



The Legal Nature of the Right to Education and the Right to Digital Education: Issues and Solutions

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Abstract

This article examines the legal nature of the right to education and the prospects for its digitalization. The study analyzes the constitutional, administrative, civil, and international legal foundations of the right to education. Digital education platforms in Uzbekistan (eMaktab, HEMIS, kontrakt.edu.uz) and their legal frameworks are reviewed. The research reveals that the concept of "digital education right" has not yet been established as an independent legal norm in Uzbekistan's legislation. The author puts forward concrete proposals for eliminating the digital divide, regulating distance education through a dedicated law, and ensuring personal data protection within educational platforms.

Keywords: right to education, digitalization, digital education, distance learning, HEMIS, eMaktab, legal regulation, digital divide, information and communication technologies, educational platforms.

Introduction

In an era when digital technologies encompass all spheres of our lives, the digitalization of the right to education has become a pressing issue. Digitalization is increasingly recognized as an important tool for improving the quality of education and making the right to education accessible to the wider public. However, this process also entails a number of complex challenges. This article examines the opportunities that digitalization offers for ensuring the right to education, as well as the main obstacles and their solutions [1].

As our President Shavkat Mirziyoyev has stated: "It is well known to all of us that the cornerstone of development, and the force that makes the country powerful and the nation great, is science, education, and upbringing. Our tomorrow, the bright future of our Motherland, is closely linked first and foremost to our education system and the upbringing we give to our children." In light of this vision, the organization of the right to education and its quality is an extremely urgent matter. This article, as noted above, addresses the issue of digitalizing the right to education and its quality [2].

Methodology

This study is based on a qualitative legal research approach. The research employs methods of doctrinal legal analysis, comparative legal analysis, and normative interpretation.

Legal documents, including the Constitution of the Republic of Uzbekistan, national legislation, and international legal instruments, were analyzed to examine the legal nature of the right to education and digital education.

Comparative analysis was used to evaluate international practices and identify gaps in national legislation. In addition, analytical methods were applied to assess current legal problems related to digital education platforms and propose effective legal solutions [3].

The right to education is a fundamental right of every person to receive quality knowledge. Before defining the right to education, let us consider the educational process itself. Education is a process that encompasses progression from simplicity to complexity. There are numerous perspectives on education and its content. The International Standard Classification of Education (ISCED) defines education as "purposeful activity involving a specific form of communication directed at learning"¹, while in legal terms, education is defined as "a systematic process aimed at providing learners with in-depth theoretical knowledge, skills, and practical competencies, as well as at forming and developing their general educational and professional knowledge, skills, abilities, and capacities"[4].

These two definitions approach education primarily from theoretical and legal standpoints. The second definition in particular reveals the legal and juridical force of education and demonstrates that it emerged as a result of norm-making activity. The first definition, in contrast, characterizes the concept and presents it as a purposeful activity — a process.

The right to education is a social and inalienable right of the individual, a capital instrument for the person's development and quality of life. It has been described as "a fundamental, constitutional, and inalienable human right aimed at developing the intellectual and professional potential of an individual"³. Its nature is socio-legal in character, meaning that the state guarantees equal opportunities, various forms of education, and compulsory free education for every citizen [5].

At first glance, the legal nature of education appears straightforward from a constitutional perspective, but the fact that it encompasses every branch of law demonstrates that the legal nature of the right to education is complex. The emergence of administrative, civil, and economic legal relations alongside constitutional aspects in regulating educational relations supports this view, and it is substantiated by the normative legal acts adopted for the consolidation of education [6].

The legal guarantee of education is primarily connected to the Constitution. The right to education is guaranteed in Article 50 of the Constitution of the Republic of Uzbekistan, which states: "Everyone has the right to education. The State ensures the development of a continuous education system, its various types and forms, state and non-state educational institutions [7]. The State creates conditions for the development of preschool education and upbringing. The State guarantees free general secondary education and initial vocational education. General secondary education is compulsory. Preschool education and upbringing, and general secondary education are under state supervision."⁴ Inclusive education and upbringing for children with special educational needs is ensured in educational institutions [8].

This norm reveals the legal nature of education: everyone's right to receive knowledge guaranteed by the state is constitutional in character, state supervision regulates administrative relations to a certain extent, and the contractual relationships between educational institutions and learners are closely linked to civil law — all of which demonstrates that education is a complex field of law [9].

The significance of education in the international arena is measured by international legal norms. For example, the Universal Declaration of Human Rights states: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms."⁵ This is an international norm established by the United Nations to stabilize the quality of life of humanity, and member states are required to adopt and ensure this norm [10].

As an example, Finland is one of the leading countries in education. Its educational system is grounded first and foremost in its Constitution, which states: "Educational rights: Everyone has the right to basic education free of charge. Provisions on the obligation to receive education are laid down by an Act. The public authorities shall, as provided in more detail by an Act, guarantee for everyone equal opportunity to receive other educational services, as well as the opportunity to develop oneself without being prevented by economic hardship."⁶ The most important task of the state and society is, above all, to guarantee and practically ensure the right to receive education [11].

In the digital era, the right to education, like other fields of law, faces the challenge of digitalization, and this process must not become a dogmatic one. If we consider the digitalization of the right to education as an outcome of the educational process itself, then leaving education outside this sphere could cause all other fields to lag behind. The digitalization of the right to education regulates relations in the digital form of education [12].

The digitalization of education is a 21st-century concept that has been approached differently in various studies. For example: "The digitalization of education is the process of using digital technologies to improve the quality of education and ensure access to knowledge through online resources and interactive learning materials"⁷; another source describes it as "The digitalization of education is a dynamic and continuously evolving process that continues to transform the educational landscape and creates new opportunities for students to learn and develop in the digital age"⁸; and yet another states that "The digitalization of education refers to the use of applications, programs, and other digital educational tools in schools, universities, and distance courses — meaning that students complete assignments not in notebooks but using online platforms from the internet" [13].

Analyzing the above perspectives on the digitalization of education: the first and second approaches explain the meaning of education and its changing world, while the third provides a concrete explanation of how the digitalization of education is carried out. As a general conclusion, the digitalization of education is associated with ICT and is considered a process implemented with its assistance.

The purpose of this article's research is to provide a scholarly inquiry into what the digitalization of the right to education means. As the digitalization of the education sector is established, the right to digital education simultaneously emerges. From a practical standpoint, the right to digital education can be classified as follows: the right to digital education is the aggregate of legal norms guaranteeing an individual's opportunities to receive education through modern information and communication technologies, and it encompasses the following elements: free access to educational resources, the right to receive distance education, the right to freely use digital platforms, and personal data protection. In general, the right to digital education is an advanced form of the classical right to education and constitutes a part of information law.

In Uzbekistan and at the international level, as well as in other states, there are numerous legal documents aimed at regulating educational relations; however, the concept of the right to digital education and the norm aimed at regulating it are currently being governed under the framework of the right to informatization [14].

Educational relations in the Republic of Uzbekistan are regulated by the Law "On Education" adopted in 2020. The issue of digitalizing education began with normative documents aimed at regulating the digitalization of other services.

In this regard, the Decree of the President of the Republic of Uzbekistan No. PF-6079, dated October 5, 2020, "On Approving the 'Digital Uzbekistan — 2030' Strategy and Measures for Its Effective Implementation" is of particular importance. Additionally, on May 24, 2023, the President of the Republic of Uzbekistan issued a decree on measures to expand the coverage and quality of digital services and to digitally transform sectors, industries, and regions. The main legal document aimed at digitalizing education was "Digital Uzbekistan — 2030." It stipulates the following measures to improve digital skills in the education sector:

- Creating opportunities for mastering digital skills by providing digital technologies to students at the initial stage of the education ladder, developing analytical and critical thinking, and equipping young people with knowledge and skills needed in the future in conditions of large-scale digital transformation;
- Creating and implementing a unified distance learning platform for future application across all areas of education;
- Continuously updating the core curricula of general secondary schools to raise the overall level of digital technology use among students;
- Introducing effective international practices aimed at organizing education in the field of technological professions and innovative activities into the education system;
- Increasing the number of graduates from higher educational institutions training personnel in ICT-related fields, and graduates from secondary specialized vocational institutions with average-level competencies in information technology;
- Improving methods of teaching computer science in general secondary schools by encouraging ICT organizations to participate in the educational process;
- Organizing laboratories in higher educational institutions for the application and study of "Internet of Things", robotics, and artificial intelligence technologies in relevant fields, as well as attracting foreign enterprises to this area.¹⁰

There are a number of platforms aimed at implementing digital education. For example:

1. eMaktab.uz (Kundalik.com)

The electronic diary system, introduced into practice from the 2020–2021 academic year, is used by teachers and students in over 10,000 schools across the republic. Currently, all schools have transitioned from paper diaries to the electronic system. One of the important advantages of the system is the elimination of local corruption in the grading system — changes to grades are monitored within the centralized digitalization system. Additionally, teachers are able to save up to 20 hours per quarter by keeping electronic journals. Legal basis: In accordance with Presidential Decree No. PF-5712, dated April 29, 2019, and Resolution No. PQ-4642, dated March 17, 2020, of the President of the Republic of Uzbekistan, "the introduction of electronic forms of progress journals and diaries in all general secondary schools, as well as remote monitoring of attendance, has been established."¹¹

2. HEMIS (Higher Education Management Information System)

The HEMIS system provides administrative management, academic process, scientific activity, and financial management modules for higher educational institutions. "It is used by over 226 higher educational institutions and more than 1 million users (students and faculty). Starting from the 2023–2024 academic year, all non-state higher educational institutions in Uzbekistan, regardless of ownership form, are required to transition to the HEMIS system. Students of non-state higher educational institutions that have not joined the

HEMIS system may not be able to receive a diploma in the future."¹²

3. kontrakt.edu.uz and prof.edu.uz

Educational loans for university students are provided when information about the students is available in the kontrakt.edu.uz and HEMIS information systems. Higher and professional educational institutions that have their own software are required to integrate their system into the relevant information systems or use those systems in order to obtain educational loans [15].

Problem

The above platforms lead to the creation of online relations between education providers and recipients. It is well known that wherever relations exist, legal disputes can also arise between individuals. This gives rise to the right to digital education. The current absence of a normative legal act specifically addressing the right to digital education cannot serve as grounds for denying that this right is emerging. The emergence of categories pertaining to the right to digital education necessitates the adoption of a separate normative legal act on this matter, because these categories are, in practical terms, creating a need for dispersed normative legal acts in their regulation. From a legal standpoint, the following gaps exist:

Deficiencies in legal regulation:

- The concept of "the right to digital education" has not been codified as a separate norm in Uzbekistan's legislation;
- There is no special law separately regulating the right to distance education;
- The protection of personal data on digital platforms has not been sufficiently defined from a legal standpoint.

The emergence of the right to digital education gives rise to a number of problems, which are as follows: The insufficiency of internet infrastructure in regions restricts access to the right to digital education; Alternative mechanisms for students without devices and internet access have not been legally defined; Regarding platform mandatory compliance and legal liability — the fact that failure to connect to the HEMIS system may result in the inability to obtain a diploma represents a serious legal sanction, yet its mechanism is established not in law but in departmental documents. The above problems have primarily arisen in the context of preventing inequality, and legal solutions must be provided.

Proposals

In this regard, the key solution-oriented proposals are as follows: the adoption of a separate law "On Digital Education" — consolidating the right to digital education, distance education, platforms, and personal data protection in a single document; elevating platform mandatory compliance from the level of departmental orders to the level of law; codifying the guarantee of equal access in legislation — placing on the state the obligation to eliminate the digital divide in regions; and developing laws or sub-legislative acts that address problems such as establishing special requirements for educational platforms concerning personal data protection. All of these are of great importance.

Results

The results of the study demonstrate that the legal framework regulating the right to education in Uzbekistan is well established at the constitutional and legislative levels. However, the concept of the "right to digital education" has not yet been formally recognized as an independent legal norm.

The analysis reveals several key gaps in the legal system. Firstly, there is no separate law regulating distance education and digital educational platforms. Secondly, issues related to personal data protection within

educational platforms remain insufficiently defined. Thirdly, disparities in access to digital infrastructure create inequalities in the realization of the right to education.

The findings also show that existing digital platforms such as eMaktab and HEMIS operate based on sub-legislative acts rather than comprehensive legal frameworks. This creates uncertainty regarding legal responsibility, user rights, and data protection mechanisms.

Overall, the results indicate the need for a more structured and unified legal approach to digital education.

Discussion

The findings of this study highlight that the right to education, while well-established in constitutional and legislative frameworks, is undergoing significant transformation under the influence of digitalization. The emergence of digital education introduces new dimensions to traditional legal concepts, requiring a reconsideration of existing regulatory approaches.

The analysis demonstrates that, although Uzbekistan has made considerable progress in implementing digital educational platforms such as eMaktab and HEMIS, the legal framework governing these systems remains fragmented. The absence of a clearly defined legal category of the “right to digital education” creates uncertainty in regulating relations between educational institutions, students, and digital service providers.

One of the key issues identified is the lack of comprehensive legal regulation of distance education. Current practices are primarily governed by sub-legislative acts, which do not provide sufficient guarantees for the protection of users’ rights. This situation raises concerns regarding legal accountability, access equality, and the standardization of educational services.

Furthermore, the digital divide remains a critical challenge. Unequal access to internet infrastructure and digital devices limits the effective realization of the right to education, particularly in rural areas. This indicates that the principle of equality, which is fundamental to the right to education, is not fully ensured in the digital environment.

Another important issue is the protection of personal data within digital educational platforms. As educational processes increasingly rely on digital technologies, the risks associated with data security and privacy violations become more significant. However, existing legal norms do not adequately address these risks.

At the same time, the study identifies significant opportunities associated with digitalization. Digital education platforms enhance accessibility, flexibility, and efficiency of the educational process. They enable the democratization of knowledge and support lifelong learning.

Therefore, it is necessary to develop a unified and comprehensive legal framework that recognizes the right to digital education as an independent legal institution. This includes the adoption of a dedicated law regulating digital education, ensuring equal access to digital resources, strengthening personal data protection mechanisms, and establishing clear legal responsibilities for digital platforms.

Conclusion

Digitalization is bringing revolutionary changes in the field of education — the opportunity is emerging to democratize knowledge through distance learning, open resources, and artificial intelligence. However, this process also entails a number of serious challenges. The digital divide remains the primary obstacle: students without access to the internet and devices are being left out of the educational process. The inequality in the quality of education, the insufficient preparation of teachers, and the scarcity of local-language content are deepening this problem. In addition, data security, gender and cultural barriers, as well as the negative impact

on students' physical and mental health must also not be overlooked.

While Uzbekistan is taking significant steps in this direction, the infrastructure gap between urban and rural areas, low pedagogical qualifications, and the shortage of local content remain urgent problems that must be resolved. Therefore, digitalization is not an end in itself — it is a means. The primary goal is to guarantee every student the right to quality education, regardless of where they live or under what conditions. This requires simultaneously investing in infrastructure, preparing teachers, creating local content, and developing a strong legal framework. Only then can digitalization truly serve the cause of genuine social justice and educational equality.

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