

UNIVERSITY OF MISKOLC
Deák Ferenc Doctoral School in Law and Political Sciences

Zhanna Amanbayeva

**INTERNATIONAL LEGAL MECHANISM OF ENSURING THE
IMPLEMENTATION OF THE RIGHT TO HIGHER EDUCATION:
RECENT CHALLENGES AND ACHIEVEMENTS IN THE INTERNATIONAL
INTEGRATION OF EDUCATION**

PhD Dissertation

Thesis Booklet

Supervisor:
Dr. Anita Paulovics,
Professor, Head of the Department of Constitutional Law

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1. Introduction to the Research Context

The right to education is a cornerstone of human development and a prerequisite for the realization of other fundamental rights and freedoms. It is enshrined in almost all major international human rights instruments and enjoys near-universal recognition across states. Yet despite its widespread acceptance in principle, the global reality of education rights reveals severe disparities in access, quality, and legal enforceability. The COVID-19 pandemic, rapid digitalization, economic inequality, and migration have further exacerbated these gaps, disproportionately affecting vulnerable populations and exposing systemic weaknesses in national and international educational systems.

In this context, the present dissertation investigates the international legal mechanisms for ensuring the right to education, with a special focus on higher education and the processes of regional and intergovernmental integration. The study is situated at the intersection of international law, human rights law, and the theory of legal implementation, drawing from doctrinal, institutional, and comparative approaches.

This research is timely and responsive to global legal and policy developments, such as the United Nations 2030 Agenda and Sustainable Development Goal 4 (SDG 4), which calls for inclusive and equitable quality education and lifelong learning opportunities for all. The international community has recognized the importance of coordinated action, yet progress remains uneven due to fragmentation in legal norms, institutional capacities, and enforcement mechanisms.

The motivation for this research arises from the recognition that education is not only a public good but also a binding legal right that requires institutional guarantees and coordinated legal strategies. The dissertation aims to contribute to legal scholarship by offering a comprehensive examination of existing international legal instruments, identifying key implementation challenges, and proposing integrative legal mechanisms to enhance effectiveness. In particular, it emphasizes the transformative potential of educational integration as a structural legal mechanism capable of improving access, equality, and quality of education across borders.

2. Research Objectives, Importance, and Hypothesis

2.1. Problem Statement

The right to education is one of the most recognized human rights globally, enshrined in the majority of international legal instruments and endorsed by nearly all states. Despite this widespread recognition, the effective realization of the right to education remains inconsistent and incomplete. The international legal framework governing this right is highly fragmented, with multiple instruments varying in legal force, geographic scope, institutional support, and interpretative clarity.

While international treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention against Discrimination in Education (CADE), and others provide foundational norms, they do not collectively amount to a coherent, enforceable regime. Their implementation depends heavily on national political will, domestic legislation, and the capacity of international organizations, many of which lack binding oversight mechanisms. Additionally, these treaties often leave conceptual and operational gaps, especially in terms of adult education, lifelong learning, non-formal modalities, and integration across educational systems.

This dissertation identifies this fragmented and under-enforced state of international education law as a fundamental legal problem. Without integrative mechanisms, international legal commitments may remain largely declarative, with limited effect on actual education systems, access, or outcomes.

2.2. Justification and Objectives

The justification for this research lies in addressing the mismatch between the universal recognition of the right to education and its inconsistent realization across jurisdictions. This discrepancy is particularly critical in light of Sustainable Development Goal 4 (SDG 4), which aims to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.”

The dissertation sets out to analyze, systematize, and critically assess the international legal norms and mechanisms that pertain to the right to education. It examines whether the current framework is sufficient and identifies pathways toward a more coherent, enforceable, and inclusive approach.

The main objectives of the research are:

- To identify and systematize the main international legal instruments governing the right to education at universal, regional, and bilateral levels.

- To evaluate the interaction between binding and non-binding sources of law, and the role of international organizations such as United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations (UN) treaty bodies, the Council of Europe, and the African Union.
- To analyze the conceptual development of the right to education, including how it is defined, delimited, and operationalized in international and national legal systems.
- To assess the constitutional implementation of this right across selected jurisdictions, with a focus on the post-Soviet legal space.
- To investigate how regional educational integration initiatives (e.g., Bologna Process, African Union harmonization, Commonwealth of Independent States (CIS) cooperation) serve as legal mechanisms for implementing and advancing this right.
- To develop proposals (*de lege ferenda*¹) for strengthening international legal regulation and institutional design in this area.

2.3. Importance of the Study

This research contributes to a deeper understanding of the international legal dimension of the right to education and addresses a significant gap in legal scholarship. While much attention has been paid to doctrinal aspects and policy-based approaches, few studies have investigated education as a legal right through the lens of integrative implementation mechanisms.

The study's importance lies in its holistic approach: it does not confine itself to doctrinal analysis but also incorporates institutional practice, comparative constitutional law, and cross-regional integration strategies. The dissertation also has immediate practical relevance, offering guidance to policymakers, treaty drafters, education ministries, and human rights bodies on how to better structure legal guarantees and enhance accountability for the fulfillment of the right to education.

Furthermore, the research aligns with emerging global challenges that require dynamic legal adaptation — including digitalization of education, increased migration, demographic shifts, and labor market transformations. By reconceptualizing education as a right that spans a person's entire life, the study brings international legal doctrine in line with the realities and demands of the 21st century.

¹ The term "*de lege ferenda*" refers to legal proposals or recommendations concerning how the law should be in the future, as opposed to "*de lege lata*," which refers to existing law.

2.4. Research Hypothesis

The central hypothesis of this dissertation is that the existence of international legal instruments alone is not sufficient to ensure the effective realization of the right to education. Rather, the actual implementation of this right requires integrative legal mechanisms that promote coordination, harmonization, and enforceability across national systems.

This hypothesis assumes that without a coherent legal architecture — including treaty-based integration frameworks, monitoring bodies, and mutually recognized standards — the right to education will remain unevenly realized and dependent on the discretionary efforts of states and institutions. The dissertation seeks to test and validate this hypothesis by analyzing existing legal norms, institutional practice, and comparative examples of integration-based enforcement.

3. Structure of the Dissertation and Methodology

3.1. Structure of the Dissertation

The dissertation is structured into an Introduction, three comprehensive chapters, and a Conclusion. This structure reflects the movement from the doctrinal analysis of legal norms (Chapter 1), to conceptual and institutional mechanisms of enforcement (Chapter 2), and finally to the proposition of educational integration as an international legal mechanism (Chapter 3). Each chapter contributes incrementally to understanding how the right to education can be effectively ensured through international legal instruments and cooperative frameworks.

Chapter 1 – International Legal Provision of the Right to Education

This chapter presents a detailed analysis of the international legal framework governing the right to education. It is divided into three large sections:

Section 1.1 explores how the right to education is protected in multilateral universal instruments, including foundational treaties such as the Universal Declaration of Human Rights (UDHR), ICESCR, CRC, and specialized instruments protecting women, migrants, children, people with disabilities, and workers. It also discusses soft law instruments and global education initiatives led by UNESCO and the UN.

Section 1.2 examines regional legal regimes, focusing on Europe (including the European Convention on Human Rights and Bologna Process), Africa (especially the African Charter and African Union instruments), and the Eurasian region (particularly the development and decline of CIS and Eurasian Economic Community educational cooperation).

Section 1.3 analyzes bilateral legal regulation in the Eurasian region, highlighting the fragmentation of legal commitments, the limitations of bilateralism, and the proposal to develop a more structured Eurasian education convention.

This chapter emphasizes that while international law recognizes the right to education widely, its provisions are dispersed across various instruments with differing scopes, enforceability, and regional coherence.

Chapter 2 – Right to Education and Ensuring Its Implementation

This chapter shifts from the identification of legal norms to the question of how the right to education is implemented in practice. It includes doctrinal and comparative analyses and consists of three core parts:

Section 2.1 outlines the concept and core elements of the right to education and its place within the broader human rights framework. It explores various constitutional formulations of the right in post-Soviet countries, with a matrix comparing national and international guarantees. This section also addresses the differentiated legal treatment of primary, secondary, and higher

education, and introduces lifelong learning as a necessary component of the modern understanding of this right.

Section 2.2 examines international conventional mechanisms for implementation. It analyzes how treaties and soft law instruments are formulated, interpreted, monitored, and enforced, with special attention to treaty bodies, preliminary law-making, and normative control activities.

Section 2.3 considers international institutional mechanisms, such as the role of ministerial conferences, specialized UN agencies (UNESCO, UNICEF), cooperation programs, and the mandate of the UN Special Rapporteur on the Right to Education.

The chapter demonstrates that while mechanisms exist, they often lack coherence, direct enforceability, or sufficient institutional power to ensure consistent national implementation.

Chapter 3 – Educational Integration in the Mechanism of Ensuring the Exercise of the Right to Education

This chapter presents educational integration as a novel and underexplored legal mechanism for enhancing the implementation of the right to education. It is divided into three major parts:

Section 3.1 introduces the concept of international integration, discussing general legal features and theoretical foundations.

Section 3.2 elaborates on international educational integration, addressing its economic roots, stages of legal development, and institutional dimensions.

Section 3.3 links integration directly to the implementation of the right to education, demonstrating how regional coordination and harmonization can serve as legal instruments to ensure comparability, portability of qualifications, and cross-border educational rights.

By analyzing integration as part of the implementation mechanism, this chapter offers a forward-looking and functional perspective that bridges legal theory and institutional practice.

3.2. Methodology of the Research

The dissertation employs a rigorous legal methodology, combining both general scientific approaches and specialized legal tools. These include:

- Formal-dogmatic method: for interpreting legal texts and extracting doctrinal meaning from treaties, soft law, and national constitutions.
- Comparative legal method: to evaluate how different countries — especially within the post-Soviet, European, and African regions — formulate and protect the right to education.
- Historical-legal method: to trace the evolution of international regulation from early human rights declarations to present global and regional systems.

- Systemic and dialectical methods: to understand the interrelationship between legal norms and the role of institutions in creating enforceable legal effects.
- Legal forecasting and modeling: used in the third chapter to construct *de lege ferenda* proposals aimed at harmonizing and strengthening legal implementation.

Sources analyzed include legally binding treaties, soft law declarations, national constitutions, institutional mandates, general comments by treaty bodies, and secondary legal scholarship.

4. Summary of Research Results and Conclusions

4.1. Fragmentation of International Legal Norms

The research demonstrates that the legal regulation of the right to education is characterized by a high degree of fragmentation at both the normative and institutional levels. At the universal level, treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention against Discrimination in Education (CADE) establish essential baseline obligations. However, these instruments differ in legal nature, target groups, and enforcement mechanisms. While ICESCR outlines general obligations with progressive realization, CADE focuses on anti-discrimination principles in educational access, and CRC emphasizes the specific rights of children. None of them provide a comprehensive legal framework for lifelong learning or cross-border educational mobility.

Further complexity arises from the presence of overlapping soft law instruments issued by entities like the United Nations Educational, Scientific and Cultural Organization (UNESCO), which, while influential in setting global policy agendas, lack binding legal force and are often inconsistently applied by states. In addition, the lack of coherence between various monitoring mechanisms—such as the UN Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, and UNESCO’s supervisory bodies—leads to fragmented oversight and interpretation of obligations.

At the regional level, legal protection is similarly fragmented. The European Convention on Human Rights (ECHR) provides for the right to education under Article 2 of Protocol 1 but frames it in negative terms and offers limited positive obligations. African Union (AU) instruments, such as the African Charter on the Rights and Welfare of the Child, offer more expansive interpretations but suffer from weak implementation. The Eurasian legal space is marked by institutional and normative inconsistencies, especially following the dissolution of the Eurasian Economic Community (EurAsEC).

Bilateral treaties in the Eurasian region are particularly illustrative of this fragmentation. They often lack continuity, contain duplicative or ambiguous provisions, and fail to ensure effective implementation. The Kazakhstani case demonstrates that despite numerous bilateral agreements on educational cooperation, national law and administrative practice often lack mechanisms for recognition, monitoring, or harmonization.

Thus, the dissertation concludes that fragmentation—both horizontal (across instruments at the same level) and vertical (between universal, regional, and bilateral levels)—constitutes a core barrier to the legal enforceability of the right to education.

4.2. The Role of Educational Integration

One of the main scientific contributions of the dissertation is the conceptualization of educational integration as a legal mechanism for implementing the right to education. The study reveals that integration is not merely a political or economic project but has significant legal dimensions capable of fostering enforceability, coherence, and practical realization of educational rights.

The Bologna Process is a prominent example of legally relevant educational integration in Europe. While formally non-binding, the Bologna framework has resulted in the harmonization of degree structures, the mutual recognition of qualifications, and the establishment of quality assurance standards. These outcomes, though coordinated through soft law, have had legally recognizable effects within national legal systems, often influencing domestic legislation and policy.

In the African context, the African Union's Continental Education Strategy for Africa (CESA 16-25) presents a coordinated plan to align education systems, enhance quality assurance, and promote mobility and innovation. Despite limited enforcement capacity, its implementation through regional institutions demonstrates the growing role of integration as a functional substitute for hard law.

The former Commonwealth of Independent States (CIS) and EurAsEC initiatives provide instructive, if incomplete, examples of post-Soviet attempts to create common educational spaces. While lacking continuity, these efforts have led to normative alignment in areas such as mutual diploma recognition and joint educational standards.

Educational integration ensures structural comparability across systems, supports the portability of qualifications, and enables student and academic mobility. Importantly, these outcomes correspond directly with core components of the right to education—such as availability, accessibility, acceptability, and adaptability—as identified in international law.

By analyzing these processes as legal phenomena, the dissertation challenges the traditional separation between soft and hard law and offers a functional understanding of integration as a mechanism of implementation.

4.3. Lifelong Learning and Legal Evolution

The dissertation identifies a critical deficiency in the current international legal treatment of the right to education: the failure to fully recognize and regulate lifelong learning. Most treaties and legal texts prioritize formal primary and secondary education, with limited attention to adult education, vocational training, or informal and non-formal learning modalities. This narrow

interpretation is misaligned with contemporary social realities, where continuous upskilling, retraining, and digital literacy are essential for participation in modern life.

Lifelong learning has been acknowledged in policy documents, notably within UNESCO and the European Union, but remains largely absent from binding legal instruments. The ICESCR and CRC, for instance, emphasize basic education and do not articulate a right to learning beyond early adulthood. This omission disproportionately affects older adults, migrants, and persons with disabilities—groups that face structural barriers to participation in education.

The dissertation examines how some national constitutions, particularly in Europe and Central Asia, have begun to incorporate elements of lifelong learning into their domestic legal systems. However, these provisions are often aspirational rather than enforceable, and lack systematic linkage with international obligations.

Thus, the dissertation argues for an evolution in the legal understanding of the right to education—one that expands its temporal scope and recognizes that education is a lifelong process. This reconceptualization has significant implications for treaty drafting, national constitutional reform, and policy development.

4.4. Legal Proposals and Scientific Contribution

Based on the findings outlined above, the dissertation offers a number of normative proposals (*de lege ferenda*) for strengthening the international legal framework of the right to education:

- **A Universal Treaty on Education:** The creation of a single, comprehensive international treaty devoted entirely to education that consolidates existing obligations, explicitly incorporates lifelong learning, and establishes enforceable obligations for all education levels and modalities.
- **Legal Recognition of Educational Integration:** The formal acknowledgment of integration frameworks—such as the Bologna Process or CESA—as legal mechanisms within international human rights law, potentially through General Comments or treaty protocols.
- **Strengthening Constitutional Guarantees:** Encouraging states to revise constitutional provisions to include adult education, vocational training, and digital learning rights, backed by justiciable standards.
- **Creation of Individual Complaint Mechanisms:** Establishing optional protocols or mechanisms that would allow individuals to bring education-related claims before regional or international bodies, similar to the Optional Protocol to the ICESCR.

The scientific novelty of the dissertation lies in reframing educational integration from a policy objective to a legal mechanism of implementation. It also develops a typology of

international legal instruments related to education, clarifies the functions of different international bodies, and proposes a legal model for assessing coherence, enforceability, and institutional synergy.

5. Limitations and Directions for Further Research

While this dissertation provides a comprehensive legal analysis of the international mechanisms for ensuring the implementation of the right to education, certain limitations inevitably shaped the scope, methodology, and depth of the research. Recognizing these boundaries not only increases transparency but also highlights promising areas for future inquiry and interdisciplinary development.

5.1. Limitations of the Study

First, the dissertation primarily relies on normative legal analysis. It systematically examines treaties, soft law instruments, and institutional mandates, but does not include extensive empirical data on the domestic implementation of education rights. While comparative constitutional approaches and selected national legal systems—particularly from the post-Soviet space—are reviewed, in-depth country-specific case studies were beyond the scope of this study. As a result, the research could not assess in detail how international legal commitments are translated into practical outcomes in different legal and socio-political environments.

Second, although the dissertation covers universal, regional, and bilateral legal instruments, it is focused largely on formal legal frameworks. It does not explore in depth the influence of informal norms, cultural factors, or political economy considerations that often shape the practical realization of the right to education. These external variables—such as administrative capacity, public financing, political will, and stakeholder engagement—are acknowledged but not examined through a socio-legal or interdisciplinary lens.

Third, the dissertation touches only briefly on the role of non-state actors, including private educational providers, philanthropic organizations, and international development agencies. Given the growing role of privatization, public-private partnerships, and global education initiatives led by corporate actors, further analysis of their compatibility with international legal standards would be valuable. Similarly, issues surrounding education financing, donor conditionalities, and international lending institutions remain underexplored in this context.

Fourth, the assessment of educational integration—while well-developed in terms of legal structure and historical evolution—is based primarily on textual and institutional sources. It does not measure the practical impact of integration initiatives on student mobility, recognition of qualifications, or cross-border academic collaboration. These aspects require longitudinal and empirical studies that combine legal analysis with educational metrics.

5.2. Directions for Further Research

Building on the above limitations, future research could expand in several directions:

- Empirical case studies of the domestic implementation and enforcement of education rights, particularly in low- and middle-income countries or in jurisdictions with hybrid legal systems. These studies could help assess how legal commitments translate into budgetary allocations, institutional mandates, and accountability mechanisms.
- Socio-legal and interdisciplinary approaches that integrate legal research with education policy, economics, and development studies. This would allow for a fuller understanding of how legal norms interact with institutional capacity, political systems, and resource distribution.
- Exploration of legal frameworks for digital education, especially in the context of the post-COVID transformation of learning environments. Future research could examine whether the right to education encompasses access to technology, digital literacy, and online infrastructure, and how international law can adapt to these evolving needs.
- Development of regional legal models for mutual recognition and integration, particularly in under-regulated areas such as Central Asia, the Middle East, or sub-Saharan Africa. These models could build on the Bologna Process or the African Union's Continental Strategy, and propose pathways toward legal harmonization.
- Impact of non-state actors and privatization on the normative content and practical realization of the right to education. This includes analysis of international investment law, trade agreements affecting educational services, and global benchmarks such as the OECD's PISA framework.
- Assessment of monitoring and enforcement mechanisms, including the potential for expanded use of individual complaint procedures under human rights treaties, the design of new optional protocols, or the strengthening of reporting and peer-review systems.

These research directions not only deepen the understanding of how international law can enhance the right to education, but also support the development of integrative, interdisciplinary strategies that are better equipped to meet the challenges of the 21st century. As states strive to meet the targets of Sustainable Development Goal 4 (SDG 4), legal research must continue to evolve, informing both institutional design and rights-based educational governance.

6. Researcher's Publications Related to the Topic

Amanbayeva Zh. Integration in the mechanism for ensuring the implementation of the right to education at the domestic level. "New Kazakhstan: current trends in the development of the legal, economic and social systems of the state" International Scientific and Practical Conference. Toraighyrov University. 2023.

Amanbayeva Zh. International legal mechanism of ensuring the implementation of the constitutional right to education. National Conference of Doctoral Students in Law. University of Miskolc. 2021.

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Amanbayeva Zh. Securing the right to education in bilateral international treaties. "Current state and prospects for the development of modern science and education" International Scientific Conference. Bilim Innovation Group. 2023.

Amanbayeva Zh. The right to education: concept, elements, place in the system of other rights and freedoms. "Science of the Present and Future" International Scientific and Practical Conference. Kazakh University of Technology and Business. 2023.

Amanbayeva Zh. The role of integration in the mechanism for ensuring the realization of the right to education. "Science: theory and practice" International Scientific Conference. Bilim Innovation Group. 2023.