online] United Nations. Available at: <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> [Accessed 16 October 2021]

171 2021. [online] Available at: <[https://adilet.zan.kz/eng/docs/B940001400\\_](https://adilet.zan.kz/eng/docs/B940001400_)> [Accessed 17 October 2021]

national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment."<sup>172</sup>

Adherence to the fulfillment of the convention's provisions has started many positive changes in the country, such as the development of inclusive education, for instance. This development ensures the protection of the right to education for all students, regardless of any challenges they may face. One of the severe difficulties that deprive people of the education of any type is discrimination based on race, color, religion, gender, disability, and marital status. To prevent racial discrimination, the Republic of Kazakhstan has approved and ratified the International Convention on the Elimination of All Forms of Racial Discrimination. The International Covenant on the Elimination of All Forms of Racial Discrimination urges states not to racially discriminate when their citizens enjoy the right to education and training.<sup>173</sup>

Besides, the Republic of Kazakhstan signed and upheld the Convention to eliminate all forms of discrimination against women since one of the reasons that do not allow exercising the right to education ultimately is gender discrimination. Discrimination based on gender represents a huge issue, and women are a vulnerable group. Thus, the Convention encourages states to stop discrimination based on sex is the Convention on the Elimination of All Forms of Discrimination against Women.<sup>174</sup> Also, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed and ratified in the country.

In addition to all of the above, Kazakhstan has signed two universal Covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The two documents are the centres that have been accepted by the majority of states worldwide.

The International Covenant on Economic, Social and Cultural Rights (1966), together with the Universal Declaration of Human Rights (1948) and the International Covenant on

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172Article 29, Ohchr.org. 2021. OHCHR | Convention on the Rights of the Child. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [Accessed 17 October 2021]

173Ohchr.org. 2021. OHCHR | International Convention on the Elimination of All Forms of Racial Discrimination. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/icerd.aspx>> [Accessed 17 October 2021]

174Ohchr.org. 2021. OHCHR | Convention on the Elimination of All Forms of Discrimination against Women. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>> [Accessed 17 October 2021]

Civil and Political Rights (1966), constitute the International Bill of Human Rights. Under the Universal Declaration of Human Rights, the Covenants recognize that "... the ideal of free human beings, free from fear and want, can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights."<sup>175</sup> The International Covenant on Civil and Political Rights, adopted by the UN General Assembly's resolution on December 16, 1966, has been ratified by the Republic of Kazakhstan. Ratification of this Covenant in 2005 signifies acceptance by the Republic of Kazakhstan of international legal obligations to respect human rights. Moreover, the Republic of Kazakhstan ratified an optional protocol to this Covenant in 2009, which opened up the opportunity for citizens to apply for protection of violated rights to the UN treaty body - the UN Human Rights Committee.<sup>176</sup>

By adopting all these global treaties and documents on the protection of human rights, the state has chosen a responsible approach towards human rights.

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<sup>175</sup>Ohchr.org. 2021. OHCHR | International Covenant on Economic, Social and Cultural Rights. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>> [Accessed 17 October 2021]

<sup>176</sup>Коллектив авторов., 2019. Имплементация норм Международных договоров в области прав человека (гражданские и политические права) в Законодательство Республики Казахстан. «Институт законодательства Республики Казахстан». pp. 7-10



### **3.8 SUMMARY**

The third part of the dissertation addressed the legal development of the right to education throughout history. First of all, the chapter of the thesis began with considering human rights as a system. In particular, the generation of human rights and its division into categories was examined. Thus, the three types of human rights (civil and political rights, economic, social, and cultural rights, and collective rights) were underlined. Also, the position of the right to education within the generation of human rights was studied.

Secondly, this section of the thesis presented the views of various scholars on the right to education as a concept. Thereafter, the chapter subparagraphs focused on the right to education and its development starting from the time of the Russian Empire and finishing at modern times

Lastly, the right to education under the international documents on the protection of human rights was researched.

## **CHAPTER FOUR**

### **THE LEGAL DEVELOPMENT OF THE RIGHT TO EDUCATION IN UZBEKISTAN THROUGHOUT ITS HISTORY**

4.1 Introduction and overview

4.2 The right to education between the years of 1917-1991

4.3 Realization of human rights in the Republic of Uzbekistan within human rights institutes

4.4 National mechanisms on promotion and protection of human rights in the Republic of Uzbekistan

4.5 International instruments ensuring human rights in the Republic of Uzbekistan

4.6 The right to education in independent Uzbekistan

4.7 Summary

## **CHAPTER FOUR**

# **THE LEGAL DEVELOPMENT OF THE RIGHT TO EDUCATION IN UZBEKISTAN THROUGHOUT ITS HISTORY**

### **4.1 INTRODUCTION AND OVERVIEW**

Nowadays the right to education is one of the vital rights that are widely guaranteed to citizens of the Republic of Uzbekistan. This chapter of the dissertation intends to examine the right within the historical approach, namely, it aims to consider the legal development of the right to education throughout history until the present day. This section will also cover the realization of human rights in Uzbekistan within human rights institutes and will reveal the international instruments that ensure human rights in the country.

It can be argued that the development of education and its right to it in Uzbekistan begins with the penetration of religion. Many scholars note that the appearance of religion had an impact on the social, political, and cultural life of the region.

In the paper “History of pedagogy” written by Abdullaeva, Zaynitdinova, and Halikova, the authors highlight that education in Uzbekistan mainly existed along the religious one.<sup>177</sup> Similarly to the Republic of Kazakhstan, the most common schools for the time being were madrasahs and mektebs. Although religious discipline widely existed, the development of secular education and natural sciences was noted as well. As the authors claim, it has resulted in the synthesis of cultures of various nations.<sup>178</sup>

The authors also underlined that the functions to educate the population and resolve

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177 In the VI and early VIII centuries A.D., Islam began to spread in the territory of present Republic of Uzbekistan. Abdullaeva, Zaynitdinova, and Khalikova., 2017. An overview of the education system in the Middle Ages in the territory of present day Uzbekistan. History of pedagogy. pp.37-47

178 Ibid

legal issues were carried out by the Muslim clergy until the beginning of Soviet rule.<sup>179</sup>

It is considered that Central Asia, namely the Republic of Uzbekistan was a crucial center of scientific thought in the East (IX-XV centuries).

## **4.2 THE RIGHT TO EDUCATION BETWEEN THE YEARS OF 1917-1991**

The period between 1917 and 1991 is an important mark of the history of the Republic of Uzbekistan. The education and its right to it before 1917 had its specific features. Thus, for instance, it was noted that functions of education for the population were carried out by Muslim clergy until 1917.<sup>180</sup> What is noticeable after 1917 is the reduction of the presence of religious subjects in state schools. As it is highlighted, a measure depriving madrasahs<sup>181</sup> and mektebs<sup>182</sup> of public finance was implemented. It was done since Uzbekistan became a part of a new political regime namely the Soviet one.

As argued earlier in the dissertation, the right to education in the member states of the USSR during the Soviet time was guaranteed. The essence of politics of the Communist party and the Soviet authority was defined by the programs of the party. Thus, one of the primary goals was to create a new, socialist system of public education, to transform the school from an instrument of class domination of the bourgeoisie into an instrument of the communist transformation of society.

The main aim was to reduce the mass illiteracy of the population. Therefore, the right of citizens of the Soviet Union to education was enshrined in the Constitution of the USSR. The Soviet state has created solid material guarantees to ensure that citizens of the USSR have real opportunities to exercise this right. The fundamental rights and obligations of the citizens of the Uzbek Soviet Socialist Republic were also formulated in chapter 10 of the Constitution of the Uzbek SSR (1938). The right to education was formulated in the Article 120 of the Constitution. Thus, according to the provision, citizens of the Uzbek Soviet Socialist Republic

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<sup>179</sup> Ibid

<sup>180</sup> Ibid

<sup>181</sup> Madrasah is the Arabic word that refers to any educational institution whether secular or religious or elementary or higher

<sup>182</sup> Mekteb is a school (mostly primary school) that taught children reading, writing, grammar, and Islam

are entitled to the rights namely:

- “This right is ensured by universal compulsory primary education, free education, including higher education, a system of State scholarships for the vast majority of students in higher education, and mother-tongue instruction in schools”.<sup>183</sup>

The right to education was provided at all levels of education such as primary education, secondary education, vocational and technical education, and higher education. Thus, the first level of education was considered as one of the important ones. The right to education was provided on this level by the organization of pre-school institutions such as kindergartens and nurseries for children until the age of 7. It is said that the organization of soviet kindergartens was called the “sprouts of communism”.<sup>184</sup>

The right to education was given to all including the citizens of the Uzbek Soviet Socialist Republic to get secondary education as well. Thus, it is argued that all general schools became national schools. The existence of private schools was prohibited. The right to education was provided with free education and co-education for children of both genders. Thus, there was gender equality in education.

It can be argued that there was no discrimination in access to education based on nationality. As it is known, all nationalities were given the right to be taught in their native language.

Speaking of programs that were used, new education programs were developed and put into effect. During this period, Uzbek textbooks began to be created. For instance, the Rakhimi primer was created that was used to teach children to read and write in Uzbek language.<sup>185</sup> Other textbooks, for example, on math or geography were created as well.

Another crucial aspect of ensuring the right to education was the separation of schools from religious institutions and the church from the state. What is more, the teaching of any doctrine and the performance of religious rites in educational institutions were prohibited all over the Soviet Union’s republics.

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183 Constitution of the Uzbek SSR 1938. <https://shosh.uz/wp-content/uploads/2016/12/Konstitutsiya-Uzbekskoy-SSR-1937-g..pdf>

184 Ф.Г.Паначин. Народное образование

185 Abdullaeva, Zaynitdinova, and Khalikova., 2017. An overview of the education system in the Middle Ages in the territory of present day Uzbekistan. History of pedagogy. pp.37-47

During the Soviet regime, the right to get an education was at the focal attention of the authorities. Indeed, this right was provided to everyone. For instance, orphans or disabled children were not left without education. Thus, special general education schools (classes) were organized for children and adolescents in need of long-term treatment, with physical developmental defects (deaf and hard of hearing, blind and visually impaired, with speech defects) and mental retardation or abnormalities, mainly of the boarding type. Also, there were schools for orphans so-called community schools.

All in all, the right to get an education on the level of secondary education was fully provided to all as was stated in the Constitution.

In accordance with the main document, the Constitution, it was stated about the provision of higher education to everyone. The right to receive an education on a level of higher education was provided through higher education organizations. Higher education institutions in the Uzbek SSR as well as in the rest of the USSR included universities, polytechnic institutes, industrial and other branch institutes, academies, and conservatories. The right was guaranteed by the provision of free higher education at any above-mentioned institutions.

In addition to free-tuition for higher education, students were paid a state scholarship depending on their academic performance. The right to education was also insured by the provision of accommodation, for instance, for non-residents.

It is vital to note that the authority adopted other benefits for students of higher education institutions. Thus, for example, additional paid holidays and shorter working hours were established for those on-the-job training.

It can be stated that the right to education was widely assured. An evidence of this fact is the increasing number of higher education institutions in all union's republics including Uzbekistan.

Figure 4-1: The number of HEI in Soviet republic of Uzbekistan

<b>The number of HEI in Soviet</b>				
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<b>republic of Uzbekistan</b>	<b>1927-1928</b>	<b>1940</b>	<b>1945-1946</b>	<b>1950-1951</b>
	3	30	35	37

Source: Compiled on the basis of the information taken from the article<sup>186</sup>

According to the article “Development of Science and Education in Central Asia in the 20-50s of the XX century” written by Serikpa Gnabro Harding, many higher educational institutions were opened in Soviet Uzbekistan. For comparison, 3 higher educational organizations functioned in the country between 1927 and 1928. The number of higher educational institutions increased and reached 30 by the year of 1940. Between the time of 1945 and 1946, there were 35 universities and institutions. The total number of higher educational institutions in Soviet Uzbekistan became 37 in the years 1950 and 1951.<sup>187</sup>

Therefore, it can be stated that the right to education during the Soviet time in the Republic of Uzbekistan was protected.

### **4.3 REALIZATION OF HUMAN RIGHTS IN THE REPUBLIC OF UZBEKISTAN**

The Republic of Uzbekistan has selected a way of building a democratic and legal state with a strong civil society. Therefore, the country has indicated human rights as a crucial priority for state building and development.

During the years of independence of Uzbekistan, the principles and main directions of the state policy on human rights and freedoms have been generated. Among them are the adherence to human rights, ideas of democracy and social justice, and recognition of the law. Guided by these principles, Uzbekistan has carried out large-scale incorporation of international human rights standards into the life of society, and the consciousness of citizens and public officials.

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<sup>186</sup> Серикпа Гнабро Гардинг., 2021 Развитие науки и образования в Центральной Азии в 20-50-Е годы XX века. Bulletin Social-Economic and Humanitarian Research, (12 (14)), 54-64

<sup>187</sup> Ibid

Human rights in the Republic of Uzbekistan are ensured within the state policy, including human rights legislation, the Constitution, and the implementation of international law into the national legislation. Additionally, it is realized through national human rights and civil society institutions. It is also crucial to note the work on human rights awareness and education.

Mentioning the national law, it is beneficial to have a look at the dominant document of the country. Thus, to evaluate what rights and freedoms are granted to the citizens of the Republic of Uzbekistan, it is cardinal firstly to examine the Constitution of the Republic of Uzbekistan.

The Constitution of the Republic of Uzbekistan is the highest legal document of the country that has been adopted at the eleventh session of the Supreme Council of the Republic of Uzbekistan of the twelfth convocation in 1992. The Constitution of the Republic of Uzbekistan guarantees rights and freedoms to all.<sup>188</sup>

The Constitution has 6 parts and 128 articles that reflect regulations in the country about fundamental principles, society and the individual, administrative, territorial structure, state system, organization of state authority, and procedure for altering the constitution. Also, some parts of the document contemplate norms about basic human and civil rights, freedoms, and duties.<sup>189</sup>

Certainly, the Republic of Uzbekistan has enshrined norms to grant fundamental human and civil rights and freedoms to serve the citizens. Thus, Article 2 of the Constitution states that the state shall express the will of the people and serve their interests. In particular, it stipulates that state bodies and officials shall be accountable to society and citizens.<sup>190</sup> Therefore, human beings, their life, freedom, honor, dignity, and other rights are the ultimate value of the state. All provisions mentioned earlier have been formed in the part of the Constitution titled basic human and civil rights, freedoms, and duties.

The block about human rights and freedoms begins with the statement that everyone shall have the same rights and freedoms despite any factors. Thus, all citizens of the Republic

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<sup>188</sup> Constitution.uz. 2022. Constitution of the Republic of Uzbekistan. [online] Available at: <<https://constitution.uz/en>> [Accessed 27 October 2022]

<sup>189</sup> Ibid

<sup>190</sup> Ibid



of Uzbekistan shall have equal rights and freedoms and shall be equal before the law without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status. Any privileges may be granted solely by law and must conform to the principles of social justice.<sup>191</sup>

The rights and freedoms that have been specified in the document are inalienable. Therefore, following the Constitution, no one shall have the right to deprive or restrict them without a court. It is also argued that a citizen of the Republic of Uzbekistan and the state shall be bound by mutual rights and responsibility.<sup>192</sup>

The rights and freedoms of an individual are unquestionably crucial. However, within Article 20, it is stated that exercising rights and freedoms by a citizen must not encroach on the lawful interests, rights and freedoms of other persons, the state and society.<sup>193</sup>

Within the legal document, the categorization of rights and freedoms has been divided into three blocks: personal rights and liberties, political rights, and economic and social rights.

Thus, personal rights and freedoms have been drafted between Article 24 and Article 31. These articles guarantee individual rights and freedoms such as the right to life, the right to freedom and inviolability, the right to protection of dignity and interference of private life, the right to freedom of movement, and the right to freedom of thought, speech, and convictions. In addition to the earlier mentioned rights and freedoms, the personal rights and freedoms section includes the right to freedom of conscience.<sup>194</sup>

In reference to Article 31 of the Constitution, freedom of conscience should be guaranteed to all. Everyone shall have the right to profess or not to profess any religion. A compulsory imposition of religion shall be impermissible.<sup>195</sup>

Speaking of the second section of human rights and freedoms, which is political rights, the legal instrument grants rights and privileges to engage in the public life of the country by

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<sup>191</sup> Ibid

<sup>192</sup> Ibid

<sup>193</sup> Ibid

<sup>194</sup> Ibid

<sup>195</sup> Ibid

participating in the management of public and state affairs by participating in demonstrations and meetings within the legislation of the state. Apart from the listed activities, the citizens of the Republic of Uzbekistan are entitled to establish trade unions, political parties, or other forms of associations.<sup>196</sup>

Referring to the economic and social rights section of the document, it has several articles that ensure the right to property, the right to work, free choice of work, fair conditions for labor, the right to social security, the right to medical care, and undoubtedly the right to education.<sup>197</sup>

Concerning Article 41, everyone shall have the right to education. The state shall guarantee free secondary education. Schooling shall be under state supervision.<sup>198</sup> The Republic of Uzbekistan embraces cultural, scientific, and technical development. Therefore, based on Article 42, everyone shall be guaranteed the freedom of research and engineering work, and the right to enjoy cultural benefits. The state shall promote the society's cultural, scientific and technical development.<sup>199</sup>

The guarantees of human rights and freedoms have been formulated in a separate chapter in the frame of the document. The constitution specifies the following points:

- "Women and men shall have equal rights;
- The rights and freedoms of minors, the disabled and the single elderly shall be protected by the state;
- Everyone shall be entitled to defend his rights and freedoms legally and shall have the right to appeal any unlawful action of state bodies, officials and public associations.
- The state shall safeguard the rights and freedoms of citizens proclaimed by the Constitution and laws".<sup>200</sup>

#### **4.4 NATIONAL MECHANISMS ON PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE REPUBLIC OF UZBEKISTAN**

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<sup>196</sup> Ibid

<sup>197</sup> Ibid

<sup>198</sup> Ibid

<sup>199</sup> Ibid

<sup>200</sup> Ibid

As it was tackled earlier, besides the national law, human rights and freedoms in the Republic of Uzbekistan are preserved by national and international human rights mechanisms.

The national human rights mechanism in the Republic of Uzbekistan is functioning owing to the creation of state bodies involved in protecting human rights. In addition to the state bodies, there are non-governmental bodies that include national human rights institutions and non-governmental organizations.

Protecting human rights through state bodies (the judiciary) is an integral part of the machinery for protecting human rights and freedoms. The courts are the most essential instrument in the system for the restoration of violated human rights and freedoms.

The judicial protection of every person's rights and freedoms as well as the right to appeal against unlawful acts of State bodies, officials and voluntary associations are guaranteed. The judiciary in Uzbekistan operates independently of the legislative and executive branches, political parties and other voluntary associations.<sup>201</sup>

The country's law enforcement system, as a traditional system of state power, plays a vital role in protecting human rights and freedoms. Besides, a significant role in the realization and protection of human rights in the country belongs to the prosecution authorities. Thus, the Prosecutor General's office in Uzbekistan is a state body that performs many tasks, including the protection of the constitutional rights of the citizens. In other words, the protection of the constitutional rights of citizens by the Prosecutor General's office is done against unlawful acts or omissions by officials of State bodies in the process of forming the rule of law in Uzbekistan.

Furthermore, it is essential to underline other state bodies that protect human rights and freedoms in the Republic of Uzbekistan. Thus, the Ministry of Justice is another responsible body that works on the insurance of law implementation.<sup>202</sup>

The primary goal of the Ministry is to enforce legislation that would comply with the interests of the state and citizens. With the direct participation of the Ministry, effective

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201 Kudryatsev.L.,(2019). Realization of protection of human rights in Uzbekistan. pp.46-50

202 Ministry of Justice of the Republic of Uzbekistan. Available at: <https://adliya.uz/en/inner-page/vazirlik-haqida>

mechanisms have been created to protect human rights and the legitimate interests of entrepreneurs and private owners. A system for ongoing analysis and monitoring of law enforcement practice has been introduced, and sound proposals for improving existing legislation have been formulated.

Protecting rights and freedoms in the frame of the legislation, there is another vital state body that has to be mentioned. It is the internal affairs body of the Republic of Uzbekistan.<sup>203</sup> It is an authority that is included in the system of law enforcement agencies. Its significance is extreme since it protects constitutional and public order, public security, and protection of human rights and freedoms from any crime.

There is an influence on the realization of human rights and freedoms in the country coming from the operation of Virtual and People's receptions of the President and Prime Minister of the Republic of Uzbekistan as well. These mechanisms help protect human rights and freedoms by considering public appeals from state authorities and other organizations through open communication between state bodies and the public. Certainly, this approach is a transparent one.

Lastly, the crucial role in the national mechanism of the protection of human rights and freedoms is given to national institutes on protecting human rights.

It is said that the development of national institutes has taken serious consideration at the national as well as the international levels since the last quarter of the century.<sup>204</sup> Interest in national human rights institutions was first raised at the UN in 1946, at the second session of the Economic and Social Council, when participating states were invited to consider establishing human rights committees within their countries to work with the UN Commission on Human Rights.<sup>205</sup>

As the concept of national human rights institutions has evolved around the world, the international community has developed certain principles and rules for establishing and

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203 Available at: <https://lex.uz/mact/3027845>

204 Гафуров, А., 2011. Мустақиллик ва инсон ҳуқуқлари = Независимость и права человека = Independence and human rights. Tashkent: SMI-ASIA, pp.167-174.

205 Ibid

operating these institutions.<sup>206</sup> The international legal ground for functioning national institutes on human rights is the Paris Principles.<sup>207</sup> It is argued that the provisions of the Paris Principles on human rights are always taken into consideration by the majority of states while creating their national institutes.

In an article titled "International standards for national human rights institutions" in the book "Independence and human rights", some activities that are envisaged within the Paris Principles are listed. They are the following:

- Legislating the work of the institutions and its independence from state authorities and having a broad representation within the institution;
- national institutions are entitled to submit recommendations, proposals and reports to the government, parliament, or other bodies on the promotion and protection of human rights, including draft legislation;
- prepare reports on country situations from a human rights perspective in general, as well as on more specific issues;
- promote ratification of or accession to international instruments and ensure their implementation;
- participate in the preparation of national reports that States submit to UN bodies and committees;
- empowerment to receive and make recommendations on complaints.<sup>208</sup>

Despite the above-mentioned activities, the states can adapt them to their conditions without changing the main principles.

Regarding national human rights institutions in Uzbekistan, its composition includes the following: Commissioner Oliy Majlis of the Republic Uzbekistan for Human Rights (Ombudsman), Commissioner for the Protection of the Rights of Entrepreneurs (Business Ombudsman) under the President of the Republic of Uzbekistan, Institution of the Oliy Majlis Commissioner for the Rights of the Child (Children's Ombudsman) as well as the National Center of the Republic of Uzbekistan for Human Rights.

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<sup>206</sup> Ibid

<sup>207</sup> Paris Principles. Available at: <https://ganhri.org/paris-principles/>

<sup>208</sup> Ibid

Hence, the Republic of Uzbekistan has established national mechanisms to promote and protect human rights.

## **4.5 INTERNATIONAL INSTRUMENTS ENSURING HUMAN RIGHTS IN THE REPUBLIC OF UZBEKISTAN**

International instruments protecting human rights have a remarkable impact on any state. Firstly, international law establishes minimum rights and freedoms that have to be guaranteed by the states. Secondly, it sets principles, conditions, and terms that have to be considered while promoting and protecting human rights and freedoms.

International human rights mechanism occurs through the two universal and regional.

The universal human rights mechanism is inherent in various councils and organizations. Thus, the foremost body that has an interdisciplinary structure and a universal international human rights mechanism is the United Nations Organization.<sup>209</sup>

The UN organization's principal organs, as well as subsidiary units, deal with the protection of human rights.

Another body with a universal international mechanism for preserving human rights is the United Nations, General Assembly.<sup>210</sup> The organ's view to preserve human rights and freedoms is concluded in the state's adoption of resolutions in the field of human rights. The influence of this body is great since its dominant function is to organize, develop, and present recommendations for the study of human rights to promote human rights without discrimination, such as race, gender, language, and religion. The organization's activities include the adoption of several documents on human rights, such as resolutions, conventions, and declarations.

It is essential to list the Economic and Social Council<sup>211</sup>, which is unquestionably the

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<sup>209</sup>United Nations Organization. [online] Available at: < <https://www.un.org/en/our-work/protect-human-rights/> > [Accessed 28 October 2022]

<sup>210</sup>United Nations General Assembly. [online] Available at: < <https://www.un.org/en/ga/> > [Accessed 28 October 2022]

<sup>211</sup> Economic and Social Council. Available at: <https://ecosoc.un.org/en>

organization of the universal human rights mechanism. The role of the Council to ensure human rights appears in making recommendations. In addition, the Council can establish committees and commissions that would promote human rights and freedoms. For example, there is a commission on the status of women. Thus, this commission submits recommendations and reports about the promotion of women's human rights in various fields such as political, economic, civil, social, and educational to the Economic and Social Council.

Aside from the Economic and Social Council, one more council is the Human Rights Council.

The Human Rights Council is one of the organizations of the universal human rights mechanism, which deals with many issues, namely incidents and systematic human rights violations. The organization is a universal mechanism since all states around the globe have to submit their national reports on the situation with human rights to the council. Therefore, the council would review and evaluate the conditions for fulfilling duties towards human rights. The council's main aims are to promote and protect human rights without distinction, justice, and equality. Apart from that, it has to examine cases and make recommendations.<sup>212</sup>

A situation with the preservation and violation of human rights in a particular state is reviewed by a Special Rapporteur.<sup>213</sup> It is a human rights expert appointed by the United Nations Council that has to study and report on various human rights issues. It is argued that currently, 44 special rapporteurs are specializing in multiple areas of human rights.<sup>214</sup>

There is the High Commissioner for Human Rights<sup>215</sup>, the UNICEF (United Nations Children's Fund)<sup>216</sup>, the UNESCO (United Nations Educational, Scientific, and Culture)<sup>217</sup>, the ILO (International Labour Organization)<sup>218</sup>, and the WHO (World Health Organization)<sup>219</sup> that executes universal human rights mechanisms on the protection of human rights.

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<sup>212</sup>Economic and Social Council [online] Available at: < <https://www.un.org/ecosoc/en/home> > [Accessed 28 October 2022]

<sup>213</sup> Special Rapporteur. Available at: <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders>

<sup>214</sup>United Nations Human Rights Office for the High Commissioner [online] Available at: < <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders> > [Accessed 28 October 2022]

<sup>215</sup> High Commissioner for Human Rights. Available at: <https://www.ohchr.org/en/about-us/high-commissioner>

<sup>216</sup> UNICEF. Available at: <https://www.unicef.org/>

<sup>217</sup> UNESCO. Available at: <https://www.unesco.org/en>

<sup>218</sup> International Labour Organization. Available at: <https://www.ilo.org/global/lang-en/index.htm>

<sup>219</sup> World Health Organization. Available at: <https://www.who.int/>

Various organizations apply universal human rights mechanisms in the Republic of Uzbekistan. They are the following:

- Human Rights Committee within the (ICCPR) International Covenant on Civil and Political Rights;<sup>220</sup>
- Committee on Economic, Social, and Cultural Rights- (ICESCR) International Covenant on Economic, Social, and Cultural Rights;<sup>221</sup>

Under the CERD (International Convention on the Elimination of All Forms of Racial Discrimination), the universal human rights mechanism is committed through the Committee on the Elimination of All Forms of Racial Discrimination.<sup>222</sup>

Besides, the Committee against Torture under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>223</sup>, the Committee on the Elimination of Discrimination against Women in the frame of the Convention on the Elimination of All Forms of Discrimination against Women<sup>224</sup>, the Committee on the Rights of the Child under the Convention on the Rights of the Child<sup>225</sup>, and the Committee on the Rights of Persons with Disabilities under the Convention on the Rights of Persons with Disabilities<sup>226</sup> are the international bodies that actively cooperate with the Republic of Uzbekistan to promote and protect human rights and freedoms.

It has been addressed earlier that apart from the universal human rights mechanism, there is a regional human rights mechanism too.

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220 Human Rights Committee within the (ICCPR) International Covenant on Civil and Political Rights. Available at: <https://www.ohchr.org/en/treaty-bodies/ccpr#:~:text=The%20Human%20Rights%20Committee%20is,of%20law%2C%20policy%20and%20practice.>

221 Committee on Economic, Social, and Cultural Rights- (ICESCR) International Covenant on Economic, Social, and Cultural Rights. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

222 International Convention on the Elimination of All Forms of Racial Discrimination. Available at:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

223 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

224 Convention on the Elimination of All Forms of Discrimination against Women. Available at:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

225 Convention on the Rights of the Child. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

226 Convention on the Rights of Persons with Disabilities. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>



The regional human rights mechanism, as well as the universal one, follows the same minimum standards. However, the regional mechanism may differ in its approach to regional issues and in the way the issues are framed. The regional human rights mechanism's dominant feature that differs from the universal one is the consideration of a state's geographical, political, economic, cultural, and social aspects.

The regional human rights mechanism also operates through particular organizations such as the OSCE.<sup>227</sup> The Organization for Security and Cooperation in Europe is a vivid organization in the world that operates in the name of democracy, stability, and prosperity for all. The OSCE deals with human rights as well. It looks for recognition and realization of the principles that were set out in the United Nations' human rights and protection instruments. The collaboration between the Organization for Security and Cooperation in Europe and the United Nations leads to expanding the scope of human rights work.

The Organization for Security and Cooperation in Europe has several units that are critical bodies in promoting and protecting human rights. Thus, it is the OSCE Office for Democratic Institutions and Human Rights. The role of the office is substantial, as it undertakes a range of important tasks, including monitoring elections and promoting the establishment of national electoral bodies.

In addition, the OSCE Office for Democratic Institutions and Human Rights promotes establishing non-governmental organizations and civil society in various states. What is more, it encourages the development of technical assistance to those national organizations on human rights.<sup>228</sup>

One more crucial division within the Organization for Security and Cooperation in Europe that contributes significantly to human rights is the Institute of the OSCE High Commissioner on National Minorities.<sup>229</sup> The division aims to prevent conflicts and resolution by taking steps to analyze and resolve them and, consequently, call on conflict parties to avoid them through consultations.<sup>230</sup>

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<sup>227</sup> OSCE. Available at: <https://www.oscepa.org/ru/>

<sup>228</sup> Ibid

<sup>229</sup> OSCE High Commissioner on National Minorities. Available at: <https://www.osce.org/hcnm>

<sup>230</sup> Ibid

Besides, the Parliamentary Assembly inside the Organization for Security and Cooperation in Europe<sup>231</sup> is also a regional instrument. The unit works on the issues related to the activities of the organizations by proposing declarations, recommendations, and proposals to develop and straighten security and cooperation between the participating states.

It has been declaimed that the regional human rights mechanism considers many political, geographical, and cultural aspects. Since the Republic of Uzbekistan is a Muslim country, there is an organization that intends to safeguard and protect the interests of the Muslim world within the regional mechanism. The Organization of Islamic Cooperation is the largest Muslim-majority international organization in the world.<sup>232</sup>

Human rights and freedoms in the scope of the Organization of Islamic Cooperation are ensured owing to its organ, the Independent Standing Commission on Human Rights as well. The Commission supports OIC member states' efforts to improve legislation to straighten the rights and freedoms of particular groups of people, namely women, youth, and the needy. Therefore, attention is given to providing all types of rights (political, economic, social, cultural, and educational) and preventing and eliminating all forms of discrimination and violence.<sup>233</sup>

Hence, human rights and freedoms in the Republic of Uzbekistan are ensured owing to national, regional, and universal human rights mechanisms. It can be argued that the first front of promoting and protecting human rights and freedoms is the federal level, while the second and third levels are the regional and universal levels accordingly.

## **4.6 THE RIGHT TO EDUCATION IN INDEPENDENT UZBEKISTAN**

From the above subparagraphs, it is evident that the Republic of Uzbekistan is a legal state, where human rights and freedoms are under special protection. It can be said that the right to education is under the scrutiny of the state. Thus, firstly, the Republic of Uzbekistan has established a legislative ground for the preservation of the right to get an education.

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231 Parliamentary Assembly. Available at: <https://www.oscepa.org/en/>

232 Organization of Islamic Cooperation. Available at: <https://www.oic-oci.org/>

233 Ibid

The protection of the right to education in the Republic of Uzbekistan implies that the state shall ensure the development of a continuous education system, its various types and forms, state and non-state educational organizations. The state shall create conditions for the development of pre-school education and upbringing. The State shall guarantee general secondary and basic vocational education free of charge. The general secondary education shall be compulsory. Pre-school education and upbringing, and general secondary education shall be under state supervision. Inclusive education and upbringing shall be provided for children with special educational needs in educational institutions. Therefore, everyone shall have the right to receive an education.<sup>234</sup>

There are other provisions in the document that declare the state's preservation of the right. Thus, Article 51 states the following:

- “Citizens shall have the right to receive higher education in state educational organizations on a competitive basis at the expense of the state.”<sup>235</sup>

Also, the second subparagraph of the article guarantees academic freedom, freedom of research and self- government to higher educational institutions in the country. It is essential to underline that the preservation of the right to education is manifested through the increase of the autonomy of institutions. Thus, higher educational institutions can develop curricula and programs in the relevant areas and specialties of education, taking into account the demands of students. All in all, the right to education implies not only the possibility for everyone to receive education but also implies pedagogical and academic freedoms. In particular, freedom to choose pedagogical methods of teaching, sources of information, freedom to ask questions, and to conduct research.

A significant point in the section on the protection of the right to education is given to the work of a teacher. Thus, in the provision of Article 52, in the Republic of Uzbekistan, "the work of a teacher shall be recognized as the basis for the development of society and the state, the formation and education of a healthy, harmoniously developed generation, the preservation and enhancement of the spiritual and cultural potential of the people".<sup>236</sup> The

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<sup>234</sup> Ibid

<sup>235</sup> Constitution.uz. 2022. Constitution of the Republic of Uzbekistan. [online] Available at: <<https://constitution.uz/en>> [Accessed 27 October 2022]

<sup>236</sup> Ibid

State shall ensure the protection of the honour and dignity of teachers, their social and material well-being and professional development.<sup>237</sup>

Secondly, for the realization of the right to education, various state programs have been launched and implemented. For instance, it is crucial to highlight the Concept for the Development of the National Education System of the Republic of Uzbekistan until 2030.<sup>238</sup> The aims that have been set in the concept certainly stimulate the continuation of the preservation of the right to education. Thus, one of the primary goals of the document is the qualitative renewal of the content of the continuing education system. Additionally, the document focuses on improving teaching methods and the gradual introduction of principles aimed at individualizing the educational process.

Apart from the improvement of the teaching methods, one of the important focuses is the introduction of modern information and communication technologies and innovative projects in the sphere of public education. Other objectives have been pointed out in the concept to completely provide the right to education.

Thus, the state ensures citizens' right to education by continuous and sustainable development of education.

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<sup>237</sup> Ibid

<sup>238</sup> Concept for the Development of National Education System of the Republic of Uzbekistan until 2030. . [online] Available at: <<https://lex.uz/docs/4312783>> [Accessed 27 October 2022]

## **4.7 SUMMARY**

The right to education is an important right that is under protection in the Republic of Uzbekistan. The current chapter of the thesis was written to review the situation with the right to education in Uzbekistan during different times. Thus, the realization of the right to education during the Soviet regime and in the present time was presented.

In addition, the preservation of human rights in Uzbekistan within human rights institutes was researched. As a final note, national and international instruments that promote and protect human rights in the country were examined.

## **CHAPTER FIVE**

### **EDUCATION SYSTEM IN MODERN KAZAKHSTAN**

5.1 Overview of education system: the case of contemporary Kazakhstan

5.2 Levels of education

5.2.1 Primary education

5.2.2 Secondary education

5.2.3 Vocational and technical education

5.2.4 Higher education

5.3 Religious education in Kazakhstan

5.4 Summary

## **CHAPTER FIVE**

### **EDUCATION SYSTEM IN MODERN KAZAKHSTAN**

#### **5.1 OVERVIEW OF EDUCATION SYSTEM: THE CASE OF CONTEMPORARY KAZAKHSTAN**

It is indisputable that education benefits tremendously. First of all, it can be profitable for an individual. Subsequently, a knowledgeable and educated individual will certainly benefit society and states, leading to progress and prosperity.

Education as a phenomenon is understood through different aspects. For example, it is a person's holistic system of knowledge about the world, supported by appropriate skills in various areas of activity.

Some scholars define education as the purposeful training of the individual and the development of certain skills and knowledge.

Also, education is considered a system of institutions providing pre-vocational and vocational training. Nevertheless, despite having numerous definitions of this crucial phenomenon, education plays a significant role since its principal functions are upbringing, development of necessary knowledge and skills, and introduction of modern technologies. Therefore, the education system should be settled and improved through different tools that would help to benefit everyone.

It is known that the education system is a model that unites several institutional elements. Generally speaking, the education system in countries around the world varies. Each education system has its specific features that are connected. However, in general, it consists of the following educational institutions: kindergartens, schools, colleges, and higher educational organizations, as well as the other types of educational institutions that aim to enhance the knowledge and abilities of a person. In other words, the education system is a

purposefully created social institution characterized by an organized system of connections and social norms appropriate to a particular society and its needs.

The Republic of Kazakhstan has also settled its education system based on its own short-term and long-term aims and needs. It is worth mentioning that the education system inherited from the same ruler and was typical for all the post-Soviet states has been changed to comply with the current international standards. It has had a long way of establishment and transformation since the country underwent different political regimes. Initially, Kazakhstan was part of the Russian Empire for an extended period. Subsequently, it adhered to the policies of the Soviet Union for several years. Following the dissolution of the Soviet Union, the country faced numerous post-Soviet challenges, and it continues to address contemporary issues.

This section of the dissertation seeks to observe the education system of the modern Republic of Kazakhstan.

The education system of modern Kazakhstan consists of the following levels:

- 1) nursery education and training;
- 2) primary education;
- 3) basic secondary education;
- 4) secondary education (basic secondary education, technical and professional education);
- 5) post-secondary education;
- 6) higher education;
- 7) postgraduate education.

The education system comprises several levels: preschool education, primary and secondary education, technical and vocational education, and higher education. The highest



level, higher education, aligns with the Bologna Process framework and includes the following programs: bachelor's, master's, and doctoral (PhD) degrees.<sup>239</sup>

## 5.2 LEVELS OF EDUCATION

### 5.2.1 PRIMARY EDUCATION

Primary education, as the first level of the education system, is an essential formation of a child's personality. At preschool age, children have the highest potential for learning and development, and it is at these times that the child's primary abilities are formed, which ensures general development and serves as a basis for acquiring special knowledge and competence.

It is said that children's subsequent success in life undoubtedly depends on the development of their abilities at an early age. The leadership of the Republic of Kazakhstan, considering the above-mentioned statement, adopted a program called "Balapan" that aimed to provide preschool education and upbringing. The program was in effect until the year 2020.<sup>240</sup> The implementation of the program has brought benefits in the increased number of kindergartens and mini-centers. Thus, 3,956 new kindergartens and mini-centers have been opened since the start of the program.<sup>241</sup>

The system of preschool education in Kazakhstan includes different types of educational institutions. They are best illustrated by the figure shown below:

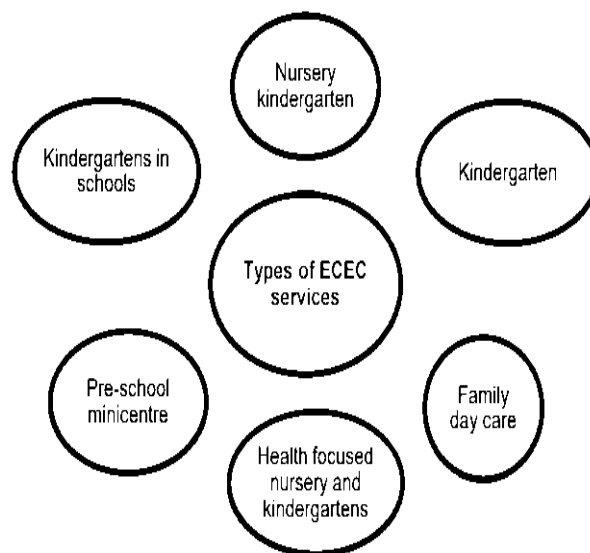
Figure 5-1: Types of preschool organizations in the Republic of Kazakhstan

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239 The Republic of Kazakhstan joined the Bologna Declaration in 2010. According to the main principles of the document, the circle of higher education includes the three levels that are bachelors, Master's and Doctorate degree

240 Adilet.zan.kz. 2022. Об утверждении программы по обеспечению детей дошкольным воспитанием и обучением "Балапан" на 2010 - 2020 годы - ИПС "Әділет". [online] Available at: <[https://adilet.zan.kz/rus/docs/P100000488\\_](https://adilet.zan.kz/rus/docs/P100000488_)> [Accessed 25 January 2022]

241 Mini-centers are set up for the all-round development of children aged 1 to 6 (7) years and for advisory and methodological support for their parents in organizing the child's upbringing and education and the social adaptation of children



Source: Taken from the "Early Childhood Education and Care Policy Review-Kazakhstan"

As seen from the figure above, the preschool organizations consist of nursery kindergartens, kindergartens, family day care, health-focused nurseries and kindergartens, preschool mini-centers, and school-based kindergartens.

- "Nursery kindergartens serve children from age 1 to 3 years. Enrolment in nursery kindergartens is accounted for under kindergartens in the official statistics.
- Kindergartens cater to children from the age of 3 to 7. Nurseries and regular kindergartens are the leading providers of ECEC.
- Family day care is offered in homes with small groups, usually of 5-6 children. These small-capacity settings are considered part of the public ECEC system.
- Health-focused nurseries and kindergartens (or "sanatorium kindergartens") specialize in children who need medical support (such as physical therapy, tuberculosis therapy or allergy therapy). A medical declaration is required for a child to be enrolled in these settings and participation in ECEC is free.
- Preschool mini-centers are the second largest provider of ECEC in Kazakhstan.
- School-based kindergartens provide ECEC for children aged 5 to 7."<sup>242</sup>

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242Oecd.org. 2022. [online] Available at: <<https://www.oecd.org/education/school/Early-Childhood-Education-and-Care-Policy-Review-Kazakhstan.pdf>> [Accessed 25 January 2022]

Undoubtedly, primary education helps children to develop intellectual, physical, emotional, and social sides for attending school.

## 5.2.2 SECONDARY EDUCATION

The education system of Kazakhstan focuses on the formation of harmoniously developed persons, highly professional and competent experts. Priority ways of modernization of general secondary education were designated in the State program of education development until 2020 and in a number of other normative documents of the Ministry of Education and Science of the Republic of Kazakhstan.<sup>243</sup>

The main indicators of the realization of children's constitutional rights to primary education are universal coverage of the country's school-age population in general secondary education.<sup>244</sup>

According to the Committee on Statistics of the Republic of Kazakhstan, in 2018, the enrolment rate in general secondary education was 99.11% of students of 7-10 years.<sup>245</sup>

The system of secondary education includes schools. Schools in the Republic of Kazakhstan are state or private.

The education program does not contain any religious disciplines in the curricula at this level of education. The Ministry of Education and Science of the Republic of Kazakhstan approves all secondary education programs. However, the necessity to add religious studies to programs in school has been set by the authorities.<sup>246</sup>

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243Akorda.kz. 2022. State Program of Education Development in the Republic of Kazakhstan for 2011–2020.. [online] Available at: <<https://www.akorda.kz/upload/SPED.doc#:~:text=The%20State%20Program%20of%20Education,of%20the%20country's%20education%20modernization.>> [Accessed 26 January 2022]

244Akorda.kz. 2022. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 26 January 2022]

245Stat.gov.kz. 2022. stat.gov.kz. [online] Available at: <<https://www.stat.gov.kz/official/industry/62/statistic/7>> [Accessed 26 January 2022]

246Seidumanova, M. 2019. Is the Introduction of Religious Studies in Kazakh Schools a Necessity or Excessiveness? Central Asian Bureau for Analytical Reporting

The State Program on Combating Religious Extremism and Terrorism was adopted<sup>247</sup>, under which it was planned to cover 100% of schoolchildren with a religious studies class in secondary education organizations. Thus, to achieve this goal, from the 2016 school year, a compulsory subject entitled "Secularism and basics of religious studies" was introduced in schools in Kazakhstan from the ninth grade, which replaces the optional course "Basics of religious studies".<sup>248</sup>

The goals of the authority that included this subject into the curricula are first to give basic knowledge of the importance of religion, its functions and its role in society, and teach about the traditional world religions and the existence of violent religious sects and groups. Certainly, the ultimate aim of teaching the subject of "Secularism and basics of religious studies" is to form the viewpoint of the importance of secularism and tolerance among the students. Notably, the discipline is introduced in the 9<sup>th</sup> grade. One might argue that it is the best period since it is highlighted by some scholars that people aged 14-29 are mainly subject to recruitment into various violent activities (terrorist or extremist).<sup>249</sup>

From my point of view, the introduction of the subject "Secularism and basics of religious studies" is a valid step to prevent the development of destructive and violent ideas among the youth. Undoubtedly, students should be taught this subject because nowadays many dangers, namely destructive ideas are developing. As scholarly practice shows, many youngsters are involved.

### **5.2.3 VOCATIONAL AND TECHNICAL EDUCATION**

High-quality professional education guarantees social protection, stability, and self-realization of a person at different stages of life. The economic pace of progress requires the system of technical and vocational education to prepare graduates with a high level of knowledge and skills, practical skills to work on modern equipment within the framework of

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<sup>247</sup>The State Program on combating religious extremism and terrorism for 2013-2017 has been approved by the first president of the Republic of Kazakhstan Nursultan Nazarbayev

<sup>248</sup>Zengin, M., Badagulova, Z., 2017. Religion and Religious Education in Kazakhstan Kazakistan'da Din ve Din Eğitimi. pp.49-63

<sup>249</sup>Seidumanova, M. 2019. Is the Introduction of Religious Studies in Kazakh Schools a Necessity or Excessiveness? Central Asian Bureau for Analytical Reporting

industrial and innovative development projects in the country. A high level of training of highly qualified personnel in technical specialties is one of the factors in the successful implementation of the State Program for Boosted Industrial and Innovative Development.<sup>250</sup>

The infrastructure of public and private educational organizations represents the level of the vocational and technical education system. At the same time, public organizations occupy a predominant position in the training of specialists with technical and vocational education. The level of vocational and technical education includes organizations that teach students who desire to receive a specialty after the 9th grade. Mostly they are students aged 15-17.

## 5.2.4 HIGHER EDUCATION

It is contended that an active process of the formation of the system of higher education in Kazakhstan traces back to the time of the advent of Soviet power. As mentioned in chapter 4 of the dissertation, namely in the legal development of the right to education throughout history, one of the undeniable achievements of the Soviet regime was the development of the education system and the establishment of higher education institutions on the territory of modern Kazakhstan. It is indisputable that the Soviet legacy has played an enormous role in the establishment and development of the sphere of higher education in the Republic of Kazakhstan.

The higher education of Kazakhstan nowadays is characterized as a formed and well-functioning, although it encounters some challenges from time to time. The formation of it since the collapse of the Soviet system and its gaining independence until the year 2000 was divided into four periods by Asylbayev.<sup>251</sup>

Thus, the primary stage covers the years 1991-1994. This period is the time of the formation of the legislative basis of higher education. The first step was the establishment of its own new Constitution. The leading document, the Constitution of the Republic of Kazakhstan was adopted in 1995 at the republican referendum. In accordance with the record,

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<sup>250</sup>State Program's for Boosted Industrial and Innovative Development aim was competitive manufacturing industry of the Republic of Kazakhstan in the domestic and foreign markets. Available at: <https://adilet.zan.kz/rus/docs/P1900001050#z352>

<sup>251</sup>Asylbayev, D., 2006. Вестник КАСУ - Развитие высшего образования и этапы формирования управления высшей школой в РК. [online] Vestnik-kafu.info. Available at: <https://www.vestnik-kafu.info/journal/8/277/> [Accessed 31 January 2022]

the citizens of the Republic of Kazakhstan are granted human rights and freedoms, including the right to education.<sup>252</sup>

As the scholar notes, the principle objectives of this level were the creation of a chain of higher education institutions and the refreshment of specialties of higher education with the consideration of the needs of the labor market of the republic. The measures undertaken were defined in the Law of the Republic of Kazakhstan "On Higher Education" (1993). In 1994, the State Standard of Higher Education of the Republic of Kazakhstan was approved, which for the first time established the introduction of a multi-level structure of higher education in the country, academic bachelor and master degrees.<sup>253</sup>

Another important Law regarding education in the Republic of Kazakhstan is the Law on Education. The mentioned law was implemented in 2007. The Law governs public relations in the field of education, determines the basic principles of state policy in this area, and is aimed at providing constitutional rights to citizens of the Republic of Kazakhstan, and also the foreigners and persons without citizenship who are constantly living in the Republic of Kazakhstan on education.<sup>254</sup> The law itself includes 12 chapters and 68 articles.

Moreover, many other normative documents regulate education and the education process. They are the Law on Higher Education (1993),<sup>255</sup> the State Program on Education (2002)<sup>256</sup>, the Education Development Strategy until 2030<sup>257</sup>, and the State Program Development of Education for 2011- 2020<sup>258</sup>, Concept for Development of Religious Education 2020<sup>259</sup>, State Policy Concept in Religious Sphere of the Republic of Kazakhstan 2017-2020.<sup>260</sup>

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252 Ibid

253 Asylbayev, D., 2006. Вестник КАСУ - Развитие высшего образования и этапы формирования управления высшей школой в РК. [online] Vestnik-kafu.info. Available at: <<https://www.vestnik-kafu.info/journal/8/277/>> [Accessed 31 January 2022]

254 Law of the Republic of Kazakhstan "About education". [online] Available at: <<https://cis-legislation.com/document.fwx?rgn=18150>> [Accessed 31 January 2022].

255 Law on Higher Education (1993). Available at: [https://online.zakon.kz/Document/?doc\\_id=1001895](https://online.zakon.kz/Document/?doc_id=1001895)

256 State Program on Education (2002). Available at: [https://adilet.zan.kz/rus/docs/U000000448\\_/links](https://adilet.zan.kz/rus/docs/U000000448_/links)

257 Education Development Strategy until 2030. Available at: <https://www.akorda.kz>

258 State Program Development of Education for 2011- 2020. Available at: <https://adilet.zan.kz/rus/docs/U1000001118>

259 Concept for Development of Religious Education 2020. Available at: <https://adilet.zan.kz/rus/docs/U1700000500>

260 The State Policy Concept in Religious Sphere of the Republic of Kazakhstan 2017-2020.

The Concept has been approved and signed by the first head of the state Nazarbayev in June 20, 2017. The concept represents the system of the official views on the improvement of the state confessional relations, enhancement of the secular principals of the state, and prevention of using religion in destructive aims

Following the division proposed by Asylbayev, the second stage happened between 1995 and 1998. The period marks as modernization of higher education and the renewal of its content. This stage is characterized by the conceptual definition of higher education system development, which was reflected in the Concept of State Education Policy, approved by the National Council for State Policy under the President of the Republic of Kazakhstan on August 4, 1995, and the adoption of new normative legal provisions regulating the activity of higher education institutions. The first Kazakhstani educational standards for higher vocational education are adopted. The non-state sector of education is actively developing.

The third stage was not a long period in comparison to other steps. It took only one year. The third stage was between 1999 and 2000, and the goals of it were decentralizing the management and financing of education and giving academic freedom and autonomy to higher education institutions.

The question regarding the autonomy of higher education institutions is still going on in the Republic of Kazakhstan. According to the State Program for Education Development for 2011-2020, the main strategic document for national education, by 2020, 90% of universities will use corporate governance mechanisms and establish boards of trustees.<sup>261</sup> Such boards would include representatives of the society: civil leaders, employers, authorities, businesses, and mass media representatives.

There are four types of university autonomy which has to be given to universities in Kazakhstan. Organizational autonomy will provide the possibility of the independent creation of structural units. Academic autonomy is the ability to make decisions about educational programs, methods and areas of study, disciplines, and awarding degrees. Financial autonomy is the ability to receive and dispose of funds and make decisions about paying students for tuition. Human Resources autonomy includes the responsibility for recruiting, career advancement and the determination of the salaries of the teaching staff of universities.

Speaking of the universities in Kazakhstan, they have not fully implemented the corporate governance mechanism yet. However, there is one university that has full autonomy.

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<sup>261</sup>State Program Of Education Development in the Republic of Kazakhstan for 2011-2020 | Planipolis. [online] Available at: <<https://planipolis.iiep.unesco.org/en/2012/state-program-education-development-republic-kazakhstan-2011-2020-5506>> [Accessed 31 January 2022]

Nazarbayev University is located in the capital of the country, Astana.<sup>262</sup>

Nazarbayev University is the new highly internationalized research institution that organizes training for hundreds of board members and university administrators. Nazarbayev University belongs under a different law that can approve budgets, set tuition fees, appoint and dismiss rectors, determine the hiring process for faculty and administration, set the requirements for students, and open new programs.<sup>263</sup>

The fourth stage is the last one, starting in 2001. The first strategic development of the higher professional education system and basic directions of higher professional education have been identified. To sum up, in the framework of the higher education reforming stages starting from the year of obtaining independence, much work has been done.<sup>264</sup>

The thesis has highlighted that the Soviet system brought as many negative and positive changes to the education field. Mentioning the latest, the higher education institutions in Kazakhstan appeared mainly by the power of the Soviet apparatus, specifically within the project of massification of education during the specific period.<sup>265</sup>

According to the chapter "Looking at Kazakhstan's higher education landscape: from transition to transformation between 1920 and 2015" of the book "25 Years of Transformations of Higher Education Systems in Post-Soviet Countries", some stages of establishing higher education institutions in Kazakhstan have been indicated.

Thus, the first stage started in 1920, and higher education institutions in different parts

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<sup>262</sup> Nazarbayev University is the first autonomous university in the Republic of Kazakhstan that was founded by the first president of Kazakhstan Nursultan Nazarbayev. Available at: <https://nu.edu.kz/>

<sup>263</sup> Ibid

<sup>264</sup> Massyrova, R., Tautenbaeva, A., Tussupova, A., Zhalalova, A. and Bissenbayeva, Z., 2015. Changes in The Higher Education System of Kazakhstan. *Procedia - Social and Behavioral Sciences*, 185, pp.49-53

<sup>265</sup> Korenizatsia- was a political and cultural campaign of the Soviet Union at the 20th- beginning of the 30th years of the 20th century that aimed to smooth the contradiction between the central government and the non-Russian population of the USSR. It was mainly realized by providing the right to self-determination and self-development in cultural, educational and managerial meanings. Following Anisimova, the strategy of the Soviets "Korenizatsia" in Kazakhstan was conducted through the solution of the two tasks. One of them was the translation of a clerical work in the state into Kazakh, giving to Kazakh the status of the language of business communication along with Russian language. The second task was the expansion of national representation in the authorities of all levels. In addition to it, the Soviets set to increase of the national party personnel, to build the national system of education, and eliminate illiteracy

Anisimova, I., 2017. Formation of the Soviet Power in Kazakhstan and Realization of the Policy of Indigenization of Administrative Facilities in 1920–1926. *Izvestiya of Altai State University*. pp.21-27



of Kazakhstan were established during the first stage. The following universities were opened: Bukeyev, Semipalatinsk, Kazakh, Orenburg, Institutes of Public Education and the Kazakh Institute of Education in Alma-Ata. By 1975, 47 higher education institutions offered programs in 175 different areas for 200.000 students.

Moreover, universities that were focused on pedagogy were established as well. The peak in the increasing number of opening higher education institutions was during the Second World War. All universities provided different programs in different fields. The end of the Soviet era resulted in the Kazakh SSR with 55 higher education institutions and 287,400 students enrolled.<sup>266</sup> Certainly, the Soviet Union transformed the system of higher education. For example, during the Soviet time, all the country members of the USSR received instructions to organize the educational process.<sup>267</sup> One of the examples was the compulsory learning of the Russian language, limitation and even prohibition of teaching literature in the Kazakh language, popularization of Russian culture, and ban on religion.<sup>268</sup> In other words, it was necessary to keep control over the country and spread the agenda and achieve collective goals. Such measures influenced the education system of independent Kazakhstan. It is emphasized that the Soviet legacy has become the nascent Kazakhstani government, a point of departure in 1991.

Around 68 higher education institutions were registered in Kazakhstan when receiving independence in 1991. The higher education institutions chain enormously increased from 1991 to 2001, according to the national report of the condition and development of the education system in the Republic of Kazakhstan within years of independence.<sup>269</sup>

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266Ahn E.S., Dixon J., Chekmareva L. 2018. Looking at Kazakhstan's Higher Education Landscape: From Transition to Transformation Between 1920 and 2015. In: Huisman J., Smolentseva A., Froumin I. (eds) 25 Years of Transformations of Higher Education Systems in Post-Soviet Countries. Palgrave Studies in Global Higher Education. Palgrave Macmillan, Cham.pp.200-203

267Policies of the Soviet Union have shaped the education system of the Kazakh Socialist Soviet Republic. The Soviets adopted the following policy towards higher education:

The Resolution of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR "On measures for further improvement of higher education No. 535 of July 18, 1972". Available at: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=ESU&n=581#011493185998374345> [Accessed 1 February 2022]

268The Resolution of the Central Committee of the Communist Party of the Soviet Union on compulsory learning of the Russian language in schools of national republics and regions dated 13 March 1938 made the Russian language dominated and what is more, the language strengthened its own position

269National report of the condition and development of education system in the Republic of Kazakhstan. Available at: [http:// www.edu.gov.kz](http://www.edu.gov.kz) [Accessed 1 February 2022]

The number of educational institutions providing higher education has become 182 today. Despite the increased number of institutions, higher education institutions were unable to prepare qualified graduates, did not increase the intellectual potential of the country and, most importantly, did not integrate education and science. It was due to a lack of experienced professors, doctors, lack of libraries, and scientific centers.

Since 2001 the number of educational institutions in Kazakhstan has decreased and 125 universities in Kazakhstan have been registered and functioned by 2016. The republic's first president set objectives to reduce the number of higher education institutions.<sup>270</sup>

The optimization process of higher education institutions in the Republic of Kazakhstan has played an essential role in forming the network of higher education institutions. Due to the optimization, there are 125 universities nowadays in the Kazakhstan Republic, according to the Statistics committee of the Ministry of National Economy of the Republic of Kazakhstan.<sup>271</sup> According to the data of the responsible body for education and science that is the Ministry of Education and Science of the Republic of Kazakhstan, there are 128 higher education institutions registered in the state.

Among 125 universities, 10 are national, 31 states, 16 are corporatized, 54 are private, 13 are not civil, one is autonomous, and one is international.<sup>272</sup>

National universities in Kazakhstan are a type of universities created and managed by the government and have priority over state universities. The priority is a special status and partial autonomy.

National Universities in Kazakhstan are the following universities: Al Farabi Kazakh National University, L.N.Gumylyev Eurasian National University, Kazakh National Agrarian University, K. I. Satpayev Kazakh National Technical University, S.D. Asfendiyarov Kazakh National Medical University, T. K. Zhurgenov Kazakh National Academy of Arts, Kurmangazy Kazakh National Conservatory, Abai Kazakh National Pedagogical University,

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<sup>270</sup>Article Social Modernization of Kazakhstan: Twenty Steps to the General Work Society- the President pointed out that universities that cannot provide adequate quality of production specialists must be optimized: associated, transited, or even closed. Strategy2050.kz. 2022. Kazakhstan's social modernization: Twenty Steps to a society of universal labor. [online] Available at: <<https://strategy2050.kz/en/news/189/>> [Accessed 1 February 2022]

<sup>271</sup>Stat.gov.kz. 2022. stat.gov.kz. [online] Available at: <<https://stat.gov.kz/official/industry/62/statistic/7/>> [Accessed 1 February 2022]

<sup>272</sup>National report of the condition and development of education system in the Republic of Kazakhstan. Available at: <<http://www.edu.gov.kz>> [Accessed 1 February 2022]

Kazakh National Academy of Choreography and Kazakh National Women's Teacher Training university.

State universities are types of universities in Kazakhstan similar to the national kind. The government and the Ministry of Education and Science of the Republic of Kazakhstan create and support state universities. The financial funds of the government operate state universities. All programs of the state universities in Kazakhstan must meet the Ministry of Education and Science requirements.

State universities do not have autonomy. Universities are limited in their managerial, financial and academic decisions.

Private universities in Kazakhstan represent educational institutions financed by the students (tuition fee). Although, private universities are also a subject of government regulation in Kazakhstan. Sometimes the government supports private universities by providing grants or loans, or even private universities receive tax breaks.

Non-civilian universities in Kazakhstan represent institutions that educate and prepare specialists in the military, national security, defense, and finance police.

Non-civilian universities in Kazakhstan are the following: National University of Defense of the First President of the Republic of Kazakhstan, Academy of the Penal Enforcement System Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan, Border Guard Service Academy of the National Security Committee of the Republic of Kazakhstan, Academy of Financial Police, Almaty Academy of the Ministry of Internal Affairs of Kazakhstan, Karaganda Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after B.Beisenov, Academy of the National Security Committee of the Republic of Kazakhstan, Military Engineering Institute of Radio electronics and Communications of the Ministry of Defence of the Republic of Kazakhstan, Military Institute of Air Defense Forces named after twice Hero of the Soviet Union T.Y.Begeldinov of the Ministry of Defense of Kazakhstan, Kokshetau Technical Institute of the Ministry of Emergencies of the Republic of Kazakhstan, Military Institute of Ground Forces of the Ministry of Defense of the Republic of Kazakhstan, Military Institute of Internal Troops of the Ministry of Internal Affairs of the Republic of Kazakhstan, and Aktobe Law Institute.

The table below shows the number of education institutions in the Republic of Kazakhstan from 2000 until 2017.

Figure 5-2: Number of universities in the Republic of Kazakhstan

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
<b>Republic of Kazakhstan</b>	170	185	177	180	181	181	176	167	143	148	149	146	139	128	126	127	125	122
Akmola	7	7	7	8	8	8	7	7	6	6	6	6	6	6	6	6	5	4
Aktobe	5	6	6	6	7	7	7	6	6	7	8	8	7	6	6	6	6	6
Almaty	3	3	3	4	4	4	4	4	2	2	2	2	3	3	3	3	3	3
Atyrau	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Batys Kazakhstan	5	5	5	6	6	7	7	7	4	4	4	4	4	3	3	3	5	4
Zhambyl	4	4	4	4	5	5	5	6	5	5	5	5	5	5	5	4	3	3
Karagandy	17	17	14	15	15	15	15	13	14	13	13	13	10	10	9	9	9	9
Kostanai	8	8	8	8	9	9	8	7	7	7	7	7	7	7	7	7	7	7
Kyzylorda	7	8	7	6	6	6	6	6	5	5	5	4	4	4	4	4	3	3
Mangistau	4	4	4	5	4	3	4	4	3	3	3	3	3	2	2	2	2	2
Pavlodar	4	4	4	4	5	4	4	4	4	4	4	4	4	4	4	4	4	4
Soltustik Kazakhstan	2	4	4	4	4	4	4	4	3	3	2	2	2	2	2	2	2	2
Turkistan	5	5	4	2	2	2	3	2	2	2	2	2	2	2	2	2	2	2
Shygys Kazakhstan	11	13	12	9	11	10	10	9	9	10	10	10	10	7	7	7	7	7
Astana city	6	7	7	10	10	11	13	13	12	12	13	14	14	14	14	14	14	13
Almaty city	68	73	69	69	66	66	62	63	48	52	52	47	45	41	40	42	40	40
Shymkent city	11	14	16	17	16	17	14	9	10	10	10	12	10	9	9	9	10	10

Source: Taken from the website of the Ministry of National Economy of the Republic of Kazakhstan  
Statistics committee<sup>273</sup>

All of the universities in Kazakhstan (national, state, and private) provide higher education that consists of three levels: (Bachelor, Master, and Doctorate).

The first level is bachelor programs. The Bachelor program last 3-4 years, depending on the faculty. The second level includes postgraduate programs. It is a Master's Degree

<sup>273</sup>Stat.gov.kz. 2022. stat.gov.kz. [online] Available at: <<https://stat.gov.kz/official/industry/62/statistic/7/>> [Accessed 1 February 2022]

program that usually lasts 1 or 2 years. The third and last level in the higher education process is the Doctorate. The duration of the Doctoral education is normally four years.

The Ministry of Education and Science creates conditions to educate citizens abroad. For this purpose, the Ministry has been signing agreements in the field of education and science. Kazakhstan has agreements and memorandums between different countries. Among them are European countries, Asian countries, and the US.<sup>274</sup> In addition to agreements in the education field, Kazakhstan has contracts in the field of science and youth policy.

All the agreements and memorandums have been signed to develop international cooperation, exchange students and professors, and share ideas and technologies and the number of agreements is increasing each year.

Another important step to educate its citizens abroad is a state special program called Bolashak (in the Kazakh language means Future).<sup>275</sup>

The Bolashak International Scholarship was established on November 5, 1993, by

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<sup>274</sup>The Government of the Republic of Kazakhstan has signed the agreements in the field of education and science with the following countries:

-The Agreement between the Government of Kazakhstan and the Government of the Kingdom of Great Britain and Northern Ireland on cooperation in education, science, and culture (London, March 21, 1994)

-The Agreement between the Government of the Republic of Kazakhstan and the Government of the Hellenic Republic on cooperation in education and culture (Almaty, 26 June 2002)

-The Agreement on cooperation in the fields of culture, education, and science between the Republic of Kazakhstan and the Kingdom of Spain (Almaty, October 27, 1997).

-The Agreement between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Human Capacities of Hungary on cooperation in the field of education and science (November 19, 2013)

-Protocol amending the Agreement between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Human Capacities of Hungary on cooperation in the field of education and science (Nur-Sultan, May 4, 2019)

- Agreement between the Government of Kazakhstan and the Government of the Socialist Republic of Vietnam on cooperation in the field of education (Astana, 15 September 2009)

- Agreement between the Ministry of Education and Science of Kazakhstan and the Ministry of Education of the People's Republic of China on cooperation in education (Astana, 3 June 2003) (as amended on 16.04.2009)

- Memorandum of understanding in the field of science and technology between the Ministry of Education and Science of the Republic of Kazakhstan and Ministry of Science, Information and Communication Technologies and future planning of the Republic of Korea (Astana, 19 June 2014)

- Memorandum of Understanding between the Government of the Republic of Kazakhstan and the Government of Malaysia on Cooperation in Higher Education (Putrajaya, 18 April 2012)

- Agreement between the Government of the Republic of Kazakhstan and the Government of the United States of America on scientific and technological cooperation (Washington, D.C., 11 April 2010)

<sup>275</sup>Bolashak.gov.kz. 2022. Международная стипендия «Болашак» учреждена 1993 году Указом Президента Республики Казахстан Н.А. Назарбаевым.. [online] Available at: <<https://bolashak.gov.kz/en>> [Accessed 1 February 2022]

President N. Nazarbayev. It was a step in giving a chance to talented and young people to get a quality education abroad and to use their knowledge in the country and fulfill the misbalance of lack of professionals left behind in the country after the collapse of the Soviet Union. Since then, the Bolashak scholarship has guaranteed each graduate's successful career growth and self-realization.

The Bolashak program continues to operate, although its scope and nature have evolved. Changes in program characteristics are related to the government's efforts to align personal choice, industrial needs, and the country's strategic development. Until 2011, the Bolashak program was aimed at preparing specialists for the general labor market. Since then, the program has been focused on training specialists in national priority areas at selected universities' postgraduate programs. In addition to promoting degree attainment at the graduate level abroad, the Bolashak program also awards internships for university staff, faculty, and civil servants.<sup>276</sup>

The programs cover all expenses of the students. It is tuition fee, accommodation, medical insurance, transportation, books allowance and provides a monthly stipend.

The organisation which conducts the scholarship is the Center of International Programs.

The Join-Stock Company «Center for International Programs» was established by the Governmental Resolution No.301 of April 4, 2005, to implement the objectives set. The center is under the control of the Ministry of Education and Science of the Republic of Kazakhstan.<sup>277</sup>

To sum up, several programs can help Kazakhstan students receive education abroad through a fund. Such programs are summarized below:

Figure 5-3: Various programs that open for Kazakhstani students

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276 Jumakulov, Z and Ashirbekov, A., 2016. Higher Education Internationalization: Insights from Kazakhstan, pp.37-57. Hungarian Educational Research Journal 2016, Vol. 6(1) 37–57

277 Official website of the Center of International Programs  
<https://www.bolashak.gov.kz/en/>

**Kazakhstani government-funded programs**

1. Bolashak Program (degree programs and internships);
2. Academic mobility program (non-degree programs).

**Intergovernmental grant exchange**

1. Intergovernmental agreements with equivalent levels of academic exchange: Ukraine, Belarus, Kyrgyzstan, Tajikistan, Mongolia, China, Egypt, Romania and etc.

**Grants from other governments and international organisations**

1. Russia, Hungary;
2. European Union (Erasmus Plus), USA (Fulbright), Germany (DAAD), India (ITEC) and etc.

**University-level student exchange**

1. University of Shanghai Cooperation Organization (USCO);
2. Network of Commonwealth of Independent States (CIS);
3. Interuniversity agreements.

Source: Taken from the article Higher Education Internationalization: Insights from Kazakhstan.<sup>278</sup>

Nowadays, Kazakh students have opportunities to study abroad.

The number of students who left Kazakhstan for studies has enormously increased. It can be seen as a positive and negative trend simultaneously.

A significant advantage of the program is that students receive top-tier education and training from highly qualified and experienced professors. The negative effect of such a trend is a brain drain. The country already lacks professionals because the students remain in the host countries for their studies and do not return. Those students who get degrees in the framework of governmental agreements and grants from other governments do not have contracts that require them to return to the country. However, in the International education scholarship framework of the President of the Republic of Kazakhstan Bolashak, students are

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<sup>278</sup>Jumakulov, Z. and Ashirbekov, A., 2016. Higher Education Internationalization: Insights from Kazakhstan. Hungarian Educational Research Journal, 6(1), pp.37-59

obliged to return to the country after graduation.<sup>279</sup>

The most attractive destinations where students from Kazakhstan go to get higher education are Russia, China, Poland, the Czech Republic, the US, Germany, Bulgaria, South Korea, Italy, and Spain, according to the report of internationalization at Kazakhstani regional Universities.

The leader among countries is Russia. Students from Kazakhstan prefer to study in Russia due to several reasons. Firstly, due to language capability. The second reason is the closeness of the countries. The third reason is that Russian higher education institutions provide quality education.

One reason is that, except for the Russian Federation government's scholarships, there is another way to get an education at Russian higher education institutions. Students can get support from the Rossotrudnichestvo.<sup>280</sup>

The Rossotrudnichestvo is a Federal Agency for the Commonwealth of State's Affairs Compatriots Living Abroad and International Humanitarian Cooperation in Russia.<sup>281</sup> The agency actively promotes Russian education services and extends cooperation between educational institutions of the partner states. The agency also pays great attention to working with graduates of Russian (Soviet) higher education institutions, the number of which exceeds 500 thousand.<sup>282</sup>

Kazakh students make up the largest international community in the Russian higher education institutions among the former Soviet states.

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<sup>279</sup>Bolashak alumni have to return to Kazakhstan to work in different Kazakhstani companies, government structures, and international organizations for a period of five years, or three and two years after a research internship. According to point 27 of Rules of the selection of applicants for awarding the international scholarship "Bolashak", approved by the governmental order of the Republic of Kazakhstan on June 11, 2008, № 573, the following terms of working off by graduates are established:

- 5 years - in the cities that have the status of national importance: Astana, Almaty and Shymkent (for graduates who signed a contract from June 19, 2018);
- 3 years - in the regions of the Republic of Kazakhstan;
- 2 years - in cities of oblast (except for cities - oblast centers), region significance and other regions of the oblast

Nessipbayeva, O., 2015. The Bolashak Program in Building A Democratic and Prosperous Society. *Procedia - Social and Behavioral Sciences*, 191, pp.2275-2279

<sup>280</sup> En.rwp.agency. 2022. the Federal Agency for the Commonwealth of Independent State's Affairs, Compatriots Living Abroad, and International Humanitarian Cooperation (Rossotrudnichestvo). [online] Available at: <<https://en.rwp.agency/>> [Accessed 1 February 2022]

<sup>281</sup>Ibid

<sup>282</sup>Ibid



One of the forms to access higher education in Kazakhstan and abroad became the education loan. The President of the Republic in 2011 declared a new program that helps to accumulate money for education through the banking system.<sup>283</sup>

The student loan can cover all levels of higher education: bachelor, Master, PhD programs. The operator of the program has been chosen and the Join-Stock Company «Finance center» under the jurisdiction of the Ministry of Education and Science became a responsible body to stimulate families to save money regularly for their children's future.

According to the report of the Development of Strategic Directions for Education Reforms in Kazakhstan for 2015-2020, by 2015, only 6000 students had taken up student loans since joining the program.<sup>284</sup>

We can conclude that the system of higher education of the Republic of Kazakhstan is well-developed.

The leadership of the state has made many steps to fully and comprehensively improve the higher education field which is seen in the settlement of the chain of higher education institutions, implementation of various programs, and establishment of the legislative basis for governing education and the protection of the right to an education of its citizens.

The people of the Republic of Kazakhstan have full rights to receive different types of education based on the Constitution of the Republic of Kazakhstan and the country's other laws.

Although the education system of the Republic of Kazakhstan is secular, the possibility of getting a religious education exists in the country. Religious education will be studied in the following subparagraph of the dissertation.

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283Adilet.zan.kz. 2022. On approval of the Rules of guaranteeing educational loans granted by financial organizations - "Adilet" LIS. [online] Available at: <<https://adilet.zan.kz/eng/docs/P1200000248>> [Accessed 1 February 2022]

284Development of Strategic Directions for Education Reforms in Kazakhstan for 2015-2020 report. 2022. [online] Available at: <<https://www.semanticscholar.org/paper/Development-of-strategic-directions-for-education-Sagintayeva-Bridges/8b1abe26db44e0f17c556a0f99e14f56ab8cb6fa?p2df>> [Accessed 1 February 2022]

### 5.3 RELIGIOUS EDUCATION IN KAZAKHSTAN

It has already been noted that the government demarcates religion and education based on secular principals. The secular nature of the educational system can be seen through several different laws. For example, the Law on Religious Activities and Religious Associations and the Law on Education highlight a division between religion and education. Although a strict separation exists, religious education is present and tolerated in the country.

Religious education in the Republic of Kazakhstan is conducted only in exceptional places such as clergy educational organizations. The country has 13 spiritual, and educational organizations nowadays that include five madrasahs colleges, four madrasahs, one Islamic institute for higher education/ further training of Imams under the Spiritual Administration of Muslims of Kazakhstan (SAMK), one orthodox theological seminary, one higher theological seminary, and one university.<sup>285</sup>

Thus, those who want to get religious education have opportunities. At the beginning level, students can study at a madrasah. Religious education at a higher level can be received in only one higher education institution, the Egyptian University of Islamic culture. The university prepares and trains highly educated imams, a specialist in Islamic studies, religion, theology, and two foreign languages (Arabic-English and English-Arabic). The University has been opened with the support of the Spiritual Administration of Muslims of Kazakhstan and the Islamic Republic of Egypt.

In addition to the Nur-Mubarak University of Islamic Culture of Egypt, 5 universities teach students religious studies programs. They are indicated below:

Figure 5-4: Universities in Kazakhstan that have religious studies programs

University	L.N.Gumilyev Eurasian National	Al-Farabi Kazakh National	E.A.Buketov Karaganda State	Egyptian University of Islamic	Akhmet Yassawi International	University of Foreign Languages
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<sup>285</sup>Data on the number of religious educational institutions as for the 1st quarter of 2021, taken from the Committee on Religious Affairs of the Ministry of Information and Social Development of the Republic of Kazakhstan

	University	University	University	culture	Kazakh-Turkish University	and Professional Career
Level of the program	Bachelor, Master	Bachelor, Master, PhD	Bachelor, Master	Bachelor, Master, PhD	Bachelor, Master	Bachelor, Master
Starting Year	2002	1999	2010	2010	1991	2005

Source: Taken from the article "Is the Introduction of Religious Studies in Kazakh Schools a Necessity or Excessiveness"<sup>286</sup>

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<sup>286</sup>CABAR.asia. 2021. Is the Introduction of Religious Studies in Kazakh Schools a Necessity or Excessiveness?. [online] Available at: <<https://cabar.asia/en/is-the-introduction-of-religious-studies-in-kazakh-schools-a-necessity-or-excessiveness>> [Accessed 12 August 2021]

## **5.4 SUMMARY**

The current chapter of the dissertation was written to introduce the education system of the Republic of Kazakhstan. Thus, a particular focus was given to presenting the modern education system of the Republic of Kazakhstan in detail. All levels of the education system were examined to underline some advantages and challenges.

In addition to revising secular education in the country, another type of education was considered. Thus, it was argued that religious education is equally tolerated and present in the country. Consequently, the educational organizations where religious education can be received were listed in this section of the dissertation.

## **CHAPTER SIX**

### **EDUCATION SYSTEM IN MODERN UZBEKISTAN**

6.1 Overview of education system: the case of contemporary Uzbekistan

6.2 Levels of education

6.2.1 Preschool education and upbringing

6.2.2 General secondary education

6.2.3 Vocational education

6.2.4 Higher education

6.2.5 Postgraduate education

6.2.6 Retraining and advanced training of specialists

6.2.7 Out-of-school education

6.3 Religious education in the Republic of Uzbekistan

6.4 Summary

## CHAPTER SIX

### EDUCATION SYSTEM IN MODERN UZBEKISTAN

#### 6.1 OVERVIEW OF EDUCATION SYSTEM: THE CASE OF CONTEMPORARY UZBEKISTAN

The modern education system of the Republic of Uzbekistan takes its beginning from the dissolution of the USSR. The country started its independent journey on August 31. The country and the rest of post-soviet states began reformations of most crucial fields such as the sector of education.

Firstly, the Republic of Uzbekistan adopted its Constitution, where the right to education has been insured. Thus, the right has been reflected in Article 41 of the Constitution. According to that article, the following provisions are granted:

- “1. Everyone shall have the right to education;
2. The state shall guarantee free secondary education;
3. Schooling shall be under state supervision.”<sup>287</sup>

As it is stated above, the government has enshrined the right to education in the Constitution. The government of the country has also enshrined various documents dedicated to developing education.

As noted in the article “The education systems of the Central Asian states: challenges, risks, and perspectives of the regional cooperation”, a set of collected decisions was adopted in Uzbekistan aimed at reforming school and higher education as part of the implementation of state personnel programs in the period from 1997 until 2001.<sup>288</sup>

It is worth emphasizing that the education system of Uzbekistan is defined by several

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<sup>287</sup>Constitution.uz. 2022. Constitution of the Republic of Uzbekistan. [online] Available at: <<https://constitution.uz/en>> [Accessed 5 October 2022]

<sup>288</sup>Шишкина А., Медушевский Н., 2014. Образовательные системы стран Центральной Азии: вызовы, риски, перспективы. pp.1-40

regulatory documents. For example, the Law on Education aims to regulate the relations in the field of education. The document consists of 11 chapters and 75 articles that reveal the basic concepts, the main principles in the field of education, the rights of citizens, the system, types, and forms of education in the country, and its governing.

Following the law, it is essential to note that the education system in Uzbekistan is based on the recognition principles of the priority of education and the inadmissibility of discrimination in education. Moreover, it provides equal opportunities for education, the implementation of national and universal educational values, the humanistic democratic nature of education, and the continuity and succession of schooling.

In addition to the above, it mandates eleven years of education, including a preparatory year for children aged six to seven, ensures compliance with state educational standards and requirements, and promotes a unified yet differentiated approach to the selection of training programs. The policy emphasizes lifelong education, guarantees social protection for teachers, supports the promotion of education, endowments, and talent, integrates public and civic administration within the education system, and advocates for openness and transparency in educational activities.<sup>289</sup>

Moreover, one of the essential principles that have been consolidated in the document is the liberty of choice of form of education. Depending on the needs and abilities of each individual, educational programs can be mastered in several ways, depending on the form. Following the law, namely with Article 15 of the document, the following conditions of education are distinguished:

- Full-time education, or sometimes, it is called on-the-job training;
- Part-time education, evening, distance;
- Dual education;
- Education in the family and self-education;
- Adult education;
- Inclusive education;
- Externship education;

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<sup>289</sup>Law of the Republic of Uzbekistan "About education". [online] Available at: <<https://cis-legislation.com/document.fwx?rgn=127569>> [Accessed 5 October 2022]

- Defense, security and law enforcement training.<sup>290</sup>

Generally speaking, the law also defines the levels of education. Thus, in accordance to Article 7 (Education types), it includes the following: preschool education and upbringing, general secondary and secondary specialized education, vocational education, higher education, postgraduate education, retraining and advanced training of personnel, and out-of-school education.

The different levels of education are distinctive characteristics of the modern system of education of the Republic of Uzbekistan, according to the scholars Zhitnikova, Zverev, and Tkach.<sup>291</sup> Each of those levels of education will be considered separately below.

## **6.2 LEVELS OF EDUCATION**

### **6.2.1 PRESCHOOL EDUCATION AND UPBRINGING**

It is argued that preschool education and upbringing are the most critical level of education. This level of education in the Republic of Uzbekistan is regulated by several legal instruments.

The primary one among those documents is the Law on Preschool Education and Upbringing that has been adopted by the Legislative Chamber on October 22, 2019, and approved by the Senate on 14 December of the same year.<sup>292</sup> Therefore, the main goal of the document is to regulate relations in the field of preschool education and upbringing in the republic.

The level of preschool education and upbringing in the Law is defined as a type of lifelong education aimed at educating and raising children, namely their intellectual, spiritual, moral, ethical, aesthetic and physical development, as well as preparing children for general secondary education. Thus, the state guarantees the right to preschool education and

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<sup>290</sup>Ibid

<sup>291</sup>Житникова, Н. И., Зверев, М. Н., Ткач, Г. Ф., 2008. Система образования Республики Узбекистан: образовательные программы и присваиваемые квалификации. Научный вестник Московского государственного технического университета гражданской авиации, (128), pp. 48-58

<sup>292</sup>Law of the Republic of Uzbekistan "On preschool education and upbringing". [online] Available at: <<https://lex.uz/docs/4826427>> [Accessed 5 October 2022]



upbringing.

Following the law, the state guarantees the right of every child to receive compulsory one-year preparation for general secondary education in state preschool educational institutions one year before he enters public secondary education.

Also, state guarantees for the child to receive preschool education and upbringing are provided by providing preschool education and upbringing services based on state preschool educational organizations, as well as by organizing alternative forms of education and upbringing.<sup>293</sup>

Preschool children in the Republic of Uzbekistan have other rights that have been outlined in the law. Thus, all rights have been indicated in Article 37 “Rights of preschool children” in the charter. Considering the importance of the rights of children, the dominant principles have been formulated in the Law. There are the following:

- the availability of preschool education and upbringing for each child;
- equality of conditions for the development of talents and abilities of each child. Thus, there is a reference to children with special educational needs in the document. In accordance with article 3, children with special educational needs are children with individual needs regardless of their disability, require special attention from the state, society, and certainly from the educational institutions represented by the teaching and administrative staff.

Other fundamental aspects of preschool education and upbringing in the Republic of Uzbekistan include the unity of instruction, the harmonization of education and upbringing for preschool children, and the transparency and openness of the teaching and upbringing process. Finally, the democratic and secular nature of education and upbringing has also been marked as the main basic principles of preschool education and upbringing.

Preschool education and upbringing are conducted in a preschool educational organization.

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<sup>293</sup> Ibid

According to Article 16, there are two types of preschool educational organizations. In particular, state and non-governmental preschool educational organizations function for children until the age of seven. Speaking of age, the charter categorizes periods of preschool-age children and their admission and departure from those institutions. Following the provisions of Article 32, the preschool age is divided into the following periods:

- The first one is infancy, therefore from birth to one year;
- Infancy is followed by early childhood. It lasts from one year to three years;
- From three years to four years is younger preschool age;
- Younger preschool age is continued by average preschool age. This period of preschool age is considered between the ages of four and five;
- Finally, starting from the age of five to seven is indicated as senior preschool age.

Thereby, the government has set up a standard for age periodization in preschool educational organizations.

## **6.2.2 GENERAL SECONDARY AND SECONDARY SPECIALIZED EDUCATION**

The general secondary and secondary specialized education level follows preschool education and upbringing in the Republic of Uzbekistan.

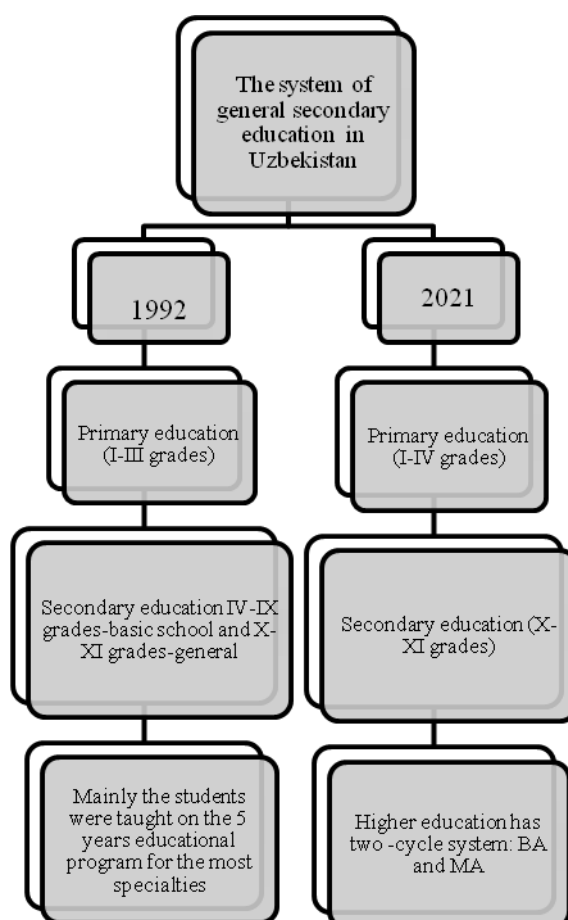
The government of the Republic of Uzbekistan pays significant attention to its development. In particular, the responsible bodies have put efforts into providing a quality education that would comply with international standards.

First and foremost, it is observable in the changes in the whole education system. Thus, the reformations in general secondary education have been accurately demonstrated in the article “Current state and ways of improvement of secondary special and vocational education in the Republic of Uzbekistan”.<sup>294</sup> The modifications that have occurred in the system of general secondary education will be presented in the diagram taken from the article.

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294 Fakhrutdinova.A.,2021. Current state and ways of improvement of secondary special and vocational education in the Republic of Uzbekistan. Academic Research in Educational Sciences.pp.273-281

Figure 6-1: The system of general secondary education in Uzbekistan



Source: Taken from the article Current state and ways of improvement of secondary special and vocational education in the Republic of Uzbekistan.<sup>295</sup>

According to the diagram, the education system in the Republic of Uzbekistan changed between 1992 and 2021. As it is seen, the reformatations at the level of general secondary education are connected to the grades of public education.

The author notes that the reforms at the level of general secondary education as at the whole system have been done due to the adoption of several legal documents and national programs.

It is crucial to mention the National program for training in the Republic of Uzbekistan.<sup>296</sup>

<sup>295</sup> Ibid

<sup>296</sup> National program for training in the Republic of Uzbekistan. The document has been ceased to be valid since September 24, 2020. [online] Available at: <<https://cis->

The document has been created to achieve multiple goals focusing on the person, his multifaceted development, and welfare. Therefore, it is argued that the program was intended to change the entire educational system of the republic for the better, taking into account the requirements of the new times.

Apart from the program mentioned above, it is vital to highlight the other legal documents in the country. Thus, the Law of the Republic of Uzbekistan about Education, various decrees of the President of the Republic of Uzbekistan, resolutions of the cabinet of Ministers, and orders of the Ministries have helped to establish and reorganize the system of education. Therefore, the level of general secondary education is functioning well throughout the country.

General secondary education in Uzbekistan provides the opportunity to acquire the necessary knowledge, skills and abilities through targeted curricula and also provides the opportunity to choose further education and acquire professions that, in turn, do not require high qualifications. The author underlines that general secondary education in the Republic of Uzbekistan has been implemented uninterruptedly in public secondary educational institutions for eleven years.

There is specialized secondary education in Uzbekistan. This education is implemented over two years based on nine years of primary secondary education in academic lyceums and provides an opportunity for the rapid development of intellectual abilities, as well as deepening, differentiating, vocational and personality-centered education of students.

Referring to the development of students' abilities, it is vital to underline that by the law about education, particular schools may be established. For instance, it is proclaimed that boarding schools as well as presidential, creative, and other specialized schools, may start functioning to develop the abilities of gifted and talented children in the country. The government of the country has also marked the provisions for children with mental and physical disabilities regarding general secondary and secondary specialized education.

## **6.2.3 VOCATIONAL EDUCATION**

Vocational education in the Republic of Uzbekistan goes right after the level of general secondary and secondary specialized education. Vocational education as all other levels of education plays a significant role. For instance, this stage of education is well efficient in resolving the problem of a shortage of skilled workers and professionals in the country. For instance, this stage of education is well efficient in resolving the problem of a shortage of skilled workers and professionals in the country. Accordingly, the steps of government in the populization of this education are noticeable.

To increase the prestige of vocational education in the country, the government has made some steps to reform this level of education.

The latest modifications trace back to 2019 based on the degree of the President of the Republic of Uzbekistan “On additional measures to further improve the vocational education system”.<sup>297</sup> Following the document, a new system of continuous vocational education is being introduced: initial vocational education, secondary vocational education, and secondary specialized vocational education.<sup>298</sup> All is organized for citizens, namely adults and unemployed citizens across the country.

Vocational education is carried out in specific types of educational organizations. Thus, three kinds of educational organizations are the following:

- Vocational school;
- College;
- Technicum (technical college).

According to Article 10 of the Law on Education of the Republic of Uzbekistan, vocational schools provide vocational education and training for graduates of the 9th grade. Most of the training time is spent on practical work. Training focuses on family business, construction, services, cattle breeding, poultry farming, beekeeping, and fishing.

Mentioning colleges, it provides training of specialists with at least general secondary

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<sup>297</sup>Degree of the President of the Republic of Uzbekistan “On additional measures to further improve the vocation education system”. [online] Available at: <<https://lex.uz/ru/docs/4500929>> [Accessed 6 October 2022]

<sup>298</sup> Ibid

education in the form of a full-time, evening and part-time education with a duration of up to two years. For college graduates, large potential employers create an order book based on current and future needs for workers, which guarantees the employment of graduates.

Speaking of technical colleges or as they are called technicums, graduates of technical colleges who have completed their education programs successfully are granted the right to continue their studies from the 2nd year of the corresponding Bachelor programs at higher education institutions without an entrance examination based on an individual interview. In this way, the opportunity is offered to continue their studies and improve their professional knowledge and skills.

## 6.2.4 HIGHER EDUCATION

Higher education is a level of education that represents a massive significance. It relates to higher education being the prominent and leading factor in social and economic progress. Therefore, it always stays in the scope of government, trying to improve it year by year. Thus, a presidential decree approved the program for the Comprehensive Development of Higher Education for 2017-2021, which included measures to radically improve and raise the quality of higher education.<sup>299</sup>

Also, higher education is planned to be modernized within the concept of development of the higher education system in the Republic of Uzbekistan until 2030.<sup>300</sup> In accordance with the document, various aims have been set. For instance, one of the goals is to raise to a qualitatively new level the process of preparing personnel, to develop the social sphere and economic sectors based on advanced educational technologies.<sup>301</sup>

Certainly, higher education in Uzbekistan is a significant factor in development.

Higher education in the Republic of Uzbekistan is dedicated to training students for their subsequent employment in various fields of public activity, as well as economic areas:

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299 Program for the Comprehensive Development of Higher Education in Uzbekistan for 2017-2021

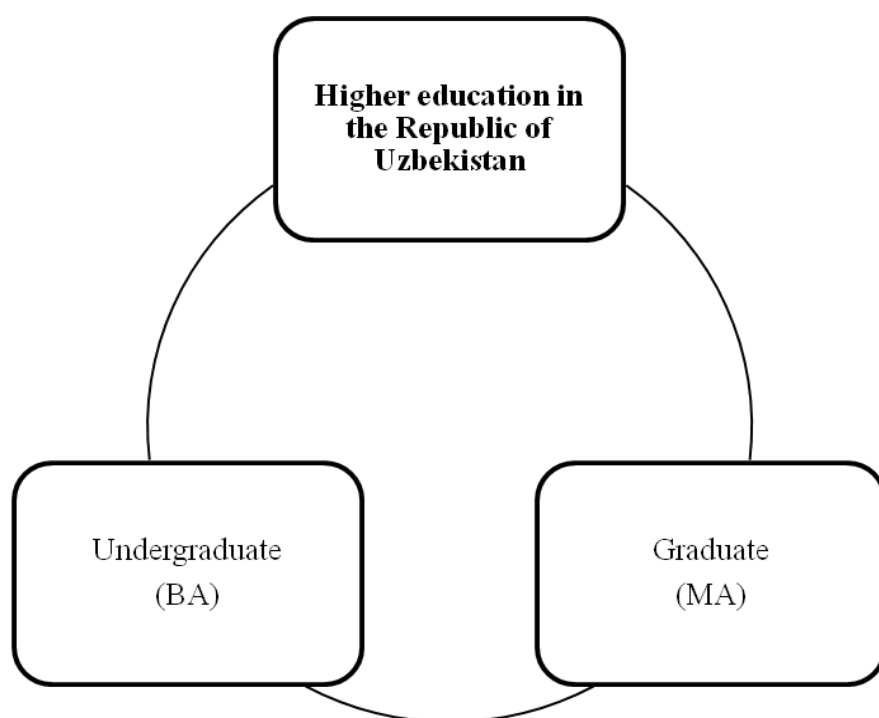
300The decree of the President of the Republic of Uzbekistan "On approval of the Concept of development of the higher education system of Uzbekistan until 2030". [online] Available at: <[https://www.erasmusplus.uz/images/shared/file/Concept%20of%20Higher%20Education%20of%20Uzbekistan%20until%202030\\_EN%20\\_NEO%20UZ.pdf](https://www.erasmusplus.uz/images/shared/file/Concept%20of%20Higher%20Education%20of%20Uzbekistan%20until%202030_EN%20_NEO%20UZ.pdf)> [Accessed 6 October 2022]

301 Ibid

scientific, financial, and technical.

Under Article 11 of the law about education, higher education provides training for qualified specialists in undergraduate education (bachelor's degree) and graduate specialties (master's degree).

Figure 6-2: Higher education in Uzbekistan



Source: Author's own compilation based on the national legislation

Higher education in Uzbekistan has two stages which are bachelor's and master's.

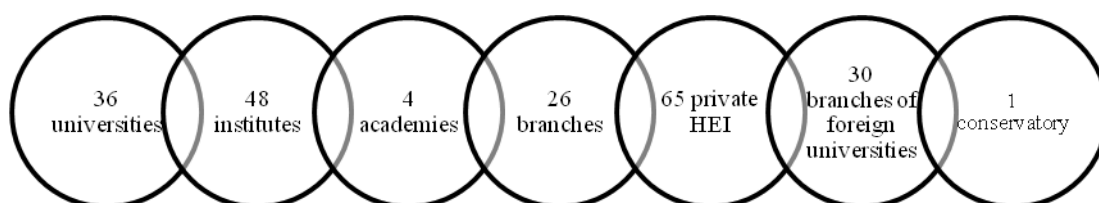
Undergraduate education (BA) in the Republic of Uzbekistan is basic and provides in-depth knowledge, skills, and abilities in higher education. Typically undergraduate education in Uzbekistan lasts for at least three years.

Graduate education (MA) is higher education that can be received after the completion of undergraduate education in a particular specialty. The duration of graduate education takes at least one year.

Both undergraduate and graduate education is conducted in higher educational institutions, which include universities, academies, institutes, and higher schools.

There are 210 higher educational institutions in the Republic of Uzbekistan. The types of the HEI in the Republic of Uzbekistan are demonstrated below.

Figure 6-3: Types of the Higher Educational institutions in the Republic of Uzbekistan



Source: Author's own compilation based on the data provided by the Ministry of Higher Education, Science and Innovations<sup>302</sup>

Speaking of higher education, it is worth mentioning the right of citizens to higher education. Thus, according to Article 11 (Higher education), citizens have the right to receive a second and subsequent higher education on a contractual basis.<sup>303</sup>

The right to education, regardless of the level, can be entitled to all citizens. Thus, gender, race, nationality, language, religion, social origin, personal beliefs, and social status cannot be grounds for preventing people from receiving any type of education, including higher education.

302 Official website of the Ministry of higher education, science and innovations of the Republic of Uzbekistan. [online] Available at: <<https://uzedu.uz/en>> [Accessed 5 October 2022].

303 Law of the Republic of Uzbekistan "About education". [online] Available at: <<https://cis-legislation.com/document.fwx?rgn=127569>> [Accessed 5 October 2022]

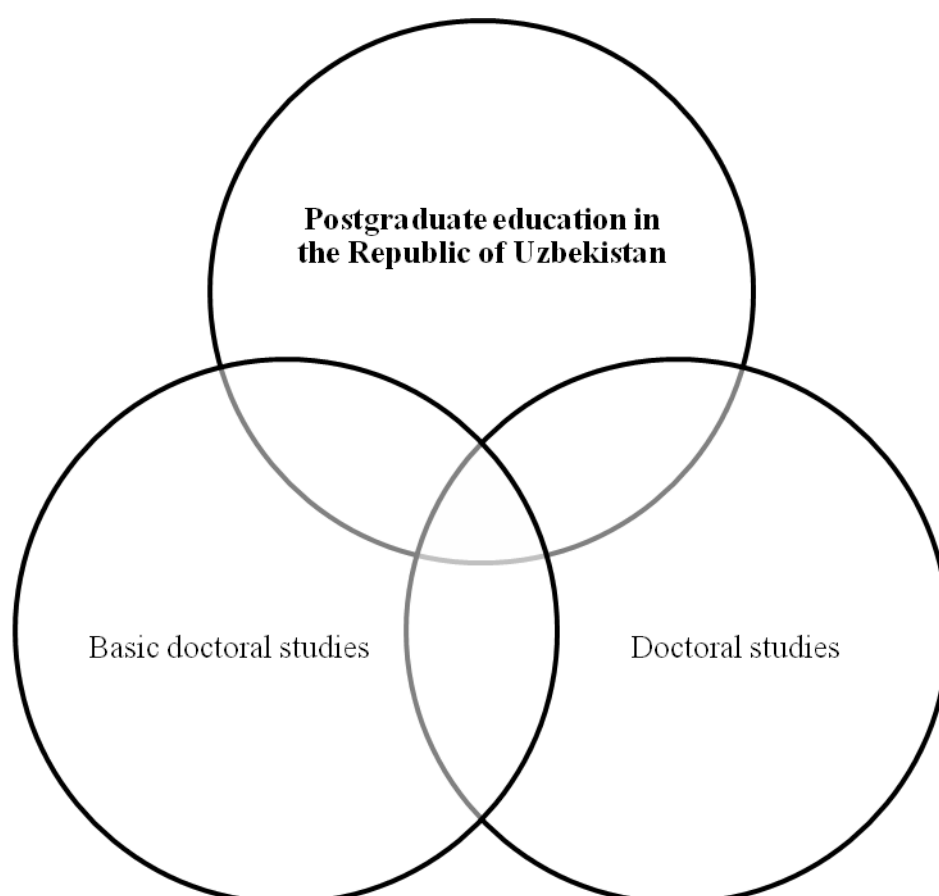


## 6.2.5 POSTGRADUATE EDUCATION

Postgraduate education is the highest level of education. This type of education aims at meeting the individual's need to deepen and broaden their education after completion of higher education. The dominant aim of postgraduate education is to educate and train scientific and scientific-pedagogical personnel of the highest qualification and create conditions for the continuous improvement of the individual's professional skills.

The model of postgraduate education in the Republic of Uzbekistan is reflected in the adopted document which is the decree of the President of the Republic of Uzbekistan “On further improvement of the postgraduate education system<sup>304</sup>”. Following the document, postgraduate education has two levels.

Figure 6-4: Postgraduate education in the Republic of Uzbekistan



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<sup>304</sup>Decree of the President of the Republic of Uzbekistan “On further improvement of the postgraduate education system

Source: Author's own compilation based on the national legislation

The difference between these two stages of postgraduate education is enclosed in the following:

- After successfully defending the dissertation and completing basic doctoral studies, a Doctoral degree (PhD) in a relevant field of science would be awarded. After finishing doctoral studies, the title of Doctor of Science (ScD) is granted.

It is vital to note that the two-level system of postgraduate education was entered into the republic primarily due to the fast pace of socio-economic development in Uzbekistan.

Postgraduate education in Uzbekistan can be received in higher education organizations as in scientific organizations.

## 6.2.6 RETRAINING AND ADVANCED TRAINING OF SPECIALISTS

Retraining and advanced training of specialists hold a crucial position within the educational structure. To improve competitiveness, professionals at all levels and specializations must continually enhance their theoretical knowledge and refine their existing skills.

Considering the above, the government of the Republic of Uzbekistan has enshrined the provisions about retraining and advanced training of specialists in Article 13 of the Law about education. Thus, the article proclaims the following:

- “Retraining of specialists ensures the acquisition of the necessary additional professional knowledge, skills and abilities to carry out activities in areas corresponding to basic professions and specialties;
- Advanced training of specialists ensures the deepening and updating of professional knowledge, skills and abilities, and serves to improve the categories, degrees, ranking and titles of specialists.
- The forms and terms of retraining and advanced training of specialists shall be specified by the relevant state educational requirements”.<sup>305</sup>

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<sup>305</sup>Law of the Republic of Uzbekistan "About education". [online] Available at: <<https://cis-legislation.com/document.fwx?rgn=127569>> [Accessed 5 October 2022]

## **6.2.7 OUT-OF-SCHOOL EDUCATION**

Out-of-school education is a part of the continuing education system that has been defined in Article 14 of the law about the education of the Republic of Uzbekistan.

This level of education seeks to satisfy children's needs outside of school time. Namely, it aims to organize their free time and recreation by conducting out-of-school classes in any organizations, in both government agencies or non-governmental in various fields. Generally, out-of-school education runs in educational organizations in cultural, aesthetic, scientific, technical, and sports areas. Out-of-school educational organizations include palaces, houses, clubs and centers for children's and youth creativity, children's and youth sports schools, children's music and art schools, studios, information resources and recreational institutions.

Referring to the charter about education, it must be noted that out-of-school education has in view to develop the talents and abilities of children. In addition, it seeks to meet their spiritual needs.

### 6.3 RELIGIOUS EDUCATION IN THE REPUBLIC OF UZBEKISTAN

It has already been said that religion is separated from the state; consequently, its presence in the secular education system is excluded. However, since the Republic of Uzbekistan is committed to democratic principles, the country guarantees the right to religious education to interested citizens with some points. Thus, it can be followed in the “Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious Organizations”.<sup>306</sup>

The law mentioned above regulates relations in the field of guarantying liberty of conscience. In addition, it manages the activities of religious organizations.

Returning to religious education in Uzbekistan, it is significant to have a look at the provisions of Article 8 of the legal document. In accordance with the stipulation, everyone has the right to receive religious vocational education only in religious educational institutions.<sup>307</sup>

Also, the law specifies the conditions to be admitted to religious, and educational organizations. Thus, citizens are admitted to study in religious educational institutions after they have received general secondary, specialized secondary education, or vocational following the law.<sup>308</sup> Lastly, the article marks the subparagraph regarding teaching religious disciplines. In particular, it prescribes that persons with professional religious education have the right to engage in teaching religious disciplines in religious educational institutions.<sup>309</sup>

Considering the above, it can be argued that the Republic of Uzbekistan has created a legal environment for all citizens to receive secular or religious education.

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<sup>306</sup>Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious Organizations. [online] Available at: <<https://lex.uz/docs/6117508>> [Accessed 6 October 2022]

<sup>307</sup> Ibid

<sup>308</sup> Ibid

<sup>309</sup> Ibid

## **6.4 SUMMARY**

Currently, it is rigid to imagine a modern democratic state without a developed education system. The Republic of Uzbekistan, which proclaimed itself as a sovereign democratic state 30 years ago, has achieved vivid results in establishing its education system. Thus, it is observable in this chapter of the dissertation, where all levels starting from preschool education and upbringing until postgraduate education, have been examined in detail.

It is vital to mention that the education system of the Republic of Uzbekistan is characterized as secular. The creation and activity of religious organizations are prohibited in educational organizations at any level of the education system.

Although the education system in Uzbekistan is secular, there is religious education as well. The provision of religious education, accessibility, and compliance with international quality standards are becoming essential components in the democratization of society. Therefore, religious education was considered separately in another subparagraph of this section.

## **CHAPTER SEVEN**

### **OVERVIEW OF ADMINISTRATION OF EDUCATION**

7.1 Introduction and overview

7.2 General overview of Kazakhstan and Uzbekistan

7.2.1 The Republic of Kazakhstan

7.2.2 The Republic of Uzbekistan

7.3 Main features of administration of education in both countries

7.4 Key actors in the process of administration of education in the Republic of Kazakhstan

7.5 State educational authorities in the Republic of Uzbekistan

7.6 Summary

## **CHAPTER SEVEN**

### **OVERVIEW OF ADMINISTRATION OF EDUCATION**

#### **7.1 INTRODUCTION AND OVERVIEW**

Education is a vital field in the Republics of Kazakhstan and Uzbekistan. This section of the dissertation will present general information about the researched states, highlight the main features of administration, and identify the key actors in education in both countries. Additionally, the performance of all state organs responsible for education and other bodies involved in the implementation of educational policies will be considered.

#### **7.2 GENERAL OVERVIEW OF KAZAKHSTAN AND UZBEKISTAN**

##### **7.2.1 THE REPUBLIC OF KAZAKHSTAN**

The Republic of Kazakhstan is one of the largest countries in Central Asia. The Republic of Kazakhstan is a unitary state with a presidential system of government.

Kazakhstan has borders with the Russian Federation, China, Kyrgyzstan, Uzbekistan, and Turkmenistan.

The population of the country is more than 19 million people. Speaking of the ethnic structure, according to the national census of 2020<sup>310</sup>, it is the following:

- Kazakhs 68,51%
- Russians 18,85%
- Uzbeks 3,25%
- Uighurs 1,47%
- Ukrainians 1,42%

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310 Statistic Agency of the Republic of Kazakhstan. [online] Available at: <<https://stat.gov.kz/>> [Accessed 27 October 2023]



- Tatars 1,08%
- Germans 0,95%
- Other 4,47%

The official language of the country is Kazakh language. The Russian language has the status of the language of interethnic communication.

Mentioning education, it is essential to note that a student can choose a language of instruction at an educational organization since there is a freedom of choice of language. There are also educational organizations in other languages, for instance, in English.

There is a language policy called “Trinity of Languages” that was launched in 2007. This is a justified policy since language knowledge is a prerequisite for modernity. This phenomenon is explained by the development of international relations and globalization.

The development of trilingualism is both cultural and political. There are no countries in the world where only one nationality or ethnic group prevails, and Kazakhstan is an example of such diversity. Representatives of different nationalities live in Kazakhstan, prompting the state to implement various programs aimed at the improvement and development of languages. These efforts ensure that residents can live freely and without hindrance, while also stimulating migration. Kazakhstan places significant emphasis on language policy.

The above-mentioned language policy has been launched to become a highly-intellectual state, where Kazakh as the state language, Russian as the language of inter-ethnic communication and English as the language of successful integration into the global economy.

Based on the language policy, it can be stated that different traditions are predominant in Kazakhstan. To be more specific, it is a combination of the influence of Soviet and modern traditions. On one hand, the authority of the country considers Soviet and Russian traditions as a historical advantage of the nation. On the other hand, Kazakhstan has been trying to integrate into the modern world.

## 7.2.2 THE REPUBLIC OF UZBEKISTAN

The Republic of Uzbekistan is a country in Central Asia that has borders with the following states: Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan. It is one of the most populated republics in Central Asia. The population of the Republic of Uzbekistan is 36 million people.

The ethnic composition of the country is diverse. It is due to the historical events that have taken place in the republic. Thus, according to the data revealed by the Statistics agency of the Republic of Uzbekistan in 2021, the largest ethnic groups in Uzbekistan are Uzbeks. The Uzbeks in 2021 were 84.4% of the population, which is more than 29 million people.<sup>311</sup>

According to the Statistics agency, the ethnic composition of Uzbekistan is the following:

- Tajiks-1.7 million people;
- Kazakhs- 821.2 thousand people;
- Karakalpaks- 752.7 thousand people;
- Russians-720.3 thousand people;
- Kyrgyz-291.6 thousand people;
- Turkmens-206.2 thousand people;
- Tatars-187.3 thousand people;
- Koreans-174.2 thousand people;
- Ukrainians-67.9 thousand people;
- Azeri-41.2 thousand people;
- Belorussians-18.5 thousand people;
- Other nationalities-426.4 thousand people.

The official language in Uzbekistan is Uzbek, as declared in Article 4 of the Constitution. Other languages are also used in the country, with Russian being one of the most widely spoken after Uzbek.

It is necessary to emphasize that the Republic of Uzbekistan ensures respect to other

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311 Statistic Agency of the Republic of Uzbekistan. [online] Available at: <<https://stat.uz/en/>> [Accessed 27 October 2023]

languages. Thus, subparagraph 2 of Article 4 proclaims the state's respectful attitude toward the languages of all ethnic groups and nationalities living in the country. In addition, the Republic of Uzbekistan ensures the creation of the conditions necessary for the development of languages.<sup>312</sup> Thus, for instance, citizens of the Republic of Uzbekistan have the right to freely choose the language of instruction to receive education.

Under the Law of the Republic of Uzbekistan “On the State Language”<sup>313</sup> (with amendments and additions to the law), education in Uzbekistan is conducted in the State and other languages in places of compact residence of national groups.

Markedly, the Republic of Uzbekistan seeks to strengthen the position of the official language without the infringement of languages of other nationalities.

### **7.3 MAIN FEATURES OF ADMINISTRATION OF EDUCATION IN BOTH COUNTRIES**

From the observation of the education systems of both states in the earlier chapters, it can be argued that many transformations have been occurring due to globalization and the development of international cooperation. The modern models of public administration of education that exist in the Central Asian states began in 1991.

Speaking of public administration of education, scholars underline the two historically formed models: centralized and decentralized.<sup>314</sup> With the desire to comply with rigid international standards, the Central Asian states have started shifting from centralized planning and administration characterized as a crucial element of the Soviet system to the decentralized that is present in the majority of democratic states. Since obtaining their sovereignty and independence, the Central Asian countries have encountered the advantage of conducting their education policy on their own.

The modern stage of the development of the Central Asian region, namely the Republic of Kazakhstan and the Republic of Uzbekistan, has been typical that these states

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312 Constitution.uz. 2022. Constitution of the Republic of Uzbekistan. [online] Available at: <<https://constitution.uz/en>> [Accessed 27 October 2023]

313 “On the State Language”. Available at: <https://lex.uz/ru/docs/6813902>

314 Мынбаева, А, Сатывалдиева, А. 2011. Управление образованием. Вестник КазНУ, серия «Педагогические науки». – 2011. - № 1(32)

have chosen a democratic way of governing. Also, an important fact is that the countries have selected their unique governing approach. For instance, one of the exclusives that distinguish the current administration from the Soviet one would be certainly liberty.

Liberty was observed as widespread and is still presented in the education sector. Thus, students have many rights that are constitutionally guaranteed. For example, nowadays, everyone has the right to select an educational organization, a form of education, a specialty, or freely choose the language of education.

Mentioning higher educational organizations, we can also mark that universities receive more freedom from the authority than they used before. For instance, it is said that universities need to be given more academic, organizational, financial, and Human Resources autonomy to succeed in the 21<sup>st</sup> century.

As we can see, the countries sharing the legacy of the Soviet governance system are making efforts to decentralize the sector of education. Therefore, students, teaching staff, and educational organizations are free in their choice in the present times, while they were limited during the Soviet time due to the high centralization. The aforementioned cases are a few among the many changes that have appeared in the education field since the USSR disintegration.

## **7.4 KEY ACTORS IN THE PROCESS OF ADMINISTRATION OF EDUCATION IN THE REPUBLIC OF KAZAKHSTAN**

The Republic of Kazakhstan has set up several state bodies responsible for governing education. It is important to highlight that the management of the education system has a state-public character. It is also crucial to mention that state policy in education is determined by the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan implements it.

The Government of the Republic of Kazakhstan<sup>315</sup> develops and approves normative legal acts and state programs related to education. It exercises control over the activities of ministries and other state bodies, oversees the development and execution of the national

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315 Government of the Republic of Kazakhstan . Available at: <https://primeminister.kz/en/government/about>

budget for funding educational activities, and determines the system and conditions for the social protection of citizens studying in educational institutions. Additionally, it establishes a unified system of academic standards, engages in international cooperation in the field of education, and implements the following measures.

The Ministry of Education and Science of the Republic of Kazakhstan is another body that carries out state administration in the education system.<sup>316</sup> The Ministry of Education and Science is the central executive body of the Republic of Kazakhstan responsible for managing and coordinating inter-branch activities in the fields of education, science, and technology, as provided by the legislation. It carries out its activities in accordance with the Constitution of the Republic of Kazakhstan, acts of the President and the Government of the Republic of Kazakhstan, and other normative legal acts, as well as this Regulation.

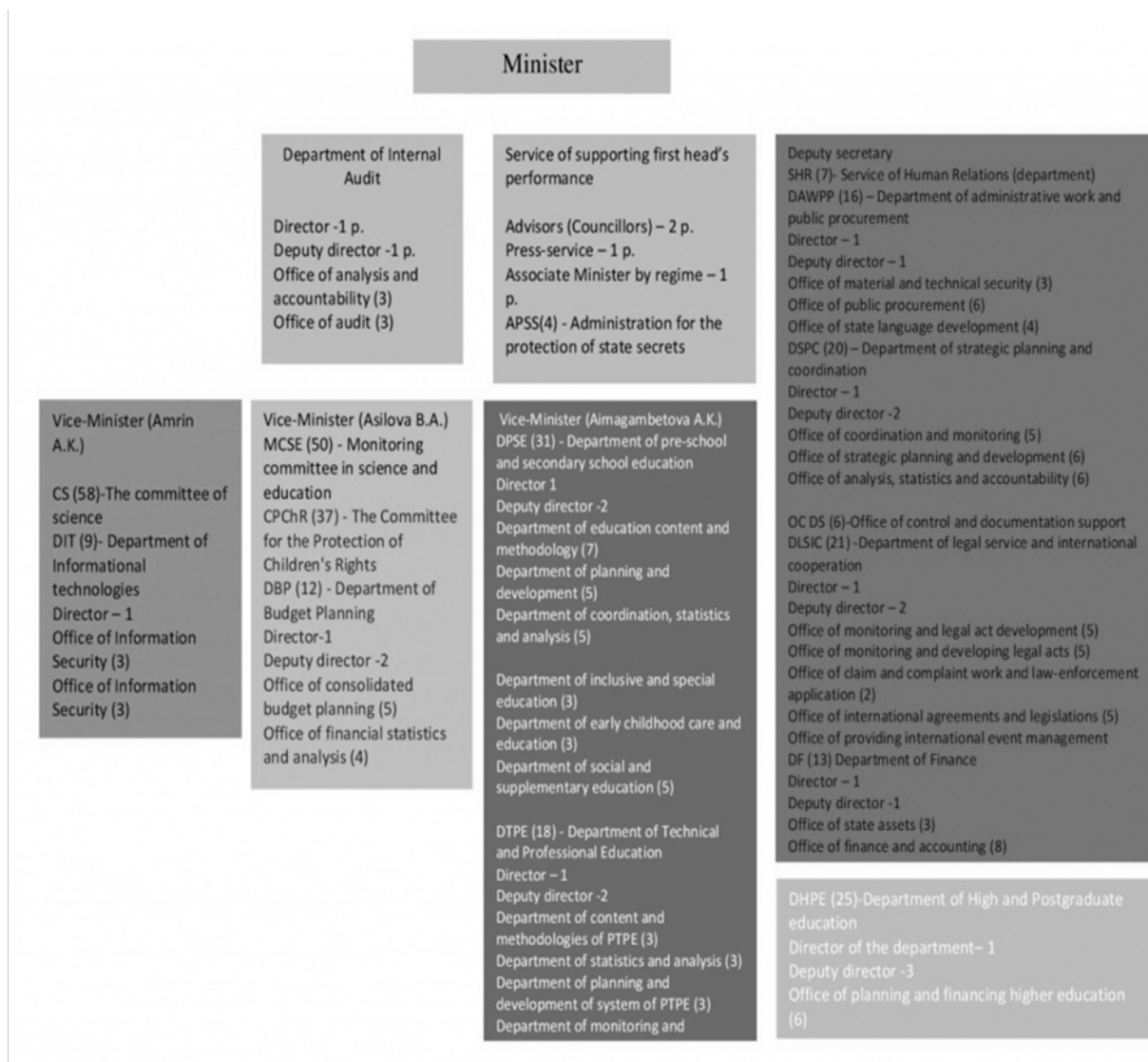
The Ministry is a legal entity in the organizational-legal form of a public institution. Ministry, on the issues of its competence in the order established by the legislation, shall make decisions drawn up by orders of the Head of the Ministry of Education and Science of the Republic of Kazakhstan and other acts stipulated by the legislation of the Republic of Kazakhstan. The Ministry is divided into several branches; it includes departments and committees.<sup>317</sup>

Figure 7-1: The organizational structure of the Ministry of Education and Science of the Republic of Kazakhstan

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<sup>316</sup> Ministry of Education and Science of the Republic of Kazakhstan. Available at: <https://www.gov.kz/memleket/entities/edu?lang=en>

<sup>317</sup> Gov.kz. 2022. [online] Available at: <https://www.gov.kz/memleket/entities/edu?lang=en> [Accessed 1 February 2022]

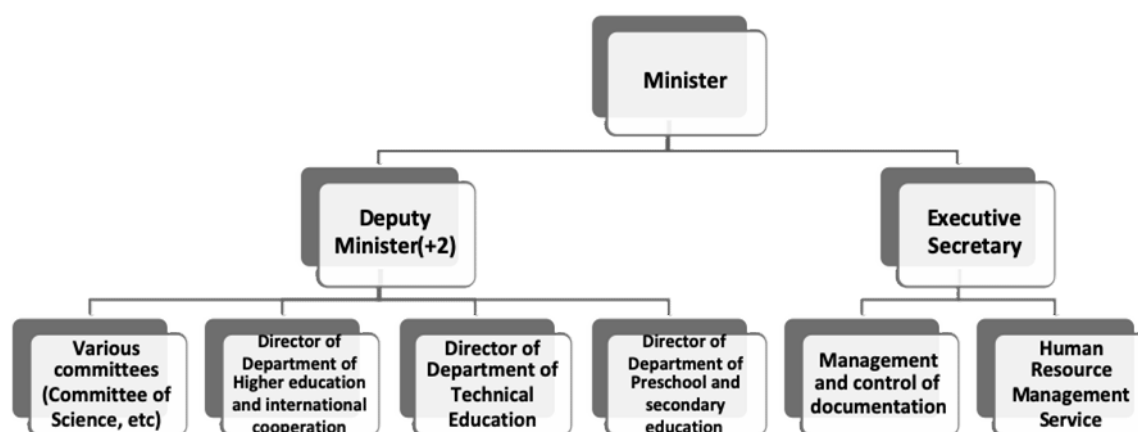


Source: Taken from the official website of the Ministry of Education and Science of the Republic of Kazakhstan.<sup>318</sup>

The structure is vertical: the leader is the minister, and the line managers are the deputy ministers and the executive secretary. The heads of departments are Directors (Director of the Department of Preschool and Secondary Education, Director of the Department of Technical Education, Director of the Department of Higher Education and International Cooperation, Director of the Financial Department, and Director of the Administrative Department.

<sup>318</sup>Gov.kz. 2022. [online] Available at: <<https://www.gov.kz/memleket/entities/edu?lang=en>> [Accessed 1 February 2022]

Figure 7-2: Divisional organizational structure



Source: Compiled on the basis of the information taken from the official website of the Ministry of Education and Science.<sup>319</sup>

In the functional structure, each element of the organizational division has its specific function and task. For instance, the creation of state policy in the sphere of education and science, administrative procedure, and financial.

The departments of education are the bodies of special competence that ensure the management of education on the region's territory (city). Special regulations regulate the activity of these bodies, and their functions are derived from the processes of local executive bodies.

The legislation does not delineate the competence of local public administration authorities in education. They are all responsible for the implementation of the constitutional rights of citizens.

<sup>319</sup>Gov.kz. 2022. [online] Available at: <<https://www.gov.kz/memleket/entities/edu?lang=en>> [Accessed 1 February 2022]

Departments (offices), departments of education, and local executive bodies provide the following issues: organization of control over the activities of educational institutions in order to implement the state policy in the field of education, establishment, reorganization and liquidation of state educational institutions, issuing licenses within their competence for the right to conduct educational activities by educational institutions of different forms of ownership. The exclusive competence of local authorities includes the powers related to the financing of education.

Since the management of the education system has a state-public character, public organizations and trade unions are also involved in the direction of education.

Within the Ministry of Education and Science of the Republic of Kazakhstan, there are other various bodies that subordinate organizations. For instance, the Institute for Early Childhood Development<sup>320</sup>, the National Scientific, Practical, Educational and Health Centre "Bobek"<sup>321</sup>, the State specialized boarding secondary school for gifted children with advanced study of Kazakh language and literature named after "Abay"<sup>322</sup>, the JSC Information and Analytical Centre<sup>323</sup>, the National Scientific and Practical Centre for the Development of Special and Inclusive Education<sup>324</sup>, the State Training and Methodological Centre for Additional Education<sup>325</sup>, and others. All these institutions have the same aim, which is a full development of skills and knowledge of children.<sup>326</sup>

It is undoubtedly vitally important to list another institute in the country, which is the Institute of the Commissioner for Children's Rights in the Republic of Kazakhstan<sup>327</sup>. The organization has been created primarily to improve the national system for the protection of children's rights. The second reason for the establishment of the organization is the commitment of the Republic of Kazakhstan to the principles of the Convention on the Rights of the Child. It has already been acknowledged in Chapter 4 that Kazakhstan is being

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320 Institute for Early Childhood Development. Available at: <https://irrd.kz/?lang=en>

321 National Scientific, Practical, Educational and Health Centre "Bobek."

322 State specialized boarding secondary school for gifted children with advanced study of Kazakh language and literature named after "Abay"

323 JSC Information and Analytical Centre

324 National Scientific and Practical Centre for the Development of Special and Inclusive Education. Available at: <https://qyzpu.edu.kz/en/tsentr-razvitiya-inklyuzivnogo-i-spetsialnogo-obrazovaniya>

325 State Training and Methodological Centre for Additional Education.

326 Ibid

327 Institute of the Commissioner for Children's Rights in the Republic of Kazakhstan. Available at: <https://www.gov.kz/memleket/entities/ombudsman/activities/1030?lang=en>



supportive of the efforts of the global community to create a comfortable environment for children. Therefore, the Convention has been signed and ratified.

The Institute of the Commissioner for Children's Rights in the Republic of Kazakhstan plays a central role since this organization promotes the faster and more persistent advancement of children's issues in the legislature and before the government.<sup>328</sup>

All in all, key state bodies on different levels that manage education in the Republic of Kazakhstan have been demonstrated in this subparagraph of the dissertation.

## **7.5 EDUCATIONAL AUTHORITIES IN THE REPUBLIC OF UZBEKISTAN**

The Republic of Uzbekistan has formed its own structure of administration of education. According to Zhitnikova, Zverev, and Tkach, the structure of educational administration in the Republic of Uzbekistan includes the following:

- Cabinet of Ministers of the Republic of Uzbekistan;
- Ministries on Education;
- Ministries and departments with subordinate educational institutions (Cabinet of Ministers, Ministry of Health, Ministry of Culture, Ministry of Agriculture and Water Resources, Ministry of Health, Ministry of Culture, Ministry of Agriculture and Water Resources, Ministry of Communications, Ministry of Justice, Ministry of Foreign Affairs, State Committee for Sport and others);
- Local bodies of the state executive power.<sup>329</sup>

The first state body that has been listed above which regulates the field of education is the Cabinet of Ministers of the Republic of Uzbekistan. It is the main organ in the country, which implements a state-unified education policy. The complete competences of the Cabinet of Ministers of the Republic of Uzbekistan in the field of education have been reflected in chapter III titled Educational Management in the Law of the Republic of Uzbekistan on Education. Thus, according to the provisions of the document, the Cabinet of Ministers

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<sup>328</sup> Ibid

<sup>329</sup> Zhitnikova M.N., Zverev N.I., Tkach G.F., (2008). Education system of the Republic of Uzbekistan: Education programs and Qualification degrees.

approves and ensures the implementation of state programs in the field of education. It also directs the authorized bodies of state administration in the field of education.<sup>330</sup>

The Cabinet of Ministers establishes the procedures for the attestation and state accreditation of educational organizations, the certification of teaching staff and research personnel, the issuance of licenses to non-state educational institutions for providing educational services (hereinafter referred to as 'license'), notification of the authorized body about the commencement of activities, and the endorsement of educational documents.

This state body is also responsible for determining the procedure for hiring teaching staff in educational organizations and evaluating their performance. The other responsibilities are:

- “issues permits to engage in educational activities on the territory of the Republic of Uzbekistan to educational institutions of foreign states;
- determines the procedure for recognizing educational documents obtained in foreign countries;
- approves state-recognized formats of education documents and establishes the procedure for issuing state education documents;
- approves the list of areas of education, specialties and professions for which external studies are not allowed;
- approves the list of areas of education, specialties and professions, training which is carried out only in state educational institutions;
- establishes the admission regulation for state educational institutions and organizations;
- appoints and dismisses rectors of state higher educational institutions, as well as rectors (heads) of higher educational institutions created with the participation of the state (non-state higher educational organizations with a state share, joint educational institutions, educational institutions created on the basis of public-private partnerships, and others);
- establishes the procedure for transferring students from one accredited educational organization to another, as well as their expulsion and restoration;
- establishes the procedure for determining the rating of educational organizations;
- determines the procedure for retraining and advanced training of specialists;
- forms government orders for the training of specialists in educational institutions

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330 Law of the Republic of Uzbekistan on Education. [online] Available at: <<https://lex.uz/ru/docs/5700831>> [Accessed 1 February 2022].

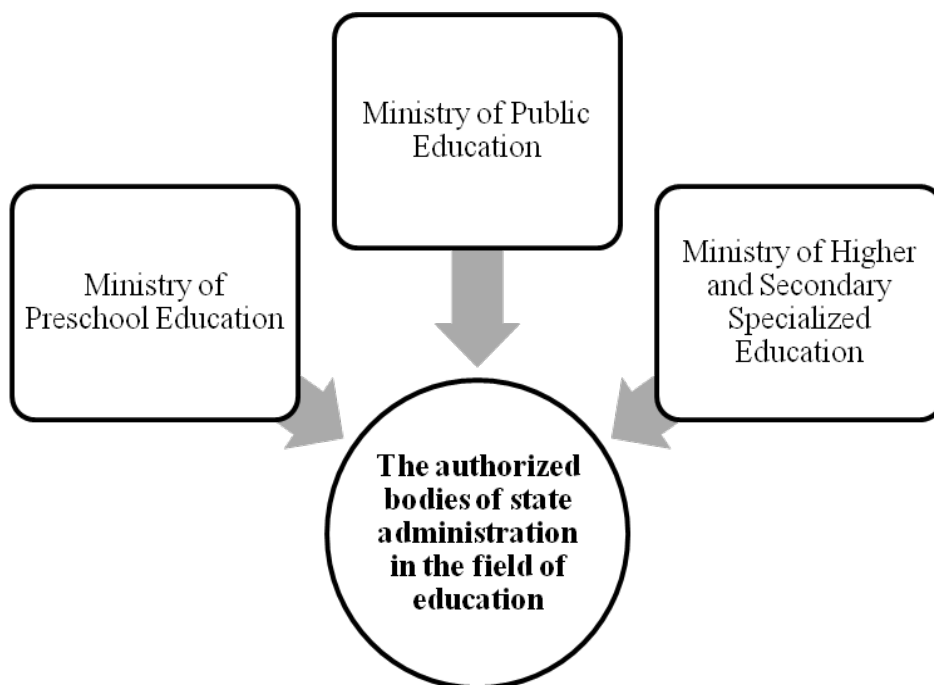
based on the forecast and analysis of labor market needs;

- establishes material and technical, infrastructural and parametric requirements for educational organizations;
- establishes the procedure for the preparation and publication of textbooks and teaching aids, as well as the requirements for their delivery and use in educational organizations;
- The Cabinet of Ministers of the Republic of Uzbekistan may exercise other powers in accordance with the legislation.”<sup>331</sup>

The Cabinet of Ministers of the Republic of Uzbekistan has a wide range of responsibilities in the realization and administration of education in the country.

The authorized body of state administration in the field of education in the Republic of Uzbekistan is the Ministry of Education.

Figure 7-3: The Ministries on Education in the Republic of Uzbekistan



Source: Compiled on the basis of the information taken from the Law on Education of

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331 Ibid

the Republic of Uzbekistan<sup>332</sup>

As demonstrated above, there are a few ministries in Uzbekistan that are the Ministry of Preschool Education<sup>333</sup>, the Ministry of Public Education<sup>334</sup>, the Ministry of Higher and Secondary Specialized Education of the Republic of Uzbekistan.<sup>335</sup>

All three ministries are central executive bodies that are part of the Cabinet of Ministries of the Republic of Uzbekistan.

The realization of education in Uzbekistan is also conducted by departments of education and local executive bodies.

Apart from the mentioned bodies, it is also necessary to note that there is the Institute of the Commissioner for Children's Rights. It is an important institute in the country, working to ensure the rights and interests of the children as well as the harmonious development of them.

Thus, some of the organs in the Republic of Uzbekistan responsible for the management and realization of education have been remarked in this subparagraph of the work.

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332 Ibid

333 Ministry of Preschool Education of Uzbekistan. Available at: <https://uzedu.uz/en>

334 Ministry of Public Education

335 Ministry of Higher and Secondary Specialized Education of the Republic of Uzbekistan. Available at: <https://edu.uz/en#gsc.tab=0>

## **7.6 SUMMARY**

Chapter seven titled “Overview of administration” was written to demonstrate the structural matter of administration. In particular, to display key bodies in the Republic of Kazakhstan and Uzbekistan that realize the politics of education on various levels.

Moreover, the main features of administration in the two republics were presented. From it, some predominant traditions there were revealed.

## **CHAPTER EIGHT**

### **CHALLENGES**

- 8.1. Introduction and overview
- 8.2. Religious Islamic attire as a case of controversy
- 8.3 The state legislation on religious garments in the Republic of Kazakhstan
- 8.4 Legislation of the Republic of Uzbekistan on religious garments
- 8.5 The right to freedom of religion
  - 8.5.1 The right to freedom of religion in the Russian Empire
  - 8.5.2 The right to freedom of religion in the frame time of the Soviet Union
  - 8.5.3 Religious freedom after fall of Communism
- 8.6 Comparison between Kazakhstan and Uzbekistan
- 8.7 Summary

## **CHAPTER EIGHT**

### **CHALLENGES**

#### **8.1 INTRODUCTION AND OVERVIEW**

The right to freedom of religion and education are fundamental rights of every human being. Both rights are inherent in international documents on the protection of human rights. Thus, each state must realize and protect them. However, the realization of one right can collide with another. For instance, the right to freedom of religion contradicts the right to education in non-religious countries with a secular education system. Many existing restrictions in secular educational organizations are perceived as limiting the freedom of religion.

This dissertation chapter focuses on the case of wearing religious attire, which is considered a frequent conflict between the right to freedom of religion and the right to education.

#### **8.2 RELIGIOUS ISLAMIC ATTIRE AS A CASE OF CONTROVERSY**

One of the well-discussed topics in many states worldwide is the manifestation of religious garments in public, particularly Islamic religious clothes and symbols, and its government restriction. It is a subject that has been debatable for years. Islam is one of the world's dominant religions with specific rules and norms, including a dress code. The typical garments which are associated with Islam are a burka, niqab, hijab, and headscarf.<sup>336</sup>

The Islamic religious attributes attract controversy in secular countries. There are different reasons for this; however, Peter Cumper and Tom Lewis accurately formulated the principal grounds. As mentioned by Cumper and Lewis, there are three reasons Islamic

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<sup>336</sup>Cumper, P. and Lewis, T., 2008. "Taking Religion Seriously"? Human Rights and Hijab in Europe— Some Problems of Adjudication. *Journal of Law and Religion*, 24(2), pp.599-627

religious dress attracts controversy. The first reason is that Islamic clothes are considered in the West as a sign of female subordination. For Western countries, it is unacceptable because men and women are equal by law and all spheres. The second point is a perceived link between certain Islamic items on clothing and what is commonly known as Islamic fundamentalism. For instance, a burka<sup>337</sup> that covers the whole body is associated with totalitarian theocracy. The third reason is that Islamic stuff shows a difference between Islamic clothes and secular traditions.<sup>338</sup> Thus, Islamic religious garments evoke uncertain feelings among people worldwide.

Religious Islamic garments have also raised some tensions in Central Asian countries such as the Republic of Kazakhstan and the Republic of Uzbekistan. Although both states are Muslim, with a massive percentage of people who claim themselves as Muslims, it is worth emphasizing that the question of Islamic religious garments presents a controversy in secular, contemporary states. Thus, some conflicting cases have been identified in state-funded educational organizations throughout the country. In particular, some female students violate the dress code in school and the manifestation of religious attire. Therefore, the relevant laws regarding religious clothing that are in force in the two countries will be displayed below.

### **8.3 THE STATE LEGISLATION ON RELIGIOUS GARMENTS IN THE REPUBLIC OF KAZAKHSTAN**

The Republic of Kazakhstan regulates state-religious relations by legislative measures according to its political agenda and national-religious characteristics. The principal legal document that operates in the country is the Law on Religious Activity and Religious Associations of the Republic of Kazakhstan.<sup>339</sup>

The law is based on the Constitution of the Republic of Kazakhstan, namely on the following principles: the state claims to be democratic and secular, confirms the right of every individual to freedom of religion and conscience, guarantees the equality of all irrespective of

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337 Burka is an outer garment covering the body and face, worn by women in some Islamic traditions to cover themselves in public

338 Ibid, pp.599-627

339 Adilet.zan.kz. 2021. On religious activities and religious associations - "Adilet" LIS. [online] Available at: <<https://adilet.zan.kz/eng/docs/Z1100000483>> [Accessed 20 October 2021]



their religious beliefs, recognizes the historical role of Hanafi Islam<sup>340</sup> and Orthodox Christianity in the development of culture and the Christianity in the development of the culture and spiritual life of the people, and respects other religions compatible with the spiritual heritage of the people of Kazakhstan, and recognizes the importance of inter-confessional harmony, religious tolerance, and respect for the religious beliefs of the citizens.<sup>341</sup>

Although the state guarantees the right of every individual to freedom of religion, the law declares that the state is separated from religion and religious associations. It also relates to educational organizations in the country. The principle of separation of schools from religious associations implies that the manifestation of spiritual symbols should be restricted in state educational institutions. Thus, in line with Article 3 of the document, the system of education and upbringing in the Republic of Kazakhstan, except for the spiritual (religious) organizations of education, is separated from religion and religious associations and shall be secular".<sup>342</sup>

The regulation of education in Kazakhstan is the exclusive competence of the state. Thus, the provision of free primary education to everyone is an international legal obligation of the States Parties to the International Covenant on Economic, Social, and Cultural Rights.<sup>343</sup> The Republic of Kazakhstan has set an article in the Constitution, which guarantees free secondary education to everyone. Article 30 of the Constitution of the Republic of Kazakhstan articulates the following:

1."Citizens shall be guaranteed free secondary education in state educational establishments. Secondary education shall be obligatory".<sup>344</sup> The state also guarantees the right to obtain a higher education on a competitive basis in a state higher educational institution.

One of the subparagraphs of Article 30 also states the following:

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340 Hanafi Islam is one of the schools of thought within Sunni Islam (largest branch of Islam)

341 Ibid

342 Ibid

343 Ohchr.org. 2021. OHCHR | International Covenant on Economic, Social and Cultural Rights. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>> [Accessed 10 December 2021]

344 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)> [Accessed 10 December 2021]

"The state shall set uniform compulsory standards in education. The activity of any educational institution must comply with these standards".<sup>345</sup>

Therefore, the central executive body of the government (Ministry of Education and Science of the Republic of Kazakhstan) sticks to the strict interpretation of secularism. Thereby, the responsible body has approved a Ministerial decree prohibiting religious clothes in school. Order No. 26 of 14 January 2016 states the following:

"The inclusion of elements of religious affiliation in the school uniform is not permitted."<sup>346</sup>

The courts of the Republic of Kazakhstan have supported the decision. The prohibition of wearing hijab and other religious garments has been confirmed legally by the Supreme Court of the Republic of Kazakhstan. The Supreme Court<sup>347</sup> noted that the requirement of educational institution administrations to respect the prescribed dress code, which excludes its religious nature, is legal. The Supreme Court has marked the importance of Article 22 of the Constitution.<sup>348</sup> However, the Court pointed to Article 3 of the Law on Religious Activities and Religious Associations.<sup>349</sup> Given the above constitutional and legislative norms, the Supreme Court explained that the requirement for students to fulfill their legal obligation to wear a uniform cannot be considered a violation of the right to freedom of conscience.<sup>350</sup>

This dispute has not been considered by the Supreme Court since it will not establish, examine, or verify in any case when those are under the jurisdiction of the Courts or any other state bodies. The Constitutional Court will exercise its powers autonomously and independently of citizens, organizations, State bodies, and officials. It will also be guided by the Republic of Kazakhstan's Constitution and the Constitutional Law "On the Constitutional

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<sup>345</sup>Ibid.

<sup>346</sup>Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated 14 January 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on 16 February 2016 No. 13085

<sup>347</sup>Supreme Court of the Republic of Kazakhstan. Available at: <https://sud.gov.kz/rus>

<sup>348</sup>Article 22 of the Constitution of the Republic of Kazakhstan:

"Everyone shall have the right to freedom of conscience. The right to freedom of conscience shall not specify or limit universal human and civil rights and responsibilities before the state"

<sup>349</sup>Article 3 of the Law on Religious Activity and Religious Associations of the Republic of Kazakhstan:

"Nobody has the right to refuse, based on their religious beliefs, to perform the duties, prescribed by the Constitution and the laws of the Republic of Kazakhstan"

Court of the Republic of Kazakhstan."<sup>351</sup>

Kazakhstan practice analysis has shown that some citizens of the republic do not agree with the decisions of the courts and the Supreme Court. Moreover, they point out that their right to freedom of religion is violated in the process of realizing the right to receive state education.

Another reference would relate to the Law on Education which states the following provision:

"Parents and other legal representatives are obliged to comply with the rules defined by the charter of the education organization; the requirements for compulsory school uniform established by the authorized body in the field of education and comply with the form of clothing, established in the organization of education. Namely, in accordance with subparagraphs 3,6 and 7 of chapter 2 of Article 49 of the Law of the Republic of Kazakhstan No. 319 – III, on Education, dated 27 July, 2007, parents and other legal representatives of minor children shall have a right to: acquire information from the educational organizations regarding the progress, behavior and learning environment of their children; to fulfill the requirements imposed to an obligatory school uniform, established by an authorized body in the field of education. Therefore, following the current legislation of the Republic of Kazakhstan, in respect of parents whose children do not comply with the school uniform, administrative punishment may be applied".<sup>352</sup>

The importance of preserving secular norms and rules in the Republic of Kazakhstan is significant. The first president of the Republic of Kazakhstan, Nursultan Nazarbayev, has often noted it. He emphasized the following argument in his book "The Critical decade":

"One of the ultimate goals is not the creation of a theocratic state, but a democratic and civil society based on the market economy and freedom of choice. Freedom of worship is not the basic creed, but one of the vital ingredients for the fully fledged development of the society. And religion cannot be the ultimate goal of progress; it is just one of the aspects of Kazakhstan's social and political development."<sup>353</sup>

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351 The Supreme Court of the Republic of Kazakhstan.[online] Available at: <https://www.gov.kz/memleket/entities/ksrk/about?lang=en>

352 Adilet.zan.kz. 2021. On Education - "Adilet" LIS. [online] Available at: [http://adilet.zan.kz/eng/docs/Z070000319\\_>](http://adilet.zan.kz/eng/docs/Z070000319_>) [Accessed 10 December 2021]

353 Nazarbayev, N., 2010. The critical decade. Almaty, Kazakhstan: Zhibek Zholy, pp.65

Also, he quoted the following:

"Kazakhstan is a secular state not only formally, but also by the very nature and spirit of all Kazakh people, whose consciousness is formed on historical tolerance".<sup>354</sup> Therefore, the Republic of Kazakhstan is a secular state on both practical and ideological grounds.

The current president of the Republic of Kazakhstan Kassym Jomart Tokayev also shares an opinion of Nazarbayev. Thus, in his recent speech, the president mentioned the following”

“The attempt of radical neophytes to fob off foreign religious ideals on the society, including in the form of the archaic attire, is a blatant challenge to our traditional principles and values.”<sup>355</sup>

## **8.4 LEGISLATION OF THE REPUBLIC OF UZBEKISTAN ON RELIGIOUS ATTIRE**

Some studies have claimed that the controversy generated by religious dress has been termed global since it affects or will affect many states worldwide.<sup>356</sup> The Republic of Uzbekistan is no exception in this sense, although the state, from its independence, has clearly defined its position.

First and foremost, the Republic of Uzbekistan has recognized the secular development path. Thus, in line with Article 61 of the Constitution of the Republic of Uzbekistan, religious organizations and associations shall be separated from the state and equal before the law. Also, the state shall not interfere in the activity of religious associations.

<sup>357</sup>

Consequently, religion is officially separated from the state. Taking that into consideration, the provision regarding religious attire has been reflected in various documents of the country. For instance, the Law of the Republic of Uzbekistan, "On Liberty of

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<sup>354</sup>Ibid, p.65

<sup>355</sup> Botagoz Omarova.,2024.How “Religious” Messages by Tokayev will affect society and economy of Kazakhstan. Central Asian Bureau for Analytical Reporting. Available at: <https://cabar.asia/en/how-religious-messages-by-tokayev-will-affect-society-and-economy-of-kazakhstan>

<sup>356</sup>Cumper, P(2010).Religion, belief and international human rights in the twenty-first century. Research Handbook on International Human Rights Law. p.481

<sup>357</sup>Constitution.uz. 2022. Constitution of the Republic of Uzbekistan. [online] Available at: <<https://constitution.uz/en>> [Accessed 28 October 2022]

Conscience and Religious Organizations"<sup>358</sup> regulates the question of religious attire since the will to display religious symbols pertains to the right to freedom of religion and liberty of conscience.

The above-mentioned legal document was in force starting in 1998 in the country. Thus, in accordance with the Law of 1998, it was forbidden to wear a "ritual dress" in public. Therefore, the wearing of religious attire in public places by Uzbek citizens (except for people working in religious organizations) is punishable by a fine.<sup>359</sup> Remarkable is the fact, that the definition of "ritual dress" was not defined in the law. The right to wear religious attire was ensured only to those working in religious organizations.

However, some changes have arisen due to the recent amendments to the law. In particular, the modifications and amendments were implemented in 2021. Thus, one of the significant changes relates to the issue of religious dress.

Within the newly updated law, a mark constitutes the exclusion of the limitation of wearing religious dress in public places. It is argued that due to the lack of a legal definition of "ritual dress" in the current legal acts, the prohibition of wearing religious attire in public places is excluded from the new legislation.

According to other legislation in force, the clothing requirements for state organizations and institutions are regulated by internal acts. Thus, it applies to educational organizations as well.

The demonstration of religious dress in educational organizations (secular) in the Republic of Uzbekistan is prohibited within the Law on Education.<sup>360</sup>

Thus, Article 48 of the Law on Education stipulates that comply with the requirements of the charter and (or) other constituent documents, internal regulations of an educational organization, rules of places of accommodation and conditions of other internal documents on

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358 Law of the Republic of Uzbekistan, "On Liberty of Conscience and Religious Organizations. Available at: <https://lex.uz/docs/6117508?ONDATE=06.07.2021#:~:text=It%20is%20not%20allowed%20to,racial%2C%20ethnic%20or%20religious%20hatred%2C>

359Article 184Administrative Responsibility Code of the Republic of Uzbekistan states that the appearance of citizens of Uzbekistan (with the exception of people working in religious organizations) in public places wearing religious attire shall carry a fine of from five to ten basic calculation units or administrative detention for up to fifteen days

360Law of the Republic of Uzbekistan "About education". [online] Available at: <<https://cis-legislation.com/document.fwx?rgn=127569>> [Accessed 28 October 2022]

the organization and implementation of educational activities.<sup>361</sup>

In reference to Paragraph 8 of the Internal Rules and Regulations of General Education Schools, students must come in the uniform prescribed by the school's regulations.

Therefore, religious clothes in educational organizations are not allowed, although some ease is visible in the legislation of the Republic of Uzbekistan. It can be seen in below in the thesis.

## **8.5 THE RIGHT TO FREEDOM OF RELIGION**

Nowadays, the right to freedom of religion is an ingrained right of every person guaranteed under national and international law.

It is widely recognized that the right to freedom of thought, conscience, and religion is a central core of liberal democracies. Consequently, the right to freedom of religion is one of the human rights that has been proclaimed in the majority of the constitutions of liberal states and the international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Helsinki Final Act 1975, and the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. Each document guarantees the right to freedom of religion. Thus, the formulation that everyone has the right to freedom of thought, conscience, and religion is considered to be universally accepted in all of them. For instance, Article 18 of the Universal Declaration of Human Rights stipulates that: "Everyone has the right to freedom of thought, conscience and religion."<sup>362</sup>

Referring to the Universal Declaration of Human Rights, the right to religious freedom is the right that contains freedom to change religion or belief, and freedom either alone or in community with others and in public or private, to manifest religion or belief in teaching,

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<sup>361</sup> Ibid

<sup>362</sup> Nations, U., 2021. Universal Declaration of Human Rights | United Nations. [online] United Nations. Available at: <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> [Accessed 17 November 2021]

practice, worship and observance".<sup>363</sup> In addition to this, "Article 26 of the document points for education, namely education shall promote understanding, tolerance and friendship among all nations, racial and religious groups".<sup>364</sup>

The other international documents on the preservation of religious liberty are similarly structured accordingly to the Universal Declaration of Human Rights. For example, Article 18 of the International Covenant on Civil and Political Rights consists of the following: "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."<sup>365</sup> This legal paper reproduces the provision regarding the right to religious freedom in the Universal Declaration of Human Rights. In addition, it covers the right of an individual to have or adopt a religion or belief of their choice. Hence, by the taken provisions, people have the right to adhere to any beliefs, whether religious or non-religious. Consequently, they are entitled to follow the rules of their chosen belief or religion.

Apart from the above instruments, it is vital to mention the other following international conventions and charts on protecting the right to religious freedom such as the UN Charter, for instance. The UN document has several articles, namely Article 1, Article 13, and Article 55, dedicated to the principle of respecting human rights and freedoms without distinction as to religion. Article 1 states the following: "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".<sup>366</sup> To add more, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees, the Convention against Discrimination in Education, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Convention on the Elimination of All Forms of Discrimination against Women are indispensable pieces of the international law towards preserving the right to freedom of

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<sup>363</sup>Ibid, Article 18

<sup>364</sup>Ibid, Article 26

<sup>365</sup>Ohchr.org. 2021. OHCHR | International Covenant on Civil and Political Rights. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>> [Accessed 17 November 2021]

<sup>366</sup>Nations, U., 2021. United Nations Charter (full text) | United Nations. [online] United Nations. Available at: <<https://www.un.org/en/about-us/un-charter/full-text>> [Accessed 17 November 2021].]

thought, conscience, and religion.

Based on the international instruments on the protection of human rights that have been considered above, the right to freedom of religion cannot be a matter of any violations from states. It relates to the fact that the right to freedom of thought, conscience, and religion is an absolute right of every person. However, we can argue that the freedom of action based on religion, such as confession of religion or religious practice, can be a subject of state regulation and restrictions. For example, referring to Article 1 of the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, there is a provision stating that the states have the right to impose restrictions on the freedom of religion on a few grounds.<sup>367</sup> "Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others".<sup>368</sup>

### **8.5.1 THE RIGHT TO FREEDOM OF RELIGION IN THE RUSSIAN EMPIRE**

The development of the right to religious freedom in the epoch of the Russian Empire represents an interest since the religious life of Kazakhs was seriously affected by the Russian imperial policies.

It is highlighted that the Russian Empire was stuck to a certain model of the realization of religious freedom at the beginning of its governing. Precisely, it followed the first type. There are three types of fulfillment of the right to freedom of religion that were proposed by Shimanskaya.<sup>369</sup> The first one is enclosed in the state's dictatorship concerning a person's choice of religious orientation and belief. The second model is democratic-legal which is based on the principle of equal, providing rights for all confessions. The last one ensures the right to all religions and beliefs, although the priority of the historic church is retained by law. Indeed, the Russian power adopted the first model for implementing the principle of freedom of conscience in 1721, when Orthodoxy became the state religion of the Empire. However,

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<sup>367</sup>Ohchr.org. 2021. OHCHR | Declaration on the Elimination of All Forms of Intolerance. [online] Available at: <<https://www.ohchr.org/en/professionalinterest/pages/religionorbelief.aspx>> [Accessed 17 November 2021]

<sup>368</sup>Ibid, Article 1

<sup>369</sup>Shimanskaya, O., 2001. Freedom of conscience in Russia: history, genesis, current state. Bulletin of N.I. Lobachevsky Nizhny Novgorod University. Series Law., pp.308-314



the long-term expansion of territories made the Russian Empire multinational and multiethnic. Thereby, it is required for the state's governance of different faiths and its right to it.

Some scholars argue that the right to freedom of religion in the multiethnic society of the Russian Empire was widely protected. In contrast, the others note that complete religious freedom remained elusive. Remarkably, an individual approach to each religion was followed up. For example, all the faiths were divided into tolerant and intolerant. Islam among them was tolerated. Nevertheless, the years 1762-1796 were marked as periods of the transition to religious tolerance under the rule of Catherine II.<sup>370</sup> As noted by Lucien J. Frary, based on the book "The Tsar's Foreign Faiths: Toleration and the Fate of Religious Freedom in Imperial Russia", written by Paul W. Werth, the leadership had a promising approach towards different faiths, despite that Orthodoxy was the principal, dominant religion. Broadly it was done through granting, protecting, and significant patronizing rights of recognized religious groups based on the developed legislation.<sup>371</sup> According to the article, acquiring new territories prompted imperial officials to construct new institutions and laws (in part modeled on the state's management of Orthodoxy) to administer non-Orthodox believers, incorporate the population, and minimize the likelihood of rebellion.<sup>372</sup>

Thus, the Law on Tolerance of All Faiths was issued in 1773 which prohibited the Orthodox clergy from interfering in the affairs of other denominations.<sup>373</sup> This law was followed by several decrees that significantly changed the socio-political and socio-economic situation of many nations, including the Kazakhs in the Russian Empire. It is crucial to emphasize that the Empire did not interfere in the religious life of Kazakhs at the beginning because it was more preoccupied with the problems of military and economic entrenchment in the region and the realization of foreign policy objectives. Nevertheless, the situation changed only in the 80-90<sup>th</sup> of the XVIII century.<sup>374</sup>

It was stressed that religion was considered a powerful tool of the Russian Empire to

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370The Russian Empire lasted between the years of 1721-1917

371Frary, L., 2016. The Tsar's Foreign Faiths: Toleration and the Fate of Religious Freedom in Imperial Russia by Paul W. Werth. *Ab Imperio*, pp.453-458

372Ibid, p.455

373 Набиев, Р., Гафаров, А. and Ибрагимов, Р., 2013. Государственно-конфессиональные отношения в России. Казань: Казанский университет, pp.74-77

374 Lysenko, Y., 2010. Tatar's problem» in the Confessional Policy of Russian Empire in Kazakhstan (the End of the XVIIIth – the Early XXth Centuries). *Известия АлтГУ*, pp.146-151

keep its control over the people and territories, and expand its borders and trade relations since it was becoming a colonial empire and had a competition policy with the other European states in this direction. Thus, for instance, the Russian Empire authorities pursued a policy to promote Islam in the territories of Central Asia.<sup>375</sup> Therefore, in scholarly practice, there is a view that the protectorate of the Russian Empire forced the Kazakhs to adopt Islam and it dates back to 1785. It should be emphasized that the topic of Islamization of Kazakhs is controversial since Islam was developed long ago and practiced among some of Kazakh nobility.<sup>376</sup> However, it was not widely expanded among the ordinary Kazakh people for several reasons.

As stated by Achilov in the article "Islamic education in Central Asia: evidence from Kazakhstan", Islam penetrated unevenly and gradually across the Central Asian states. He argues that Kazakhstan has embraced Islam significantly later than the other states in the region.<sup>377</sup> Following the article, one of the principal reasons lies in the nomadic lifestyle of the Kazakh tribes that were not settled in a particular place. As a result, it did not spread in a mosque-centered and institutional manner.<sup>378</sup>

Another scholar Edelbay also notes that Islam did not spread as fast amongst the nomads as it did amongst the sedentary populations of the Turkic nations. A crucial point that justifies why Islam was not widely practiced among the ancient Kazakh tribes was the presence of other religious trends such as tengrianism and shamanism.<sup>379</sup> Apart from it, the climate and geographical conditions (massive territory) and the specific everyday life of nomad Kazakhs (seasonal migrations) were the other obstacles to the expansion of the Islamic religion.

Nevertheless, the imperial policy laid the foundations for a "Russified" Islam and a religious education system in Kazakhstan, and the nomadic Kazakh population under the

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<sup>375</sup>Torlanbayeva, K., 2017. Chokan Valikhanov on Islam among the Kazakhs. Reports of the National Academy of Sciences of the Republic of Kazakhstan, pp.244-248

<sup>376</sup> Islam came to the Kazakh steppes in the 8th century, with the arrival of the first Arab missionaries.

<sup>377</sup>Achilov, D.,2012. Islamic Education in Central Asia: Evidence from Kazakhstan. Asia Policy, 14(1), pp.79–106

<sup>378</sup> Ibid

<sup>379</sup>Tengrianism and shamanism are the two traditional religions of the nomadic people. Tengrianism is the belief in the spiritual energy of the earth, power of water, and the sun. Shamanism understands as a religious practice that involves a practitioner who interacts with a spirit world through altered states of consciousness

Edelbay, S.,2012. Traditional Kazakh Culture and Islam. pp.122-133

protectorate evolved from a Shamanist-Tengrist stage into a Muslim-Russian one.<sup>380</sup> It was fulfilled by the establishment of mosques and madrasahs based on the decree of Catherine II. In addition to this, it was based on Russia's experience with the Tatars-a Turkic people whose Khanate had been subjugated in the mid-sixteenth century and whose settled, Islamic population was considered a loyal and reliable vassal of Russia.<sup>381</sup>

A significant point was reached in the mid-nineteenth century, when the leaders of the Russian Empire changed its tolerant position towards Islam to an increasingly restrictive one up to the emergence of the Soviet Union.<sup>382</sup> Consequently, the attitude of the Russian Empire regarding the provision of the right to freedom of religion was based on its own interest.

## **8.5.2 THE RIGHT TO FREEDOM OF RELIGION IN THE FRAME-TIME OF THE SOVIET UNION**

Although the Soviet Union has collapsed, the impact of the Soviets on the people of the union and their rights still represents an interest. In particular, the position of the rule towards one of the crucial human rights: the right to freedom of religion. The topic of the right to religious freedom in the USSR is considered complex. The complexity is cored in the paradoxical approach that existed for almost 70 years in the country.

On the one hand, limiting and restraining freedom of conscience was illegal, primarily due to the secular nature of the state. It should be noted that traditionally, the right to freedom of religion is considered a narrower concept that is part of freedom of conscience. Article 3 of the Constitution of 1977 stipulated the following:

"The Soviet state is organized and functions on the principle of democratic centralism. Democratic centralism combines central leadership with local initiative and creative activity...."<sup>383</sup>

Secondly, the state officially proclaimed human rights, including the right to freedom of conscience in its constitutions. Thus, following Chapter 7 of the Fundamental law reveals:

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380Dashkovskiy, P. and Zhanbosinova, A., 2020. The Muslim Religiosity of the Kazakhs in the Context of the Imperial Policy of Russia. *Bylye Gody*, pp.57-66

381Cornell, S., Starr, S. and Tucker, J., 2018. Religion and the secular state in Kazakhstan. pp.26-35

382Ibid, pp.26-35

383Departments.bucknell.edu. 2021. 1977 Constitution of the USSR. [online] Available at: <<https://www.departments.bucknell.edu/russian/const/77cons02.html#chap06>> [Accessed 5 November 2021]

"Citizens of the USSR enjoy in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR and by Soviet laws. The socialist system ensures the enlargement of citizens' rights and freedoms and the continuous improvement of their living standards as social, economic, and cultural development programmes are fulfilled. Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens".<sup>384</sup>

Soviet leaders insisted that the right to freedom of belief was mentioned alongside freedom of religion, suggesting that not only religious but also non-religious or atheistic beliefs should be guaranteed. Therefore, the right to freedom of conscience was enshrined in Article 52. Thus, Article 52 of the Constitution of 1977 stated the following:

"Citizens of the USSR are guaranteed freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited".<sup>385</sup>

Spassow indicated that the profession of any religion in the Soviet Union was officially permitted. The right to freedom of religion was guaranteed authorization to perform religious services and rites. The clergyperson of all religions was allowed to conduct services openly and freely. Secondly, the right to religious freedom was expressed in the unhindered publication of religious periodicals and other literature, scriptures, prayer books, manuals for clergyperson, church calendars, and so forth. In addition to it, the right to freedom of religion was guaranteed in the organization of ecclesiastical schools by religious societies. According to Spassow, additional evidence that the right to freedom of religion was tolerated in the USSR was the existence of several dozen monasteries and nunneries.<sup>386</sup> Certainly, some religious activity was legal in the USSR. However, as Podoprighora notes, it was legal only if the religious association was registered with the responsible state body. Therefore, the entire existence of the freedom of conscience proclaimed in the Soviet Constitution did not exist in practice.<sup>387</sup> Foremost, the ruler of the Soviet Union that the Communist party represented applied the opposite approach towards the official legislation by implementing several steps to eliminate religion. Thus, all religions were outlawed by the Communist Party due to the

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<sup>384</sup> Ibid

<sup>385</sup> Ibid

<sup>386</sup> Spassow, G., 1951. Freedom of religion in the U.S.S.R. *PRISM: Political & Rights Issues & Social Movements*, p.20-25

<sup>387</sup> Podoprighora, R., 2003. Religious Freedom and Human Rights in Kazakhstan. *Religion, State and Society*, pp.123-132

authoritarian state's agenda of atheism.

Alexandre Bennigsen has distinguished the four directions of the Soviets that led to the separation of religion and the state or, in other words, secularism. According to Bennigsen, the Soviets aimed to reach a mono-ideological state through the politics of isolation, the politics of assimilation, the politics of separation, and the antireligious propaganda.<sup>388</sup> The antireligious propaganda was based on the postulates of Marxism-Leninism which viewed religion as an enemy of the state and a barrier to progress.<sup>389</sup> As a consequence, a set of legal documents was adopted to regulate the right to freedom of conscience and religion. The first substantial piece of legislation on religion was the Decree on Separation of Church from State of 23 January 1918.<sup>390</sup>

This document declared the following provisions:

"1. The church is separated from the state.

2. It is prohibited to issue any local laws or ordinances on the territory of the [Soviet] Republic that would hinder or restrict freedom of conscience or establish any advantages or privileges dependent upon the religious beliefs of citizens.

3. Every citizen may profess any religion or none at all. All restrictions on citizens' rights, their worship in any religion, or non-adherence to any faith shall be abolished.

"Note. Every reference to the religion or irreligion of citizens shall be expunged from all official documents."

4. Any religious rites or ceremonies shall not attend state functions and all other official, public and social functions.

5. The freedom to perform religious rites is envisaged to the extent that they do not disturb public order and are not attended by encroachments upon the rights of citizens of the Soviet Republic.

Local authorities have the right to take all necessary measures in these cases to ensure the maintenance of public order and security.

6. No one may use his religious beliefs as an excuse for shirking his civic duties.

In every case, exceptions to this rule shall be allowed, on the condition that one civic duty is substituted for another, only by the decision of the People's Court.

7. Religious vows or oaths are abolished. Only solemn promises shall be made in the

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<sup>388</sup>Bennigsen, A., 1983. Muslims in the USSR. YMC A-PRESS PARIS, pp.34-55

<sup>389</sup>Walters, P., 1984. The Rights of Religious Believers in the Soviet Union. Transformation: An International Journal of Holistic Mission Studies, pp.2-6

<sup>390</sup> Ibid, pp.2-6

necessary cases.

8. All civic registration functions shall be performed exclusively by the civil authorities, i.e., by the marriage and birth registration offices.

9. The school is separated from the church. The teaching of religion in state and public schools and private schools where general subjects are taught is forbidden. Citizens may study or teach religious subjects privately.

10. Church and religious societies are subject to the same laws and regulations as secret societies and unions. They do not enjoy any special privileges or subsidies from the state or local institutions.

11. The levying of obligatory collections or imposition for the benefit of a church or religious society is forbidden. These organizations are also forbidden to coerce or punish their members.

12. Church and religious societies have no right to own property. They do not have the rights of a legal person.

13. All property in Russia now owned by churches and religious organizations is henceforth the people's property. Buildings and objects needed for religious services revert to the unrestricted use of religious organizations by special arrangement with the central or local [Soviet] authorities."<sup>391</sup>

The above-mentioned articles of the document correspond to the party's ideology to separate religion from the state. It is often assumed that Soviet atheism failed to achieve its stated goal of eliminating religion, but it succeeded in secularizing the state.<sup>392</sup>

## 8.5.3 RELIGIOUS FREEDOM AFTER THE FALL OF COMMUNISM

The fall of 70 years of communism has been a turning point for the former Soviet states, including the Republic of Kazakhstan and Uzbekistan, in their histories. It was accompanied by many new political, socio-economic, and cultural transformations. There were amendments in the spiritual sphere too. To be more specific, the change in the state's approach towards religion occurred, namely from many years of atheism to religious freedom.

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391 Marxists.org. 2021. Decree on Separation of Church and State. [online] Available at: <<https://www.marxists.org/history/ussr/events/revolution/documents/1918/02/5.htm>> [Accessed 15 November 2021]

392 Cornell, S., Starr, S. and Tucker, J., 2018. Religion and the secular state in Kazakhstan. pp.35-42

## 8.6 COMPARISON BETWEEN KAZAKHSTAN AND UZBEKISTAN

This subsection of the dissertation aims to demonstrate a summary in the form of a comparison between the two researched states: the Republic of Kazakhstan and the Republic of Uzbekistan. The comparison would include similarities and differences between Kazakhstan and Uzbekistan in many aspects, such as religion, the kind of state in terms of religion, laws, regulations governing religion, legal restrictions, and security initiatives in one and the other states.

The Republic of Kazakhstan and the Republic of Uzbekistan are two Central Asian states with many similarities. Thus, the first similitude between the countries would be religion.

Figure 8-1: Religion

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Religion</b>	Islam is practiced by the majority of the population in the Republic of Kazakhstan.	Islam is practiced by the majority of the population in the Republic of Uzbekistan.
	The Republic of Kazakhstan is a crossroads of civilization since there are many other religions.	Apart from Islam, other religions coexist peacefully such as Christianity, Buddhism, and Judaism.

Source: Author's own compilation

Religion in both states has a prominent place nowadays. The right to religion is officially enshrined in both states since they have reaffirmed their commitment to human rights by entering into various organizations. For example, a few international organizations where the Republic of Kazakhstan and the Republic of Uzbekistan are the member states are presented below.

Figure 8-2: International organizations uniting both states together

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>International organizations uniting the Republic of Kazakhstan and the Republic of Uzbekistan together for comprehensive cooperation on many issues, including human rights</b>	<p>Organization of Islamic Cooperation.<sup>393</sup></p> <p>The organization aims to protect the interests and, consequently, rights of Muslims</p>	<p>Organization of Islamic Cooperation.<sup>394</sup></p> <p>The organization aims to protect the interests and, consequently, rights of Muslims</p>
	<p>Organization of Turkic States.<sup>395</sup></p> <p>It is the organization where the two republics that adhere to the purposes and principles enshrined in the Charter of the United Nations. In particular, they adhere to democratic values, the rule of law, the principles of good governance, and certainly human rights.</p>	<p>Organization of Turkic States.<sup>396</sup></p> <p>It is the organization where the two republics that adhere to the purposes and principles enshrined in the Charter of the United Nations. In particular, they adhere to democratic values, the rule of law, the principles of good governance, and certainly human rights.</p>

Source: Author's own compilation

Religion has gone from a false worldview, considered in the atheist USSR, to a significant ideological and spiritual factor in development.

<sup>393</sup> Organization of Islamic Cooperation. Available at: <https://www.oic-oci.org/>

<sup>394</sup> Ibid

<sup>395</sup> Organization of Turkic States. Available at: <https://www.turkicstates.org/en/turk-konseyi-hakkinda>

<sup>396</sup> Ibid



Figure 8-3: Role of religion in both states before and after 1991

<b>Role of religion</b>	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Before 1991</b>	Minor	Minor
<b>After 1991</b>	Significant	Significant

Source: Author's own compilation

Although religion is given paramount importance these days, the Republic of Kazakhstan and the Republic of Uzbekistan are secular and, consequently, have selected secular state governance.

Figure 8-4: State Governance

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>State governance</b>	Secular.	Secular.

Source: Author's own compilation

Various laws and regulations maintain secular governance in the Republic of Kazakhstan and the Republic of Uzbekistan.

Figure 8-5: Principal laws and regulations governing religion

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Principal laws and regulations governing</b>	The Constitution of the Republic of Kazakhstan. <sup>397</sup>	The Constitution of the Republic of Uzbekistan. <sup>398</sup>

397 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: <[https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)>

398 The Constitution of the Republic of Uzbekistan. Available at: <https://constitution.uz/en>

<b>religion</b>		
	The Law of the Republic of Kazakhstan “On Religious Activities and Religious Associations” of October 2011. <sup>399</sup>	The Law of the Republic of Uzbekistan “On Liberty of Conscience and Religious Organizations” of June 2021. <sup>400</sup>

Source: Author’s own compilation

Thus, the regulations in both Central Asian states proclaim that religion is separated from the state. For instance, in political regard, no religious parties are functioning in the countries.

Figure 8-6: Religious parties

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Religious parties</b>	Religious party in the Republic of Kazakhstan is officially banned in accordance with Article 5 of the Constitution. <sup>401</sup> In particular, the Article states that activities of political parties and trade unions of	There are no religious parties in the Republic of Uzbekistan. Religious parties in Uzbekistan are forbidden within Article 7 of the Law “On Liberty of Conscience and Religious Organizations”. <sup>402</sup> In

399 Law of the Republic of Kazakhstan “On Religious Activities and Religious Associations” of October 2011. Available at: <https://adilet.zan.kz/eng/docs/Z1100000483>

400 Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious organizations. Available at: <https://cis-legislation.com/document.fwx?rgn=133315>

401 Akorda.kz. 2021. The Constitution — Official website of the President of the Republic of Kazakhstan. [online] Available at: [https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution)

402 Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious organizations. Available at: <https://cis-legislation.com/document.fwx?rgn=133315>

	other states, religious parties, as well as the financing of political parties and trade unions of foreign legal entities and citizens, foreign states and international organizations shall not be permitted in the republic.	reference to the article, it is not allowed to create and operate in the Republic of Uzbekistan a political party and other public associations on a religious basis, representative offices and branches of religious parties created outside of the Republic, participation of religious organizations in the activities of political parties and other public associations pursuing political goals, as well as providing them with financial or other help.
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Source: Author's own compilation

Religion is detached from other aspects, such as economic, social, and cultural. Thus, systems of education in both states, except for spiritual (religious) organizations of education, are separated from religion and, consequently, religious associations. Therefore, religious dress is not allowed in secular educational organizations.

Figure 8-7: Legal regulations on religious dress in both states

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Legal regulations on religious dress in public</b>	The Republic of Kazakhstan, being a secular state, has not adopted a nationwide ban on religious dress. However, some discussions	Since the Republic of Uzbekistan has proclaimed itself as a secular state, the legal regulations towards religious dress were applied

	<p>take place in the Republic, where the members of the lower chamber of the Parliament (Majilis) have approved draft amendments to some of Kazakhstan's legislative acts on religious activities and religious associations on the second reading.</p>	<p>and pinned.</p> <p>Thus, in accordance with the Law of the Republic of Uzbekistan “About Liberty of Conscience and Religious Organizations” of May 1998, it was declared that citizens of Uzbekistan, apart from those working in religious organizations, are not permitted to wear a ritual dress in public.</p> <p>The mentioned law has been reconsidered and updated a few times.</p> <p>The currently functioning Law “On Liberty of Conscience and Religious Organizations” was adopted and approved in 2021.<sup>403</sup> The Law excludes the prohibition of wearing religious attire in public places.</p>
<p><b>Legal regulations on religious dress in educational organizations</b></p>	<p>Religious dress in secular educational organizations, particularly in schools, is banned due to the Ministerial Decree “On approval of the Requirements for compulsory school for secondary education organizations”. Order No. 26 of the Minister</p>	<p>Religious dress in secular educational organizations in the Republic of Uzbekistan is prohibited within various legal documents.</p> <p>Thus, Article 48 of the Law on Education stipulates that pupils are obliged to follow the internal rules, and</p>

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403 Ibid

	of Education and Science of the Republic of Kazakhstan dated January 14, 2016 <sup>404</sup> . Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085.	according to Paragraph 8 of the Internal Rules and Regulations of General Education Schools, students must come in the uniform prescribed by the school's regulations.
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Source: Author's own compilation

There are a few justifications behind such policies on prohibiting religious dress.

The most common motivation for the disallowing religious dress for both Kazakhstan and Uzbekistan is the importance of saving secular values. It has been underlined multiple times in the thesis.

Figure 8-8: Common justifications for limitation of religious dress

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Common justifications for limitation of religious dress</b>	Saving secular values.	Saving secular values.

Source: Author's own compilation

It is visible from the table that is that the Republic of Uzbekistan is slightly becoming liberal towards the limitation of religious attire. The recent amendment in the Law “On Liberty of Conscience and Religious Organizations”<sup>405</sup> about the exclusion of the prohibition

<sup>404</sup> On approval of the Requirements for compulsory school uniform for secondary education organizations”

Order No. 26 of the Minister of Education and Science of the Republic of Kazakhstan dated January 14, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 16, 2016 № 13085. Available at: <https://adilet.zan.kz/rus/docs/V1600013085>

<sup>405</sup> Law of the Republic of Uzbekistan on the Liberty of Conscience and Religious organizations. Available at: <https://cis-legislation.com/document.fwx?rgn=133315>

of religious garments in public places is evidence.

Islam is a religion that has several main branches or denominations. Thus, one of the main branches is Sunni Islam, and its schools are widespread in Kazakhstan and Uzbekistan. The majority of the population in the Republic of Kazakhstan and the Republic of Uzbekistan identifies themselves as Sunni Muslims.

Although the two republics are Muslim, the crucial point to consider is that the custom of wearing religious dress is uncommon.

Figure 8-9: Common justifications for limitation of religious dress

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Common justifications for limitation of religious dress</b>	Islamic dress has not been and is not a part of cultural distinctiveness.	Islamic clothes are not part of the cultural identity.

Source: Author's own compilation

One of the profound justifications for the limitation of religious dress in secular organizations of education would be a concern related to the increase of violent movements in religion. Both states have faced several challenges, such as terrorist activities in different years. Therefore, the governments of the Republic of Kazakhstan and the Republic of Uzbekistan have been acting in the context of the objectives and interests of national security.

Since national security is at the forefront of the two states, the governments of the Republic of Kazakhstan and the Republic of Uzbekistan have approved and adopted some documents on national security.

Figure 8-10: Key documents on national security

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>Key documents on national security</b>	National Security Strategy of the Republic of Kazakhstan for 2021-2025. <sup>406</sup>	The Strategy of New Uzbekistan for the period 2022-2026. <sup>407</sup>

Source: Author's own compilation

Besides national strategies, various documents are dedicated to securing national interests.

Various threats that challenge the states currently are always aimed to be prevented by the measures of different international organizations. For example, one of the crucial bodies is listed below.

Figure 8-11: International organizations on security issues where both states are the members

	<b>The Republic of Kazakhstan</b>	<b>The Republic of Uzbekistan</b>
<b>International organizations where the two states are members which deal with security issues</b>	Shanghai Cooperation Organization. <sup>408</sup> The organization's purpose is to coordinate and cooperate with the parties' competent authorities in combating terrorism, extremism, and separatism.	Shanghai Cooperation Organization. <sup>409</sup> The purpose of the organization is to coordinate and cooperate with the competent authorities of the parties in combating terrorism, extremism, and separatism.

<sup>406</sup> National Security Strategy of the Republic of Kazakhstan for 2021-2025. Available at:

<https://www.akorda.kz/ru/glava-gosudarstva-podpisal-ukaz-ob-utverzhdenii-strategii-nacionalnoy-bezopasnosti-respubliki-kazakhstan-na-2021-2025-gody-215354>

<sup>407</sup> The Strategy of New Uzbekistan for the period 2022-2026. Available at: <https://uzembassy.kz/upload/userfiles/files/Development%20Strategy%20of%20Uzbekistan.pdf>

<sup>408</sup> Shanghai Cooperation Organization. Available at: <https://eng.sectsc.org/>

<sup>409</sup> Ibid

Source: Author's own compilation

Therefore, the religious dress limitation by the governments of the Republic of Kazakhstan and the Republic of Uzbekistan is justified by the following points:

- To defend secular and democratic values;
- To preserve cultural identity and prevent unknown;
- To protect the security of own people.

Hereby, all methods of getting information mentioned earlier have advantaged to analyze and compare all the opinions of those who are interested and concerned about the issue.

Since religious garments are the main object of this research, the research was designed as a case study, where religious dress is the main focus.



## **8.7 SUMMARY**

Chapter eight titled "Challenges" was dedicated to taking an example of religious attire as one of the most frequent grounds of the conflict between the right to freedom of religion and the right to education. Thus, it was claimed that mainly Islamic attire evokes controversy in secular states. The reasons that push the argument were also underlined in the chapter of the dissertation.

The study highlighted the presence of the issue in various states, including the Republic of Kazakhstan and Uzbekistan. Consequently, the state legislation on religious attire of both parties was examined.

In addition, a summary in the form of a comparison between the Republic of Kazakhstan and Uzbekistan was made.

## **CHAPTER NINE**

### **MAIN CONCLUSIONS AND SUGGESTIONS, RESEARCH RESULTS**

- 9.1 Introduction and overview
- 9.2 Main conclusions and research results
- 9.3 Contribution and significance of the research
- 9.4 Recommendations and suggestions
- 9.5 Implications for future research
- 9.6 Limitations of the study
- 9.7 New Scientific findings

## **CHAPTER NINE**

### **MAIN CONCLUSIONS AND SUGGESTIONS, RESEARCH RESULTS**

#### **9.1 INTRODUCTION AND OVERVIEW**

Chapter nine contemplates presenting the main conclusions and results of the dissertation. Besides, it focuses on providing suggestions and solutions to the issue.

This part of the thesis focuses on the contribution and the significance of the research, the future research implications, and the study's limitations.

#### **9.2 MAIN CONCLUSIONS AND RESEARCH RESULTS**

The topic that has been researched and analyzed plays an essential role nowadays. Firstly, it was identified that the education sector was and will always be under a state's attention. Secondly, more and more secular states worldwide have encountered the given issue. Certainly, it is evident that Islamic religious dress evokes some tension and feelings. Moreover, it has become a symbol of the fight for human rights, whether the right to freedom of religion or women's rights.

What is seen worldwide is that while in some countries women hope to remove the religious dress, they struggle for the right to wear it in others. Nevertheless, both sides struggle for freedom of expression.

The current research is dedicated to analyzing the efforts of those advocating for the right to wear religious attire in public places and state institutions in secular countries, which has resulted in conflict.

The dispute has reflected a point of contradiction between religious and secular. In particular, a question was raised about which model best fits democratic states that respect human rights and freedoms.

The research intended to explore whether any limitation and restriction evoke the violation of human rights namely the right to freedom of religion or the right to education.

Owing to the set goals, a broad analysis has been carried out. It is essential to underline that the research was done within the settled time frame. Thus, the research covers the development of human rights, namely the right to education during three time periods: the Russian Empire, the Soviet time, and the contemporary times.

The results of the research are revealed in the following points:

- It can be argued that human rights, including the right to education and the right to freedom of religion among Kazakhs, existed long before the rule of the Russian Empire. The evidence of the statement would be various legal codes such as «Kasym Khannyn Kaska Zholy» («Shining Path of Kasym Khan»), «Yesim Khannyn Yeski Zholy» («Ancient Path of Yesim Khan»), and «Zheti Zhargy» («Seven Codes») of Tauke Khan that included the rights and obligations and were formed between the 15<sup>th</sup>-18<sup>th</sup> centuries;
- It is also applicable to the Republic of Uzbekistan. It was noted that the Republic of Uzbekistan was an important center of scientific thought;
- The rule of the Russian Empire was interested in the development of education and the right to it among the conquered nations, primarily to integrate them into the imperial environment;
- The Soviet rule also aimed at developing education and the right to it due to its agenda. The right to education during the Soviet time was widely provided to all regardless of any points;
- The right to education in modern times is widely preserved as well. This right represents significance to the countries since the Republic of Kazakhstan and the Republic of Uzbekistan follow a path of democratic values, the rule of law, and human rights;

- The education systems of the two republics were well established and developed after the dissolution of the USSR;
- The responsible bodies for education function accordingly and ensure the constitutional right to education;
- The decentralized approach to governing the education system has been chosen;
- Many reforms have been implemented or are being implemented at all levels of education.

In addition, other conclusions are disclosed in the following:

- Although there are contradictive opinions on the protection of the right to freedom of religion during the epoch of the Russian Empire, it can be stated that religion was a powerful tool of rule;
- Regarding Kazakhs and their right to religious freedom, it is essential to highlight that the rule of the Russian Empire brought a broader confession of religion (Islam) among the ethnic Kazakhs and provided its right to it until the mid-nineteenth century;
- The Soviets guaranteed the right to freedom of religion based on national law. However, in practice, the right to religious freedom was violated during the regime due to the Communist ideology;
- The Soviet rule failed to eliminate religion completely. However, it succeeded in secularizing the state;
- The Soviet past has had a significant influence on the independent Central Asian states that resulted in the secular way of governing;
- The collapse of the Soviet Union left a vacuum of knowledge about religion;

What is apparent is that both rights were mainly granted, although some limitations were present at a particular time. Currently, Kazakhstan's two rights (the right to education and the right to religious freedom) are guaranteed to all.

People can practice the right to thought, conscience, and religion. Also, they are free to exercise the right to education following the law. It also refers to the Republic of Uzbekistan after the revision of the national legislation.

The study of the national laws also determined the type of education in the Republic of Kazakhstan and the Republic of Uzbekistan. Thus, it is known that the education system of both states is secular.

Since secularism is a priority for the two states, it can be said that the official authorities do not let any penetration of religion into secular education. The official educational authority of the Ministry of Education and Science of the Republic of Kazakhstan is entirely against any religious elements in education.

The Republic of Uzbekistan has the exact position which does not allow the manifestation of religious garments in school. However, some ease regarding religious clothing is being traced in the Republic of Uzbekistan.

In particular, there is an ease that is already recognizable in the Uzbek policy on banning religious dress in public.

Regarding the Republic of Kazakhstan, it is difficult to predict whether the educational authority would accept any exceptions or ease some laws. However, the Kazakh educational authority is willing to resolve the issue of Islamic religious dress in school since the problem is constant.

### **9.3 CONTRIBUTION AND SIGNIFICANCE OF THE RESEARCH**

The research conducted on the ban on Islamic religious dress represents tremendous significance. Thus, the education systems of the two republics have been considered in detail. Since the collapse of the Soviet Union, many changes have happened in the education systems of the two republics that were not researched.

Also, since many states worldwide have adopted the ban on Islamic religious attire, it poses debates about the country's appropriate role in religion and traditional practices. In particular, various questions such as how, when, and where the government can legitimately ban the manifestation of religious garments.

Moreover, many arguments about the interplay between the various sets of human rights arise. Thus, it is argued that a collision between some human rights, such as the right to freedom of religion, and women's rights. In addition, it is claimed that the conflict between other sets of fundamental rights (right to education and religious freedom) has been analyzed in this dissertation.

The conducted analysis has shown the secular republics of Kazakhstan and Uzbekistan, which have historically been Muslim, with a colossal percentage of Muslims have encountered the challenge thoroughly recently.

The present piece of work has contributed to investigating that the restriction of religious dress in secular educational organizations does not evoke the collision between the sets of human rights, such as the right to education and freedom of religion in the Republic of Kazakhstan. In other words, the government's actions in matters of religion are justified in the country, consequently allowing the government to ban specific clothing (in this regard, religious).

The investigation of the ban on religious dress in schools in the Republic of Kazakhstan has revealed that it is not an unfounded concern; instead, a vital necessity to restrict religious attributes in school.

A comprehensive analysis has played a part in reviewing the legal evolution of the right to education and freedom of religion. Thus, it was identified how both rights were and are guaranteed during the three researched periods. Besides, the legislation on the provision and preservation of human rights and their compliance with international standards has been carried out.

Lastly, the examination of the practice of one of the Central Asian states, namely the Republic of Uzbekistan, has given some insights into the right to wear religious attire.



## **9.4 RECOMMENDATIONS AND SUGGESTIONS**

Some recommendations and suggestions are proposed after the consideration of the researched issue. The government of the Republic of Kazakhstan has to formulate measures to resolve the problem.

Since the problem of the manifestation of religious dress in secular educational institutions occurs among female pupils, the government has to ensure comprehensiveness between different groups and views. Thus, the first measure should be an open dialogue between the female students and authorities in school and university. The educational authority has to acknowledge the views of the students and their parents. In addition, they have to explain the mechanism of the secular form of education for those students and their parents.

The educational authority represented by the Ministry of Education and Science of the Republic of Kazakhstan has to consider the issue with other state bodies to find alternative solutions apart from excluding students from educational institutions.

In particular, state bodies must pay attention to why the students resist following the secular norms of the school. Since it was claimed in the dissertation that the disintegration of the Soviet Union resulted in a shortage of knowledge about religion, the state body has to provide knowledge about religion. It is known that young people are mainly uneducated in terms of religion. What is more, they are susceptible to changes and accept unfamiliar norms and rules in religion. Therefore, students have to learn and distinguish between current traditional and new destructive movements in religion. Thus, the government has to focus on and improve the general course Secularism and Foundations of Religious Studies.

The government of the Republic of Kazakhstan has to develop its accurate legal

understanding of the secular state and consider the possibility of some amendments to national legislation.

It is essential to introduce restrictions on wearing religious clothes in public places and educational organizations into some laws, such as the Law on Religious Activities and Religious Associations of the Republic of Kazakhstan, to prevent any debates about the collision between the right to education and religion concerning religious dress.

Moreover, the Ministerial Decree prohibiting religious clothes in school should also be amended by clarifying the types of clothes that are not allowed to manifest in school since the legal document only consists of a general provision. In particular, it only states that the inclusion of elements of religious affiliation in the school uniform is not permitted.

## **9.5 IMPLICATIONS FOR FUTURE RESEARCH**

The study on the restriction of religious dress can be a focus for future research. The debate about religious dress has become a crucial element of the policy of some secular states worldwide. As an example, it is evident in some Central Asian countries since there is a growing popularization of religion.

Therefore, it is believed that future studies should examine and find answers to what is behind such popularization of religion that just 30 years ago was prohibited. Most importantly, future studies should focus on the approaches to forthcoming policies aimed at resolving this issue.

The findings that have been underlined in the dissertation can be used in future research.

Importantly, it can be applied to other Central Asian countries such as the Republic of Uzbekistan, Kyrgyzstan, Turkmenistan, and Tajikistan since they had similar histories in the past and face the same challenges in present times.

I believe that my dissertation will be valuable to future researchers interested in studying these regions and the topic.

## **9.6 LIMITATIONS OF THE STUDY**

There are a few limitations in this study. Thus, one of the limitations is the number of cases. In the framework of this research, we may demonstrate one situation that reached the court in the Republic of Kazakhstan. Undoubtedly, future research should consider more cases to monitor the claims of citizens regarding the collision between the right to education and religion.

In addition to the above-mentioned, one more research method could have been applied. Apart from the historical, qualitative, and comparative approaches, quantitative research would be beneficial to this study.

## 9.7 NEW SCIENTIFIC FINDINGS

- Identified worthy points in the realm of the education systems in the Republic of Kazakhstan and the Republic of Uzbekistan; The results of the research could be framed into policy recommendations which would be used in a way of changing the status quo by means of enhancing the quality of the systems of education in both countries;
- Recognized and researched a crucial issue pertaining to education and religion. The problem of religious elements in secular states is quite novel and sensitive to the post-Soviet Central Asian countries. Due to the delicate nature of the topic, there is a lack of research in the framework of the national context;
- More research is required to develop the question of secularism within the national context; It would result in a new model that is based and structured upon the common form and could be employed and implemented in the Republic of Kazakhstan and the Republic of Uzbekistan.

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## SCIENTIFIC EXPERIENCE

### Trainings

Year	Title	Venue
2018	State & Governance in a Historical Comparative Context	National University of Public Service (Hungary), RuhrUniversität Bochum (Germany)
2018	IFAT Research Internship Program	Külügyi és Külgazdasági Intézet Institute for Foreign Affairs and Trade (IFAT) (Hungary)
2019	The concepts of ‘Nation-State and ‘Empire’ in Russian politics: past and present	Moscow State University named after M.V.Lomonosov (Russia), Research Institute “Dialogue of Civilization” (Germany)
2021	The research and educational program of the Alexander Gorchakov Public Diplomacy Fund “The Dialogue in the Name of the Future”	The Alexander Gorchakov Public Diplomacy Fund (Russia)

### Presentations/Conferences

Year	Title	Role	Venue
2018	International comparison of central administration in the education system	Presenter	Budapest, Hungary
2018	University governance reforms in Kazakhstan	Presenter	Budapest, Hungary
2018	Education for minorities in Kazakhstan: statistics and tendencies	Presenter	Budapest, Hungary
2020	Restriction on Religious Muslim clothes	Presenter	Kosice, Slovakia

2020	Collision of human rights	Presenter	Bratislava, Slovakia
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## Publications

Year	Name of Journal	Title of Publication
2018	The Future of Administrative Sciences - Budapest, Hungary	Knowledge Management in Education
2020	Public Administration and Society journal Univerzity Pavla Jozefa Šafárika v Košiciach – Bratislava, Slovakia	Restriction on Religious Muslim Clothes in Kazakhstan
2021	Kosice Security Revue - Bratislava, Slovakia	Public administration of education during the Covid-19 pandemic. The Case of the Republic of Kazakhstan
2021	Public Goods & Governance- Budapest, Hungary	Student migration as a threat of brain drain in Kazakhstan
2022	Academic and Applied Research in Military and Public Management Science- Budapest, Hungary	Public administration reform. The case of the Republic of Kazakhstan
2023	Public Goods & Governance- Budapest, Hungary	The right to education in the Republic of Kazakhstan

## Awards

Certificate	Year	Venue
Certificate from the Mayor of Aktobe region A.Muhambetov in the framework of the conference «The young scientist-2013»	2013	Aktobe, Kazakhstan
Gratitude letter from the Head of Department of Agency for Civil service affairs of Aktobe city E.Hairullin	2013	Aktobe, Kazakhstan
Certificate from the Director of National Center for professional development «Orleu» for participation in a scientific forum «Knowledge and Science»	2013	Aktobe, Kazakhstan
Gratitude for participating in work of IX international scientific conference «Lomonosov 2013» amongst students, master students, and	2013	Astana, Kazakhstan

young scientists at the Kazakhstan branch of MSU named after M.V.Lomonosov		
Certificate of participation in the LXV International Research and Practice Conference «The state, corporation and individual: correlation of rights, economic interests and ways of their realizations »	2013	Almaty, Kazakhstan
Certificate of a master class "Leadership"	2013	Almaty, Kazakhstan
Diploma for the best research work in a competition of scientific works with international involvement «Science forward!»	2013	Naberezhnye Chelny, Russia
Certificate of participation in the conference «The law of the future- the future of the law»	2020	Bratislava, Slovakia

## Languages

Language	Level of proficiency
Kazakh	Mother tongue
Russian	Advanced
English	Advanced
Spanish	Intermediate