

The Phenomenon of Disability in The Human Rights Protection System: From Stigmatization to Genuine Equality

Shukhrat Khikmatov

Doctor of Philosophy on Legal Science, Uzbekistan

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Abstract: This article provides an in-depth analysis of the concept of disability from a human rights perspective, examining its legal nature and social meaning through an evolutionary lens. The study critically evaluates the medical model of disability, highlighting its limitations in terms of human dignity, autonomy, and legal subjectivity. It further explores the emergence of the social model and the human rights-based legal model, emphasizing their connection with the principles of universality and substantive equality of human rights. Special attention is paid to the issues of stigma and social recognition as persistent structural barriers to the effective realization of the rights of persons with disabilities. The author argues that a comprehensive approach grounded in human dignity and personal autonomy constitutes the most effective theoretical and practical framework for ensuring the human rights of persons with disabilities.

Keywords: Disability, human rights, human dignity, autonomy, medical model, social model, stigma, substantive equality.

Introduction: Since the principles of the universality of human rights and human dignity constitute the ideological foundation of the contemporary concept of the law-governed state and civil society, the degree to which these principles are realized in practice finds its most precise expression through the state of protection of the rights of persons with disabilities. The phenomenon of disability was for a long time interpreted predominantly from a medical standpoint — appraising it as an individual defect of the person — which led to the limitation of the legal subjectivity and social participation of persons with disabilities. The development of human rights theory and the deepening of the concepts of human dignity and personal autonomy gave rise to social and human-rights-based approaches to disability, and this question began to be regarded in legal scholarship as an independent object of research. From this standpoint,

the principal objective of this study is to analyze the evolution of the concept of disability from a human rights perspective, to substantiate scholarly the process of transition from the medical model to social and legal models, and to reveal the place of the concepts of human dignity, autonomy, and stigmatization in this process.

Analyzing the concept of disability from a human rights perspective requires, first and foremost, a correct understanding of the legal nature and social substance of this phenomenon. Definitions of disability in the scholarly literature are multidimensional and are inextricably linked to a specific historical period, the system of social relations, and the dominant legal ideas. In our view, it is impossible to draw a complete and consistent conclusion regarding the human rights

of persons with disabilities without studying the evolution of the concept of disability.

Viewed historically, disability was perceived in early societies as a biological defect or hereditary shortcoming. In ancient legal systems, persons with limited physical or mental capacities were considered "useless" to society and their participation in social life was sharply restricted. In certain historical sources it is recorded that disability was even interpreted as punishment or a trial of fate. In our view, such views made it impossible to speak of the universality of human rights.

In subsequent periods — particularly at the stage when industrialized society began to take shape — the approach to disability changed to a certain degree. The development of production relations brought labour capacity to the fore as the principal value. As a result, persons unable to participate fully in the labour market, including persons with disabilities, were socially marginalized. In this situation, disability was assessed through the criterion of the economic usefulness or uselessness of the individual. In our view, it is precisely in this period that the discriminatory attitude towards disability acquired an institutional character.

In legal scholarship, this approach is expressed as the medical model. According to the medical model, disability is associated with disease, defect, or functional limitation of the human organism, and the solution to the problem is held to be achievable through medical intervention and treatment. Within this model, legal and social factors were of secondary significance. In this regard, the Russian scholar E. N. Yakovleva, emphasizing the limitations of the medical model from a human rights perspective, notes that it created obstacles to recognising persons with disabilities as independent subjects of rights.

We fully concur with this view, since the medical model restricted the concept of human dignity. For it assessed the individual solely through their physical condition, placing their social, political, and cultural rights as a person in second position. This constitutes a situation contrary to the principle of the indivisibility of human rights.

By the middle of the twentieth century, the development of the idea of human rights gave rise to new approaches to disability. The consequences of the Second World War, the growth in the number of war invalids, and the change in society's attitude towards them accelerated this process. In this period, disability began to be regarded not only as a medical problem but as a social one as well. This laid the ground for the formation of the social model.

According to the social model, disability is associated not with the individual condition of the person but with the legal, architectural, informational, and cultural barriers existing in society. T. A. Lykhina, assessing this model as the conceptual basis for ensuring the rights of persons with disabilities in international law, emphasizes that the principal task of the state consists in eliminating the barriers that restrict the capacities of persons with disabilities.

In our view, the social model represents a qualitatively new stage in the human rights system. For it advances not the idea of isolating persons with disabilities from society, but the idea of adapting society to their needs. This serves to secure equality not formally but in substance.

At the same time, the social model has encountered certain criticisms. Some scholars accuse it of insufficiently taking account of the individual's physical condition. However, in our view these criticisms are connected with an incomplete understanding of the substance of the social model. The social model does not deny medical assistance but proposes viewing it as one element of the human rights protection system.

The formation of the social model is directly linked to the deepening of the concepts of human dignity and personal autonomy in human rights theory. Whereas the medical model assessed the individual through their physiological condition, the social model recognizes the individual as an equal subject of rights and freedoms, possessing the capacity for independent decision-making. In our view, it is precisely from this standpoint that the disability question becomes one of the central categories of human rights scholarship.

Although the concept of human dignity in legal scholarship has often been received as a declaratory notion, in the sphere of the rights of persons with disabilities it acquires concrete practical substance. Human dignity demands that the person with a disability be regarded not as an object of protection but as a subject capable of independently exercising their rights. E. N. Yakovleva, assessing human dignity as the ideological basis for ensuring the rights of persons with disabilities in international law, emphasizes that this concept performs the function of a universal criterion in all spheres of human rights.

In our view, the concept of human dignity also demands the abandonment of a paternalistic approach to disability. Paternalism leads to the restriction of the freedom of decision-making of persons with disabilities under the pretext of "doing good." This is considered contrary to the principles of autonomy and freedom in human rights.

The concept of autonomy in human rights theory denotes the capacity of the individual to make independent decisions regarding their own life, choices, and social participation. The denial of autonomy to persons with disabilities manifests in many cases as a "justified" form of restriction of their rights. T. A. Lykhina, in criticizing this situation, emphasizes that the autonomy of persons with disabilities must be fully recognized in international law; otherwise a serious gap in the human rights system will emerge.

According to our analysis, the principle of autonomy is significant in relation to disability in two respects: first, the principle of autonomy fully recognizes the legal subjectivity of persons with disabilities; second, the principle of autonomy imposes additional obligations upon the state and society — namely, the task of creating the conditions necessary for the exercise of autonomy. The matter here is not merely of legal norms but of adapting the systems of education, information, infrastructure, and social services.

As a result of the development of the social model, a new legal model was formed in human rights theory in relation to disability. This legal model views disability as a factor affecting the realization of human rights and

envisages an active role for the state. The scholar A. P. Rakhimli, analyzing this model from a constitutional-legal perspective, emphasizes that the positive obligations of the state are of decisive significance in ensuring the rights of persons with disabilities.

We support this approach; however, we simultaneously hold that the positive obligations of the state must have clear boundaries. Otherwise, positive obligations may become not an instrument for securing human rights but a mechanism of excessive administrative control. For this reason, the principle of balance is of important significance in defining the role of the state in human rights theory.

Thus, the evolution of the concept of disability from a human rights perspective manifests in three principal stages: the medical model, the social model, and the human-rights-based legal model. In our view, these stages do not negate each other but rather attain dominance in certain historical conditions. Under the conditions of a contemporary law-governed state, the human-rights-oriented model must be dominant.

In the in-depth analysis of the disability question from a human rights perspective, the concepts of "identity" and "stigmatization" occupy a special place. These concepts reveal that disability is not merely a legal or medical but also a socio-cultural phenomenon. In our view, a large part of the problems in securing the rights of persons with disabilities is connected not with an insufficiency of legal norms but with the stereotypes formed in society and with stigmatization mechanisms.

Identity is a complex socio-legal category connected with how a person perceives themselves and how they are perceived by society. In the situation of persons with disabilities, identity is in many cases formed through the label of "deviation from the norm." This poses a serious threat to the principles of human dignity and equality. In human rights theory, such a situation is assessed as one manifestation of structural discrimination.

E. N. Yakovleva emphasizes that stigmatization in relation to disability is one of the most persistent barriers to the protection of human rights. In the view of this scholar, even where advanced legal guarantees

are in place, if a negative attitude towards disability persists in society, these rights will not produce practical effect. Indeed, stigmatization is, in our view, one of the problems leading to the "invisible violation" of human rights.

Stigmatization may not be directly prohibited from a legal standpoint, yet it indirectly restricts the exercise of a person's rights to education, labour, healthcare, and participation in social life. For example, a person with a disability may possess legal guarantees in the labour market, yet the negative stereotypes of an employer sharply reduce the probability of their being hired. In our view, it is precisely here that the break between human rights and social consciousness becomes manifest.

Another group of scholars, in analyzing the problem of social recognition, emphasizes that stigmatization in relation to disability is a broader and more dangerous phenomenon than legal discrimination. In their view, changing legal norms may be achieved relatively quickly, whereas changing social consciousness requires long and systematic efforts.

Accordingly, human rights policy must not be limited to legal reforms alone. Education, the mass media, and cultural policy are of decisive significance in forming the social identity of persons with disabilities. This requires that the issue of securing human rights be inextricably linked to the general social policy of the state.

The struggle against stigmatization constitutes the practical expression of the concept of human dignity. Human dignity must be recognized not only in legal instruments but must also be manifested in the mutual relations of members of society. A. P. Rakhimli, drawing attention to the moral and ideological functions of the state in securing human dignity, emphasizes that if legal guarantees are not supported in society, they will remain formal in character.

In our view, this idea is particularly pertinent in relation to disability. For the rights of persons with disabilities are in many cases not openly violated but are "extinguished" through the system of relations in society. For this reason, the issues of stigmatization and

identity must constitute an inseparable part of legal analysis in human rights theory.

Thus, the evolution of the concept of disability from a human rights perspective is not limited to changes in legal definitions. It encompasses a complex of interrelated questions: human dignity, autonomy, legal capacity, social recognition, and the struggle against stigmatization. In our view, it is precisely this comprehensive approach that constitutes the most correct and effective model — from a scholarly standpoint — for ensuring the human rights of persons with disabilities.

The analysis conducted above demonstrates that the evolution of the concept of disability from a human rights perspective is a multi-stage, complex, and contradictory process. The transition from the medical model to the social model and thence to the human-rights-oriented legal model means not merely a change in theoretical concepts but a fundamental reconsideration of society's attitude towards the individual, their dignity, and their legal subjectivity. In our view, it is precisely this evolution that constitutes the most important achievement of human rights scholarship in relation to the disability question.

Within the medical model, disability was interpreted as an individual defect of the person and legal and social problems were regarded as secondary. This led to the restriction of the legal subjectivity of persons with disabilities and their marginalization from social life. The social model, in criticizing this approach, identified the problem not in the individual but in the barriers existing in society. However, the social model itself could not resolve all problems in the area of human rights, since it did not define legal mechanisms with sufficient precision.

In conclusion, our research demonstrated that the evolution of the concept of disability from a human rights perspective is a multi-stage, complex, and contradictory process, and that the transition from the medical model to the social model and thence to the human-rights-oriented legal model signifies a fundamental reconsideration of the attitude towards the dignity, autonomy, and full legal subjectivity of the person. The research results substantiated the

necessity of regarding the rights of persons with disabilities within the human rights system not as a set of secondary or special rights but as an independent legal institution grounded in the principle of human dignity. At the same time, it was established that legal guarantees alone are insufficient, and that stigmatization and social recognition problems constitute a serious obstacle to the practical protection of human rights. Consequently, the effective protection of the rights of persons with disabilities requires a comprehensive human-rights-based approach, balanced positive obligations on the part of the state, a consistent social policy directed at cultivating a spirit of respect for human dignity in society, and the harmonization of legal and social mechanisms.

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