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Dear readers,

I would like to present for your attention the first regular issue of the journal “Kazan University Law Review” in 2024.

The issue you are now holding in your hands contains articles on topical issues in the theory and practice of Russian and foreign law.

The issue starts with an article by William Manga Mokofe, PhD (Law), Advocate of the High Court of South Africa, Senior Lecturer in Law of the Eduvos Private Higher Education Institution, “The Fourth Industrial Revolution and unemployment in South Africa: a continuing challenge”. This article examines the relationship between South Africa’s persistent unemployment problem and the Fourth Industrial Revolution. Characterized by advanced technologies such as artificial intelligence, robotics and automation, the Revolution described, the author points out, is shaping industries and workplace dynamics, creating both potential and challenges for employment. Against the backdrop of South Africa’s historical unemployment issues, the article examines the Revolution’s impact on the labor market and strategies for addressing the identified acute issue. The scientist describes the twofold impact of the Revolution on employment in South Africa. Automation is displacing traditional jobs, particularly in manufacturing and agriculture, increasing fears of job losses. At the same time, changing skill requirements are leaving many workers unprepared to work in new fields, exacerbating existing skills shortages and socio-economic inequalities. The article reveals the essence of the tools to combat unemployment and introduces the legal community to the country’s new, essential initiatives.

The issue continues with a study by Tatyana Krysinina, Police officer, Cadet, and Sergey Melnik, Candidate of Legal Sciences, Associate Professor, Professor of the Department of Civil law disciplines of the V. V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia, on the topic “The legal status of a domain name in the Russian civil law”. The legal status of a domain name is not precisely defined in Russian legislation, since a domain name is not included in the established list of intellectual property objects, but it may act as one of the constituent elements of a trademark. The authors note that the domain name fulfills the main economic function, which is to simplify the search for goods on the information and communication network “Internet”. In this sense, the domain acts as one of the

means of addressing, thereby helping to quickly find certain goods with the help of the company name of the company that is the right holder of the trademark. The researchers analyze the existing practice of resolving disputes arising in the process of using the domain name, and make a corresponding conclusion that there are two established positions regarding the definition of the legal status of the domain. The results of the conclusions and approbation are presented in the article.

The next research is presented by Anas Nuriev, Doctor of Legal Sciences, Associate Professor, Deputy Director for academic and educational work of the Russian State University of Justice (Kazan Branch), “The specifics of legal guarantees for the realization of the rights of citizens and organizations in administrative procedures for notarial acts commission by local government officials and consular officials”. This article presents a comparative analysis of two administrative procedures for the performance of notarial acts — by local government officials and consular officials. Conclusions are drawn about the scope of legal guarantees. The possibilities of realization of the constitutional rights of citizens through the performance of notarial acts are noted, which is achieved both by regulating the procedure for the performance of notarial acts and establishing additional mechanisms of control over the quality of actions performed by the Ministry of Justice of the Russian Federation and courts of general jurisdiction, and by extending a number of principles of notarial activity to the activities of local government officials. The author points out that such a statement is effectively provided that consular officials perform such qualified actions as certification of transactions, which presupposes high quality standards of notarial actions and public confidence in this, the only possible, way of performing notarial actions outside the borders of the Russian Federation. As a practice-oriented part of the study, normative legal acts of the current legislation of the Russian Federation are cited.

I am sincerely glad to present to you the study by Ralina Rakhimova, Candidate of Legal Sciences, Lecturer of the Department of Criminal Procedure and Criminalistics, and Venera Shestakova, Senior Lecturer of the Department of International and European Law of the Kazan Federal University, “The right to health of persons with disabilities”. Today, people with disabilities face a huge number of problems, especially with the realization of the right to health. Realization and protection is a topical issue both for Russia and for the international community as a whole. The authors note that the formation of the right to health for people with disabilities is considered one of the fundamental human rights. At the international level, there is no comprehensive approach to studying the formation of the very content of the right to health. Statements on the right to health contained in the main international human rights agreements recognize the inadmissibility of discrimination in all its forms in the realization of this right. The question of the general status of persons with disabilities in international law and the specificities

of the international protection of the right to health of persons with disabilities is particularly relevant. Providing convincing evidence that the right to health of persons with disabilities is an integral element of the right to health in general, the authors point out that the right to health of persons with disabilities is significantly influenced by a number of factors that together have an impact on the physical and mental health of persons with disabilities. The importance of clarifying the definition of the “right to health of persons with disabilities” and defining the role of the right to health of persons with disabilities in the system of international law is emphasized.

The issue is finalized by an article on “Reforming the UN Security Council in an era of change”, prepared by a collective of authors: Durmishkhan Afkhazava, Candidate of Legal Sciences, Associate Professor of the Department of International and European Law, Heydar Bayramov and Valeria Morozova are second-year Master’s degree students of the Department of International and European Law of the Faculty of Law of Kazan (Volga Region) Federal University. This article emphasizes the importance of the UN Security Council in maintaining global order and security, and the need for it to adapt to a rapidly changing geopolitical environment and growing global threats. The text proposes a number of reforms, including expanding the membership of the Security Council to ensure more equitable representation, improving the decision-making process, adopting a more proactive approach to peace and security, and increasing transparency and accountability. The authors emphasize that a stronger and more effective UN Security Council is needed to maintain global order and security, and call on the international community to support these reforms.

*With best regards,
Editor-in-Chief
Damir Valeev*

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ARTICLES

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THE FOURTH INDUSTRIAL REVOLUTION AND UNEMPLOYMENT IN SOUTH AFRICA: A CONTINUING CHALLENGE

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Abstract. *This article explores the interplay between South Africa's persistent unemployment issue and the Fourth Industrial Revolution (4IR). Characterized by advanced technologies like Artificial Intelligence (AI), the Internet of Things (IoT), robotics and automation, the 4IR shapes industries and work dynamics, bringing both potential and challenges for employment. Amid South Africa's historical unemployment struggles, the article examines the 4IR's impact on the labor market and strategies to address this complexity. The 4IR presents a twofold impact on employment in South Africa. Automation displaces traditional jobs, notably in manufacturing and agriculture, intensifying concerns about job losses. Concurrently, evolving skill demands leave many workers unprepared for roles in emerging fields, exacerbating the existing skills gap and socio-economic inequalities. Nonetheless, the 4IR offers avenues to counter unemployment. Vital reskilling and upskilling initiatives are emerging to equip the workforce with relevant 4IR-related skills. Investing in training programs can ease workforce transitions and mitigate automation's adverse effects. Furthermore, nurturing entrepreneurship and supporting small and medium-sized enterprises (SMEs) can stimulate economic diversification and create employment opportunities, fostering a more resilient labor market. To navigate 4IR challenges, proactive measures are crucial. Government policies promoting technology integration, innovation, and workforce development can drive sustainable growth and job creation. Ensuring digital inclusivity is also vital, in bridging the technological divide. In essence, the intricate 4IR-unemployment relationship presents diverse challenges and opportunities.*

By cultivating an adaptable workforce, fostering entrepreneurship, and implementing strategic policies, South Africa can tackle the ongoing challenge of unemployment while harnessing the transformative potential of the Fourth Industrial Revolution.

Keywords: *fourth industrial revolution, unemployment, labor market, automation, reskilling and upskilling, economic diversification.*

1. INTRODUCTION

The intertwining narratives of technological progress and unemployment have shaped the modern global economy, and nowhere is this intricate interplay more pronounced than in the context of South Africa. The advent of the Fourth Industrial Revolution (4IR), characterised by the fusion of digital, physical, and biological technologies, has thrust the nation into a new era of innovation and disruption¹. Simultaneously, the longstanding challenge of unemployment², deeply ingrained in South Africa's socio-economic fabric, continues to cast a shadow on its developmental aspirations. This article delves into the intricate interplay between the 4IR and unemployment in South Africa, dissecting the multifaceted dynamics that have emerged and exploring potential strategies to address this persistent issue.

The 4IR, heralded by innovations such as artificial intelligence, automation, and the Internet of Things, has brought about unprecedented transformations in industries across the globe³. This technological wave has the potential to amplify productivity, improve efficiency, and reshape traditional job roles. In South Africa, a nation with a history marked by both resilience and inequality⁴, the impact of the 4IR is particularly pronounced. As the nation endeavours to navigate its post-apartheid socio-economic landscape, the challenge of unemployment⁵ looms large, characterised by staggering rates that disproportionately affect the youth and historically marginalised populations.

¹ Mokofe W.M. The Changing World of Work and Further Marginalisation of Workers in South Africa: An Evaluation of the Relevance of Trade Unions and Collective Bargaining, Comparative, and International Law Journal of Southern Africa, 2021, 54(2). p. 1–39.

² Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDi3x3 Working Paper 28 University of Cape, 2017. 33 p.

³ Mokofe W.M. and van Eck S. Reflections on Marginalised Workers and the Role of Trade Unions in the Changing World of Work, Industrial Law Journal, 2021, 41(3). p. 1365–1389.

⁴ Stoltz E. South Africa remains most unequal country, World Bank Report finds // mg.co.za: [Electronic resource]. — URL: <https://mg.co.za/news/2022-03-10-south-africa-remains-most-unequal-country-world-bank-reportfinds/> (date of address: 28.02.2024).

⁵ Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDi3x3 Working Paper 28 University of Cape, 2017. 33 p.

Historical challenges in the labour market, intricately intertwined with apartheid-era inequalities, are now intersecting with the disruptive forces of the 4IR. This confluence has ignited a debate that oscillates between anticipation and apprehension. On one hand, there is optimism that the technological surge could yield innovative solutions to long-standing problems, creating opportunities for novel industries and reimagined job roles¹. On the other hand, concerns deepen about the potential exacerbation of unemployment as automation replaces manual labour and the swift pace of technological evolution outpaces the capacity of the workforce to adapt².

The impact of the 4IR on employment is far from uniform. Certain sectors, such as manufacturing, logistics, and service industries, are experiencing profound transformations³. Traditional jobs that were once the bedrock of livelihoods are now being substituted by advanced technologies that demand new skill sets. This transition is accompanied by a persistent skills mismatch⁴, where the capabilities of the workforce lag behind the demands of the evolving job market. Consequently, a stark divide emerges between individuals equipped to seize 4IR-related opportunities and those left grappling with obsolete skills.

In light of these challenges, there is a growing recognition of the need for proactive strategies to address the complex interplay between the 4IR and unemployment. This involves fostering an environment that encourages reskilling and upskilling initiatives⁵, cultivating entrepreneurship, and creating a policy framework that aligns technological advancement with inclusive economic growth. Furthermore, the quest for digital inclusivity, ensuring that all members of society have access to the tools and resources of the digital age, becomes paramount to bridging the gap that the 4IR might inadvertently deepen.

As South Africa stands at the crossroads of technological innovation and persistent unemployment, the nation faces a pivotal juncture in its developmental

¹ *Miruna G.* The Future Of Technology: Investors Share Reasons To Be Optimistic // [www.forbes.com](https://www.forbes.com/sites/mirunagirtu/2023/06/27/the-future-of-technology-investors-share-reasons-to-be-optimistic/?sh=691859dba539): [Electronic resource]. — URL: <https://www.forbes.com/sites/mirunagirtu/2023/06/27/the-future-of-technology-investors-share-reasons-to-be-optimistic/?sh=691859dba539> (date of address: 28.02.2024).

² *Harry J.H.* Understanding the impact of automation on workers, jobs, and wages // [www.brookings.edu](https://www.brookings.edu/articles/understanding-the-impact-of-automation-on-workers-jobs-and-wages/): [Electronic resource]. — URL: <https://www.brookings.edu/articles/understanding-the-impact-of-automation-on-workers-jobs-and-wages/> (date of address: 28.02.2024).

³ *Serumaga-Zake J.M. and van der Poll J.A.* Addressing the Impact of Fourth Industrial Revolution on South African Manufacturing Small and Medium Enterprises (SMEs), *Sustainability*, 2021, 13(21). 31 p.

⁴ *Lost, Job gained: What the future of work will mean for jobs, skills, and wages* // [www.mckinsey.com](https://www.mckinsey.com/featured-insights/future-of-work/jobs-lost-jobs-gained-what-the-future-of-work-will-mean-for-jobs-skills-and-wages): [Electronic resource]. — URL: <https://www.mckinsey.com/featured-insights/future-of-work/jobs-lost-jobs-gained-what-the-future-of-work-will-mean-for-jobs-skills-and-wages> (date of address: 28.02.2024).

⁵ *Li L.* Reskilling and Upskilling the Future-ready Workforce for Industry 4.0 and Beyond *Information Systems Frontiers*, 2022, p. 1–16.

trajectory. The ensuing exploration of the intricate dynamics and potential solutions in the following sections seeks to illuminate a path forward in harnessing the transformative potential of the 4IR while addressing the ongoing challenge of unemployment that has been etched into the fabric of the nation's economic and social landscape.

2. CHALLENGES TO EMPLOYMENT IN SOUTH AFRICA

The challenges to employment in South Africa are multifaceted and intricately linked to the Fourth Industrial Revolution (4IR). Automation and digitalisation pose a risk of job displacement, particularly in sectors like manufacturing, agriculture, and services, as routine tasks become automated¹. This technological evolution contributes to a skills mismatch, where the rapid pace of change outpaces workers' ability to acquire new skills, exacerbating unemployment. Inequality is another concern, as the 4IR has the potential to widen the gap between skilled and unskilled workers, deepening existing economic disparities. Additionally, the country's large informal economy is vulnerable to disruptions caused by the 4IR, potentially leading to job losses and underemployment. These pivotal challenges are examined in the following sections.

Job displacement: At the core of South Africa's economic transformation, the Fourth Industrial Revolution (4IR) introduces a paradox: while it offers promises of unprecedented technological advancements and innovation, it also ushers in an era of job displacement that could have far-reaching ramifications for the country's workforce. At the forefront of this challenge lies the disruptive force of automation and digitalisation, which are systematically reshaping the nature of work in sectors ranging from manufacturing and agriculture to service industries.

As the mechanized fingers of automation progressively reach deeper into the tapestry of industries, jobs that have been traditionally performed by humans are now being outsourced to machines, algorithms, and robots. This phenomenon is particularly pronounced in sectors that have historically formed the bedrock of South Africa's economy.

Manufacturing, once a thriving sector employing a substantial portion of the labour force, is witnessing a profound transformation². Assembly lines once manned by scores of workers are now populated with robotic arms and

¹ *Alexander R.* Key Opportunities and Challenges for 4IR in South Africa. SARChI Industrial Development Working Paper Series. 2021. 63 p.

² *Hanusch M.* Why South African manufacturing is under pressure (and what to do about it) // *blogs.worldbank.org*: [Electronic resource]. — URL: <https://blogs.worldbank.org/african/why-south-african-manufacturing-under-pressure-and-what-do-about-it> (date of address: 28.02.2024).

advanced machinery, performing tasks with unrivalled precision and efficiency. The consequence is a looming displacement of jobs that were once considered secure and sustainable¹.

Agriculture, another sector intrinsic to South Africa's identity, confronts a parallel challenge. The fields that have long been tilled by human hands are now being navigated by autonomous tractors and drones, streamlining operations, and boosting yields². While this technological revolution promises enhanced productivity and agricultural sustainability, it simultaneously casts shadows of uncertainty over the livelihoods of those whose hands have nurtured the soil for generations³.

Even within service industries, the impact of automation is unmistakable. Customer service operations are being revolutionised by chatbots and virtual assistants, while cashier-less checkout systems are changing the face of retail⁴. Routine and repetitive tasks, once reliant on human intervention, are now being handed over to algorithms and machines that can process data at lightning speed, leading to a significant reduction in human labour requirements.

The risk of job loss due to technological advancements is not confined to a specific sector; it extends across industries and reverberates throughout the economy. While the benefits of automation are undeniable — increased efficiency, reduced errors, and potentially lower costs — the unsettling consequence is that numerous workers find their roles in jeopardy⁵. The stability and security that employment once provided are being destabilised by the march of automation and digitalisation.

As South Africa grapples with this multifaceted challenge, it is crucial to acknowledge the complexities it brings. The displacement of jobs due to automation is not a monolithic phenomenon; it varies based on the nature of the

¹ The future of Jobs reports 2020. World Economic Forum. October, 2020. 163 p.

² *Phillips L.* Machinery trends defining the future of farming // www.farmersweekly.co.za: [Electronic resource]. — URL: <https://www.farmersweekly.co.za/agri-technology/machinery-and-equipment/machinery-trends-defining-the-future-of-farming/> (date of address: 28.02.2024).

³ *Bell T.* Make way for robots in the sky: How drones are transforming farming in South Africa // www.dailymaverick.co.za: [Electronic resource]. — URL: <https://www.dailymaverick.co.za/article/2021-11-09-make-way-for-robots-in-the-sky-how-drones-are-transforming-farming-in-south-africa/> (date of address: 27.02.2024).

⁴ *Weitzman T.* Understanding The Benefits And Risks Of Using AI In Business // www.forbes.com: [Electronic resource]. — URL: <https://www.forbes.com/sites/forbesbusinesscouncil/2023/03/01/understanding-the-benefits-and-risks-of-using-ai-in-business/?sh=62d2ce866bba> (date of address: 28.02.2024).

⁵ *D'Cruz P., Du S., Noronha E., Praveen P., Trittin U. and Whelan G.* Technology, Megatrends and Work: Thoughts on the Future of Business Ethics, *Journal of Business Ethics*, 2022, vol. 180, p. 879–902.

work, the adaptability of the workforce, and the overall economic environment. The responsibility lies not only in acknowledging the inevitability of change but also in proactively charting a course that embraces this change while ensuring the well-being and resilience of the nation's workforce¹. The path forward involves a careful balance between embracing technological progress and developing strategies that mitigate the negative impacts of job displacement, ultimately leading to a more inclusive and adaptable labour market in the face of the Fourth Industrial Revolution.

Skills Mismatch: The rapid pace of technological change often outpaces the ability of the workforce to acquire new skills. Many South Africans may find themselves lacking the skills² necessary to participate in emerging industries, exacerbating unemployment. As the wheels of progress in the Fourth Industrial Evolution (4IR) turn relentlessly, the South African workforce stands at a critical juncture. The rapid evolution of technology, driven by the convergence of artificial intelligence, automation, and digitalisation, brings forth a burgeoning challenge: the gaping chasm between the pace of technological change and the workforce's capacity to acquire new skills. This phenomenon, known as the skills mismatch³, has profound implications for South Africa's employment landscape, potentially exacerbating unemployment and widening the socio-economic divide.

In a world where technology is advancing at an unprecedented pace, the half-life of skills is rapidly diminishing. What was considered cutting-edge knowledge yesterday can quickly transform into outdated information today. This dynamic poses a significant challenge to a nation's workforce, especially when the ability to adapt and learn new skills becomes paramount for sustained employability. The rapid adoption of automation, machine learning, and data analytics across industries introduces a demand for a skill set that transcends traditional boundaries.

South Africa, like many other countries, grapples with the question of how to bridge the gap between the skills of today and the skills of tomorrow. The foundation of this dilemma lies in the inertia of education systems and training programs, which often struggle to keep up with the pace of technological evolution. As industries metamorphose and create new job roles, the existing workforce might find itself ill-equipped to step into these positions due to a dearth of relevant skills. This not only

¹ Padayachee R. and Verena P. AI will transform Jobs — but Workforce transformation is up to you // [www.pwc.co.za](https://www.pwc.co.za/en/press-room/ai-will-transform-jobs-but-workforce-transformation-is-up-to-you.html): [Electronic resource]. — URL: <https://www.pwc.co.za/en/press-room/ai-will-transform-jobs-but-workforce-transformation-is-up-to-you.html> (date of address: 28.02.2024).

² D'Cruz P., Du S., Noronha E., Praveen P., Trittin U. and Whelan G. Technology, Megatrends and Work: Thoughts on the Future of Business Ethics, *Journal of Business Ethics*, 2022, vol. 180, p. 879–902.

³ Pater R., Cherniaev H. and Marcin K. A dream job? Skill demand and skill mismatch in ICT, *Journal of Education and Work*, 2022, 35(6). p. 641–665.

stalls career progressions but also hinders the nation's ability to remain competitive in a global economy that thrives on innovation and adaptability.

The skills mismatch compounds the pre-existing challenges in South Africa's labour market¹. Historically marginalised communities and individuals with limited access to quality education are disproportionately affected². As emerging industries demand specialised technical skills, a significant portion of the workforce risks being left behind, trapped in an unemployment cycle perpetuated by the gap between demand and supply in the job market³.

Addressing the skills mismatch is not a singular endeavour but rather a multi-pronged strategy that requires collaboration between educational institutions, the private sector, and government entities⁴. Fostering a culture of lifelong learning is paramount, encouraging individuals to continuously upskill and reskill to remain relevant in a rapidly changing landscape. Moreover, forging partnerships between academia and industry can lead to the development of curricula⁵ that are responsive to the evolving demands of the job market.

South Africa's approach to addressing the skills mismatch will determine its ability to harness the transformative potential of the 4IR while avoiding the pitfalls of an increasingly polarised workforce. By investing in targeted training programs, promoting digital literacy, and embracing a proactive mindset towards skill acquisition, the nation can pave the way for a workforce that is not only adaptable to technological change but also equipped to thrive in an era characterised by innovation.

The outcome hinges on the nation's ability to bridge the divide between the rapidly advancing world of technology and the reskilled, upskilled, and agile workforce it demands.

Inequality and the potential widening of socioeconomic rifts: The 4IR has the potential to widen the gap between skilled and unskilled workers, as those with

¹ *Khuluvhe M., Bhorat H., Oosthuizen M. [et al.]. Skills demand and supply in South Africa. Labour Market Intelligence research programme, 2022. 36 p.*

² *Grant S. Access to Education: The Impact Of Inequality On Education / S. Grant // www.graygroupintl.com: [Electronic resource]. — URL: <https://www.graygroupintl.com/blog/access-to-education> (date of address: 28.02.2024).*

³ *Kenton W. Structural Unemployment: Definition, Causes, and Examples // www.investopedia.com: [Electronic resource]. — URL: <https://www.investopedia.com/terms/s/structuralunemployment.asp> (date of address: 28.02.2024).*

⁴ *Brown A. 4.9 million young people are unemployed — addressing the skills mismatch could help 2023 // www.iol.co.za: [Electronic resource]. — URL: <https://www.iol.co.za/business-report/careers/49-million-young-people-are-unemployed-addressing-the-skills-mismatch-could-help-b1d26aed-2ebe-422e-ad4e-96ce7836c9a7> (date of address: 27.02.2024).*

⁵ *Howells M. Fostering a culture of lifelong learning // www.astrazeneca.com: [Electronic resource]. — URL: <https://www.astrazeneca.com/media-centre/articles/2023/fostering-culture-lifelong-learning.html> (date of address: 28.02.2024).*

relevant skills are better positioned to benefit from the new opportunities. This could further deepen existing economic inequalities in the country.

The advent of the Fourth Industrial Revolution (4IR) ushers in a wave of transformative technological innovations that have the potential to reshape economies, industries, and societies worldwide. However, beneath the veneer of progress lies a profound concern: the specter of deepening inequality. The 4IR's seismic shifts in job requirements and labour dynamics pose the risk of exacerbating the divide between skilled and unskilled workers, amplifying existing economic inequalities in a nation grappling with historical disparities.

At its core, the 4IR is marked by the ascent of technologies such as artificial intelligence, automation, and advanced data analytics. These innovations are ushering in a new era of productivity, efficiency, and connectivity, creating novel opportunities for economic growth and innovation. Yet, the distribution of the benefits arising from these advancements is far from equitable. As industries pivot towards digitisation and automation, the demand for specialised skills intensifies, creating a premium for individuals who possess the ability to navigate the complex web of 4IR-related competencies. Amid this technological transformation¹, a significant concern emerges — the potential widening of the gap between individuals possessing the necessary skills and those who are deficient in them. Skilled workers, possessing the expertise to harness the potential of the 4IR, are better positioned to benefit from the burgeoning job opportunities that these advancements bring forth. Conversely, individuals who lack access to quality education, training, and the means to acquire 4IR-related skills may find themselves relegated to a realm of diminishing employment prospects. This discrepancy can set the stage for a bifurcated labour market, where a growing chasm separates those who prosper from those who languish.

South Africa, a nation with a history steeped in inequality due to its apartheid legacy², is particularly vulnerable to the exacerbation of existing disparities. The gap between historically marginalised populations and the privileged is one that the nation has been working tirelessly to bridge³. However, the 4IR's potential to disproportionately benefit those who are already equipped with resources and education could undermine these efforts. The lack of access to quality education,

¹ UNCTAD. Technology and Innovation Report 2021. Catching technological waves. Innovation with equity. UNITED NATIONS, Geneva, 2021. 196 p.

² World Bank. South Africa Economic Update: South Africa's Labor Market Can Benefit from Young Entrepreneurs, Self-Employment // www.worldbank.org: [Electronic resource]. — URL: <https://www.worldbank.org/en/country/southafrica/publication/south-africa-economic-update-south-africa-s-labor-market-can-benefit-from-young-entrepreneurs-self-employment> (date of address: 28.02.2024).

³ See the Employment Equity Act 55 of 1998.

particularly in disadvantaged communities, can perpetuate cycles of intergenerational poverty, further entrenching existing economic disparities¹.

The economic implications of this inequality are manifold. A workforce that is divided along the lines of technological readiness risks fragmenting economic productivity, hindering the nation's capacity to compete on a global scale². Furthermore, the amplification of economic inequalities can strain social cohesion, fostering feelings of disenfranchisement and societal discord.

Mitigating the potential for inequality escalation necessitates a multifaceted approach. Investments in education that prioritise digital literacy and 4IR-relevant skills are essential to ensuring that all segments of society can actively participate in the evolving economy. Policies that promote equitable access to technology, training, and economic opportunities can go a long way in levelling the playing field. Collaboration between the public and private sectors can facilitate job creation and the cultivation of a workforce that is poised to thrive in the age of automation³.

The 4IR's potential to both uplift and stratify societies underscores the importance of proactive intervention. By crafting strategies that prioritise inclusivity, equity, and access, South Africa can harness the potential of the technological revolution to forge a more equitable future. Failure to address the potential deepening of economic inequalities could impede progress, perpetuating historical divides and undermining the nation's ability to navigate the complex currents of the Fourth Industrial Revolution.

The Vulnerability of South Africa's Informal Economy: South Africa's large informal economy estimated at 3.3 million micro and informal businesses which are engaged in informal economy is particularly vulnerable to the disruptions caused by the 4IR⁴. Many informal sector jobs could become obsolete, potentially pushing more people into unemployment or underemployment⁵. In the mosaic of South Africa's economic landscape, the informal economy occupies a significant and intricate space. It is a realm where individuals strive to carve out livelihoods in the

¹ Ngqambela N. South Africa must bridge digital divide to best benefit from 4IR // mg.co.za: [Electronic resource]. — URL: <https://mg.co.za/thoughtleader/opinion/2022-11-10-south-africa-must-bridge-digital-divide-to-best-benefit-from-4ir/> (date of address: 28.02.2024).

² Cherif R. and Fuad Hasanov F. Competition, Innovation, and Inclusive Growth. International Monetary Fund, 2021. 28 p.

³ OECD. A Skilled Workforce for Strong, Sustainable and Balanced Growth: A G20 Training Strategy. International labour office Geneva, November, 2010. 48 p.

⁴ MasterCard. South Africa's informal economy shows signs of movement to switch away from cash // [www.mastercard.com](https://www.mastercard.com/news/eemea/en/newsroom/pressreleases/pressreleases/en/2023/may/south-africa-s-informal-economy-shows-signs-of-movement-to-switch-away-from-cash/): [Electronic resource]. — URL: <https://www.mastercard.com/news/eemea/en/newsroom/pressreleases/pressreleases/en/2023/may/south-africa-s-informal-economy-shows-signs-of-movement-to-switch-away-from-cash/> (date of address: 28.02.2024).

⁵ Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDI3x3 Working Paper 28 University of Cape, 2017. 33 p.

absence of formal employment structures¹, often driven by necessity and the spirit of entrepreneurship. Yet, against the backdrop of the Fourth Industrial Revolution (4IR), this sector faces unprecedented challenges that have the potential to reshape its dynamics, magnifying the vulnerability of those who have found solace in its informal embrace.

The 4IR, characterised by the rapid convergence of technology and data-driven advancements, heralds a new era of productivity and connectivity. However, as technology marches forward, it casts an uncertain shadow over the traditional roles and functions of the informal economy. This sector, which encompasses activities ranging from street vending and artisanal crafts to unregistered service providers², thrives on the intimate interplay between human labour and local communities. Yet, with automation, digital platforms, and e-commerce becoming increasingly prevalent, the ground beneath the informal economy quivers with potential disruption.

South Africa's informal economy is vast and diverse, often serving as a safety net for those excluded from formal labour markets³. However, the informal sector is particularly susceptible to the disruptive forces of the 4IR. The very characteristics that define this sector—flexibility, adaptability, and often minimal technological integration—can render it ill-equipped to navigate the challenges posed by automation and digitisation. Jobs that once provided steady income and stability are at risk of becoming obsolete, as technology-driven alternatives emerge that promise greater efficiency and convenience.

The implications of this potential upheaval are multifaceted. Individuals who depend on informal sector activities for their livelihoods might find themselves caught in a disconcerting cycle. The dwindling demand for traditional informal services could push many into unemployment or precarious underemployment, entrenching socio-economic challenges that South Africa is striving to address. Moreover, as the informal economy is often a refuge for marginalised communities, the potential erosion of its viability could exacerbate existing inequalities, widening the chasm between haves and have-nots⁴.

¹ World Bank. What is the Informal Economy // www.imf.org: [Electronic resource]. — URL: <https://www.imf.org/en/Publications/fandd/issues/2020/12/what-is-the-informal-economy-basics> (date of address: 28.02.2024).

² SME South Africa. Formal and informal business in South Africa // smesouthafrica.co.za: [Electronic resource]. — URL: <https://smesouthafrica.co.za/formal-and-informal-business-insouthafrica/#:~:text=A%20large%20portion%20of%20the,and%20services%20at%20affordable%20prices> (date of address: 28.02.2024).

³ Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDi3x3 Working Paper 28 University of Cape, 2017. 33 p.

⁴ ILO. Inequalities and the world of work, 2021 [Electronic resource]: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/relconf/documents/meetingdocument/wcms_792123.pdf.

Navigating this treacherous terrain demands a nuanced and forward-looking approach. Strategies must be devised to empower individuals within the informal economy to adapt to the technological winds of change¹. This could involve fostering digital literacy, creating platforms that enable the informal sector to integrate with digital marketplaces, and offering training to equip participants with skills that align with 4IR demands. Additionally, the government, private sector, and civil society need to collaborate in crafting policies that acknowledge the informal economy's role, its vulnerabilities, and its potential to contribute to the nation's overall economic resilience.

The path forward is fraught with challenges, but also teeming with possibilities. Embracing the potential of technology to augment rather than replace informal sector activities is a critical step. By nurturing an environment where the informal economy can coexist harmoniously with the unfolding 4IR, South Africa can create a future where its most vulnerable citizens are not left behind in the rush of technological progress. As the informal sector faces disruption, it is the nation's responsibility to ensure that this transformation is one of empowerment, adaptability, and inclusive growth.

3. OPPORTUNITIES FOR ADDRESSING UNEMPLOYMENT

Investing in training programs and educational initiatives that focus on digital skills and 4IR-related competencies particularly the youth with the data from Statistics South Africa, which shows that the total number of unemployed youth stands at 4.9 million² can help workers transition into new roles and industries³. In the era of the Fourth Industrial Revolution (4IR), where the digital frontier expands with each passing moment, a beacon of opportunity shines amidst the challenges of unemployment. South Africa's unemployment rate in the first quarter of 2023 was recorded at 32.9% and is among the highest in the world⁴. This beacon is none other than the transformative power of reskilling and upskilling—a dynamic duo of strategies poised to bridge the gap between the skills of yesterday and the demands of tomorrow. For a country like South Africa, where historical employment

¹ Walker J.H. and Tebbutt E. The informal economy as a provider of assistive technology: Lessons from Indonesia and Sierra Leone, Health Promotion International, 2023, 38(2). p. 1–10.

² Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDi3x3 Working Paper 28 University of Cape, 2017. 33 p.

³ Allen C., Asmal Z., Bhorat H. [et al.]. Employment creation potential, labor skills requirements, and skill gaps for young people: A South African case study. 2021 University of Cape Town, Development Policy Research Unit. 83 p.

⁴ Rogan M. and Skinner C. The nature of the South African informal sector as reflected in the quarterly labour-force survey, 2008–2014, REDi3x3 Working Paper 28 University of Cape, 2017. 33 p.

disparities and the waves of the 4IR converge, investing in reskilling and upskilling initiatives emerge as a pivotal means to usher individuals into new roles, and industries, and a future fraught with promise¹.

The essence of reskilling and upskilling lies in the profound recognition that learning is an ongoing journey. As traditional job roles undergo metamorphosis and new fields emerge, the capacity to adapt becomes a coveted asset². Reskilling, the process of acquiring entirely new skills that align with evolving job requirements, empowers individuals to pivot their careers in response to dynamic market demands. Upskilling, on the other hand, involves enhancing existing skills to align them with the latest technological advancements.

In the South African context, reskilling and upskilling offer a lifeline to those who might otherwise find themselves cast adrift by the 4IR's disruptions. As industries undergo transformation and automation redefines work processes, individuals with the ability to traverse this technological terrain are poised to reap its rewards³. By investing in training programs and educational initiatives that equip individuals with digital skills and 4IR-related competencies, South Africa has the opportunity to create a workforce that not only survives but thrives amidst the waves of change.

The ripple effects of reskilling and upskilling extend beyond individual empowerment. By nurturing a workforce that can adapt and contribute to the 4IR-driven economy, South Africa enhances its competitiveness on the global stage. Emerging industries hungry for specialised talents can find a ready supply of skilled workers, stimulating economic growth and fostering innovation. Furthermore, this strategy can play a pivotal role in narrowing the skills gap, thereby reducing unemployment and the accompanying economic and social disparities.

However, the journey toward reskilling and upskilling is not without its challenges. Traditional notions of education, training, and skill development must evolve to accommodate the rapid pace of technological advancement⁴. The curriculum must be agile, reflecting the dynamic nature of the job market and the skills it demands. Collaboration between educational institutions, industry leaders, and policymakers is crucial in developing programs that are both relevant and responsive.

¹ *Twinomurizi H. Msweli N. and Mawela T. (eds.). Digital Skills // EpiC Series in Education Science, 2022, vol. 4. p. 88–101.*

² *Brush K. What is upskilling and Why is it important // www.techtarget.com: [Electronic resource]. — URL: <https://www.techtarget.com/whatis/definition/upskilling> (date of address: 27.02.2024).*

³ *Perifanis N.A., Kitsios F. Investigating the Influence of Artificial Intelligence on Business Value in the Digital Era of Strategy: A Literature Review, Information 2023, 14(2). 30 p.*

⁴ *Li L. Reskilling and Upskilling the Future-ready Workforce for Industry 4.0 and Beyond Information Systems Frontiers, 2022, p. 1–16.*

Moreover, the inclusivity of these opportunities is paramount. Ensuring that individuals from all walks of life, including historically marginalised communities, have access to reskilling and upskilling initiatives is an imperative step in fostering a truly inclusive workforce. Efforts to make these programs accessible, affordable, and tailored to individual needs can create a more equitable path toward economic empowerment.

As South Africa navigates the crossroads of the 4IR and its employment challenges, reskilling and upskilling stand as a beacon of hope—a means to transcend the limitations of the present and embrace the potential of the future. By embracing these strategies, the nation can pave the way for a more resilient and adaptable workforce, one that thrives in the face of technological disruption and becomes a driving force in shaping the contours of the Fourth Industrial Revolution.

Encouraging entrepreneurship and supporting small and medium-sized enterprises (SMEs) can foster job creation and economic diversification, while also promoting innovation in emerging sectors¹. In the intricate interplay between unemployment and economic growth, entrepreneurship and innovation emerge as dynamic partners, capable of orchestrating a symphony of change. As the Fourth Industrial Revolution (4IR) sweeps across industries, South Africa's quest for sustainable employment solutions finds an ally in these twin engines of progress.

Encouraging entrepreneurship and supporting small and medium-sized enterprises (SMEs) is not merely a strategic choice—it is a transformative opportunity to catalyse job creation, economic diversification, and the birth of innovation that can reshape the nation's economic landscape.

Entrepreneurship, with its spirit of ingenuity and risk-taking, is a potent force that can shift the needle on unemployment. By fostering an environment that nurtures and supports start-ups and SMEs, South Africa can unlock a wave of job opportunities. SMEs, often agile and responsive, have the potential to become significant contributors to the employment ecosystem, absorbing a substantial portion of the labour force and igniting a ripple effect throughout the economy. As these enterprises grow, they generate demand for a diverse range of skills, from marketing and sales to operations and management².

In the age of the 4IR, the link between entrepreneurship, innovation, and employment becomes even more pronounced. Emerging technologies and novel business models are the breeding ground for innovation, birthing solutions that

¹ ILO. Guide to Recommendation 189: Job creation in small and medium sized enterprises Recommendation, 2022 // [Electronic resource]: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/-ifp_seed/documents/publication/wcms_847682.pdf.

² *Marobe D.* SMEs encouraged to tap into trends that drive job creation and growth // www.bizcommunity.com: [Electronic resource]. — URL: <https://www.bizcommunity.com/Article/196/841/232426.html> (date of address: 28.02.2024).

address pressing challenges and create avenues for economic growth¹. Entrepreneurs, driven by the need to differentiate themselves in a competitive landscape, often embrace the latest technological trends, giving rise to disruptive products, services, and processes that challenge the status quo.

South Africa's embrace of entrepreneurship carries profound implications for the broader economic fabric. SMEs, often deeply rooted in local communities, have the potential to create jobs that are not only sustainable but also attuned to the specific needs of these communities². Moreover, the innovation nurtured within these enterprises can spur economic diversification, reducing dependence on traditional industries and creating resilience against economic shocks.

However, the path to fostering entrepreneurship and innovation is not without its challenges. Access to capital, regulatory hurdles and the availability of resources can be barriers that aspiring entrepreneurs must overcome³. Encouraging entrepreneurship requires an ecosystem that provides mentorship, networking opportunities, and access to funding. It calls for partnerships between public and private sectors, academia, and civil society, all working in concert to provide an enabling environment for start-ups to flourish.

Inclusivity is a guiding principle in this endeavour. By ensuring that entrepreneurship opportunities extend to individuals from all segments of society, South Africa can tap into a diverse pool of talents and perspectives. Empowering women, young entrepreneurs, and historically marginalised communities to participate in this transformational journey can lead to a more inclusive and equitable economic landscape.

The marriage of entrepreneurship and innovation holds the potential to rewrite South Africa's narrative—an opportunity to forge a future where job creation, economic growth, and technological advancement coalesce⁴. By creating an ecosystem that nurtures entrepreneurs, supports SMEs, and celebrates innovation, the nation can set itself on a trajectory that not only addresses unemployment but also drives

¹ Naude W. Entrepreneurship, Education, and the Fourth Industrial Revolution in Africa. IZA DP No. 10855, 2017. 25 p.

² Burch S., DiBella J., Wiek A. [et al.]. Building urban resilience through sustainability-oriented small- and medium-sized enterprises, *Urban Transform*, 2022, no. 4 // [Electronic resource]: <https://urbantransformations.biomedcentral.com/articles/10.1186/s42854-022-00041-9>.

³ Van Vuuren J.J. Five of the most common challenges faced by South African entrepreneurs // www.gviafrica.co.za: [Electronic resource]. — URL: <https://www.gviafrica.co.za/blog/5-of-the-most-common-challenges-faced-by-south-african-entrepreneurs/> (date of address: 28.02.2024).

⁴ World Bank. South Africa Economic Update: South Africa's Labor Market Can Benefit from Young Entrepreneurs, Self-Employment // www.worldbank.org: [Electronic resource]. — URL: <https://www.worldbank.org/en/country/southafrica/publication/south-africa-economic-update-south-africa-s-labor-market-can-benefit-from-young-entrepreneurs-self-employment> (date of address: 28.02.2024).

economic prosperity. As the 4IR unfolds, these pillars become the bedrock upon which South Africa can build a more resilient, diverse, and thriving economy.

Ensuring that all segments of society have access to digital technologies and the internet can help bridge the digital divide¹, enabling more individuals to participate in the evolving economy. In the age of the Fourth Industrial Revolution (4IR), where the digital landscape expands with each keystroke, the pursuit of economic advancement and social progress hinges on a fundamental premise — digital inclusion. As South Africa grapples with the complexities of unemployment against the backdrop of transformative technological changes, the opportunity to ensure equitable access to digital technologies and the internet emerges as a potent force for change. Digital inclusion is not just about connectivity—it is a key that can unlock doors to education, opportunity, and empowerment, thereby enabling all segments of society to participate in the evolving economy.

The digital divide, a multifaceted gap that separates those with access to digital resources from those without, is a phenomenon that has far-reaching implications. In South Africa, a country marked by both vast inequalities and aspirations for economic growth, the digital divide can perpetuate and exacerbate the chasm between the privileged and the marginalised. Access to the internet is no longer a luxury. In 2021, the number of mobile internet users in South Africa amounted to almost 47.8 million²; it is a prerequisite for participation in an increasingly interconnected world. Without this access, individuals are deprived of a window into a realm where learning, job seeking, entrepreneurship, and civic engagement are increasingly mediated.

Digital inclusion, at its core, is about levelling the playing field. By ensuring that even the most remote corners of the nation have access to digital technologies, South Africa opens up a universe of opportunities³. Education, which is often hailed as the great equalizer, is undergoing a transformative shift in the digital age. Online courses, virtual classrooms, and open educational resources become accessible to individuals who might otherwise be limited by geographic constraints⁴. This

¹ *Hanna K. T.* What Is The Digital Divide and How Is It Being Bridged? // www.techtarget.com: [Electronic resource]. — URL: <https://www.techtarget.com/whatis/definition/digital-divide> (date of address: 28.02.2024).

² Mobile internet user penetration in South Africa from 2018 to 2027 // www.statista.com: [Electronic resource]. — URL: <https://www.statista.com/statistics/972866/south-africa-mobile-internet-penetration/> (date of address: 28.02.2024).

³ *Adedokun T. and Zulu S. P.* Towards digital inclusion in South Africa: the role of public libraries and the way forward, *Interdisciplinary Journal of Economics and Business law*, 2022, 11(4). p. 127–154.

⁴ *Mills J.* Why Online Learning Can Create Equitable Access to The Great Equalizer // www.educationandcareernews.com: [Electronic resource]. — URL: <https://www.educationandcareernews.com/online-education/why-online-learning-can-create-equitable-access-to-the-great-equalizer/> (date of address: 28.02.2024).

democratisation of education creates a pathway for skill acquisition and personal development that can empower individuals to transcend the limitations of their circumstances.

In the realm of employment, digital inclusion becomes a gateway to participation in the 4IR-driven economy. Online job platforms, remote work opportunities, and digital skill training programs are often gateways to employment in an increasingly digitised world¹. However, these avenues remain inaccessible to those without connectivity. As industries evolve and new job roles emerge, digital skills become essential not only for employability but also for upward mobility. By ensuring that every citizen has access to digital resources, South Africa can create a workforce that is better equipped to thrive in the ever-changing job landscape.

Yet, achieving digital inclusion is a multifaceted challenge. Infrastructure gaps, limited resources, and socioeconomic disparities can hinder progress. Ensuring connectivity to remote areas requires investments in network expansion and innovative approaches, such as community centers and public Wi-Fi initiatives. Moreover, digital literacy programs are essential to bridge the knowledge gap and empower individuals to make the most of digital resources.

Digital inclusion must be pursued with an unwavering commitment to inclusivity. Historically marginalised communities, women, and underserved populations must be at the forefront of these efforts. Tailored programs that address the unique challenges faced by these groups can ensure that the benefits of the digital age extend to all corners of society.

In the confluence of unemployment challenges and the dynamic waves of the 4IR, digital inclusion emerges as a powerful equalizer. By ensuring that digital resources and opportunities are accessible to all, South Africa can create a future where economic growth is not an exclusive privilege but a shared endeavour. In the face of a rapidly evolving technological landscape, digital inclusion becomes the cornerstone of a more equitable, empowered, and participatory society—one where every citizen has the tools to shape their destiny and contribute to collective progress.

As South Africa deals with big changes brought by the Fourth Industrial Revolution (4IR) and continues to face the problem of many people being without jobs, leaders have a chance to make important changes by creating smart policies. The coming together of these two things gives policymakers a unique opportunity to plan a path that helps people use new technology, develop skills for work, and make more jobs. This mix could possibly reduce the bad effects of the 4IR on unemployment and set the stage for a stronger and more inclusive future.

¹ Charles L. Xia S. and Coutts A.P. Digitalization and Employment // [Electronic resource]: https://www.ilo.org/wcmsp5/groups/public/ed_emp/documents/publication/wcms_854353.pdf.

Technological adoption, one of the cornerstones of a successful 4IR transition, is often propelled by conducive policies. Incentives for businesses to invest in automation, research and development, and digital infrastructure can fuel innovation and catalyse economic growth¹. Tax incentives, grants, and other forms of support can stimulate the development of start-ups and SMEs, which are often engines of job creation and innovation. Furthermore, policies that encourage collaboration between academia, industry, and research institutions can expedite the translation of cutting-edge technologies into practical solutions that address societal challenges.

Crucially, workforce development must stand at the forefront of policy initiatives. The 4IR demands a workforce adept in digital skills, critical thinking, adaptability, and creativity. Government policies can drive the creation of training programs, vocational courses, and reskilling initiatives that equip individuals with the skills needed to thrive in an evolving job market². Collaboration with educational institutions and the private sector can ensure that these programs remain relevant and aligned with industry needs.

Job creation, the ultimate goal, can be fuelled by policies that nurture industries with potential for growth in the 4IR era. Industries such as renewable energy, data analytics, e-commerce, and advanced manufacturing hold promise for job creation, but their realisation hinges on a supportive policy framework. Investment in infrastructure, regulatory reforms that foster innovation, and measures to attract foreign direct investment can create an ecosystem where these industries can flourish, generating employment opportunities for a diverse range of skill sets³.

However, the journey of crafting effective policies is fraught with complexities. Striking a balance between incentivising innovation and ensuring equitable outcomes requires careful consideration. Policymakers must grapple with the ethical implications of technological advancements, including issues related to data privacy, cybersecurity, and social inequality. Moreover, ensuring that policies are inclusive, considering the needs of historically marginalised communities, is essential to prevent the perpetuation of existing disparities.

The significance of government policies in shaping the trajectory of South Africa's 4IR journey cannot be overstated. These policies are the compass that guides the

¹ Gherghina S.C., Botezatu M.A., Hosszu A. and Simionescu L.N. Small and Medium-Sized Enterprises (SMEs): The Engine of Economic Growth through Investments and Innovation, 2020) 12(1) Sustainability, 2020, 12(1). P. 347.

² Harve A. Reskilling the Workforce for the Fourth Industrial Revolution // [Electronic resource]: <https://trainingindustry.com/articles/workforce-development/reskilling-the-workforce-for-the-fourth-industrial-revolution/>.

³ Müller G. and Camera F.L. The Renewable Energy Transition in Africa // www.irena.org: [Electronic resource]. — URL: https://www.irena.org/media/Files/IRENA/Agency/Publication/2021/March/Renewable_Energy_Transition_Africa_2021.pdf (date of address: 28.02.2024).

nation through uncharted waters, enabling it to harness the transformative potential of technology while safeguarding against unintended consequences. By fostering an ecosystem that supports technological innovation, nurtures a skilled workforce, and stimulates job creation, South Africa can not only navigate the challenges of the 4IR but also transform them into opportunities for sustainable employment and economic prosperity. In the realm where policy and progress intersect, the blueprint for a brighter future awaits its architects.

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4. CONCLUSION

The Fourth Industrial Revolution presents South Africa with a complex set of challenges related to unemployment. However, it also offers opportunities for innovation, economic growth, and job creation. By taking proactive measures to address the challenges and capitalise on the opportunities, South Africa can navigate the 4IR to create a more inclusive and resilient workforce, ultimately contributing to the country's sustainable development and economic prosperity. As South Africa stands at the crossroads of the Fourth Industrial Revolution (4IR) and the daunting challenge of unemployment, the confluence of these dynamics unveils a narrative that is both complex and transformative.

¹ Kumar V. Navigating the Ethical Implications of Technology, 2023 // [Electronic resource]: <https://medium.com/the-modernscientist/navigating-the-ethical-implications-of-technology-6c579e120df>.

² Wentzel W. Enabling policies awaited after 4th Industrial Revolution Report // www.webberwentzel.com: [Electronic resource]. — URL: <https://www.webberwentzel.com/News/Pages/enabling-policies-awaited-after-4th-industrial-revolution-report.aspx> (date of address: 28.02.2024).

The 4IR's impact on the nation's workforce is profound and multifaceted, carrying the potential to amplify job displacement and exacerbate existing inequalities. Yet, within this intricate tapestry of challenges lies an array of opportunities that can shape a more promising future—one characterised by innovation, economic resilience, and meaningful job creation. By orchestrating a symphony of proactive measures that address the challenges while harnessing the opportunities, South Africa can navigate the 4IR to craft a more inclusive and vibrant landscape of employment, advancing the cause of sustainable development and prosperity.

The challenges posed by the 4IR are undeniable. Automation and digitalisation, as harbingers of technological progress, can displace traditional jobs and widen the chasm between skilled and unskilled workers. The informal economy, so deeply woven into South Africa's fabric, stands vulnerable to disruption, potentially pushing more individuals into underemployment or unemployment. Amidst these challenges, the skills mismatch emerges as a critical concern, with the rapid pace of technological change outpacing the workforce's ability to adapt, thus threatening to leave many behind in an evolving job market.

However, within these challenges reside opportunities that, if seized strategically, can redefine the nation's trajectory. Reskilling and upskilling initiatives can serve as bridges that empower individuals to traverse the evolving job landscape, turning potential job losses into avenues for career transformation. Entrepreneurship and innovation, harnessed through supportive policies and ecosystems, hold the promise of not only job creation but also the diversification of industries and economic resilience. The clarion calls for digital inclusion, ensuring that all segments of society have access to digital technologies and the internet, presents an avenue to bridge the gap between the privileged and the marginalised, fostering a more balanced involvement in the digital economy.

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**THE LEGAL STATUS OF A DOMAIN NAME
IN THE RUSSIAN CIVIL LAW**

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Abstract. *The legal status of a domain name in Russian legislation is not precisely defined, because a domain name is not included in the established list of intellectual property objects, however, it can act as one of the constituent elements of a trademark. Domain name fulfills the main economic function, which is to simplify the search for goods on the information and communication network “Internet”. In this sense, the domain acts as one of the means of addressing, thereby helping to quickly find certain goods by means of the company name of the company, which is the holder of the trademark. Analyzing the existing practice of resolving disputes that arise in the process of using a domain name, we can conclude that there are two established positions regarding the definition of the legal status of the domain. First, the domain can be considered as a means of addressing, in this case, the right holder to realize the protection of its own interests must prove the originality of the goods sold by the firm name. Secondly, the domain name can be presented as a constituent element of a trademark, but as in this case there is some uncertainty concerning the legal status of this object of civil legal relations.*

Keywords: *domain name, intellectual property, object of intellectual property, right holder, economic benefits, brand, products.*

In modern conditions, the development of society occurs in the formation of new forms of social relations, which do not lend themselves to the norms of domestic legislation, so there is a need for practical experience that contributes to the reform of legal norms. It is worth noting that the regulated sphere of emerging new interests should have a criterion of importance, because it should include participants of civil relations, interested in fixing certain rights, duties, limits of responsibility. In practical activity at the emergence of a new type of legal relations and the beginning of the impact of the norms of law on them an indefinite period of time passes, during which there is a reform of the Russian legislation.

The situation described above is directly related to the use of domain name, which is a set of letter combinations of a certain site on the information and communication network Internet. If we consider the use of a domain name in civil legal relations, it fulfills an important economic function, benefiting the right holder by providing identification of a certain site, attracting many customers who purchase goods.

A domain is a certain set of letter designations used in the search bar of any browser to find a particular site in the Internet space. Thus, there are often situations when the domain name is almost identical to the company name of the organization, while acting as one of the means of individualization. But it is worth noting that in Paragraph 1 of Article 1225 of the Civil Code of the Russian Federation, domain name is not fixed as an object of intellectual property, so it is legally protected only as a business name¹.

It should be noted that the main interest of the owner of a registered domain is directly related to obtaining economic benefits. In turn, the domain name acts as one of the means of individualization of products. In the described case, this legal regime is subject to regulation by means of civil law norms.

Let us refer to an example from practical activity concerning a dispute that arose in the process of using the trade name “CILEK” and the domain name “cilek.ru”. Disagreements arose in the process of registration of many domain names with a similar name, which subsequently attracted to the violation of the interests of the right holder who has a trademark with the same name. In the process of resolving the dispute, in the judicial process, the use of the domain was assigned to the holder of the certificate². This decision is based on the fact that for the recognition of this

¹ Kositskiy A. O. Domennoe imya — chto eto dlya rossiyskoy pravovoy sistemy? [Domain name — what is it for the Russian legal system?] // Evolyutsiya rossiyskogo prava: Materialy XVI Mezhdunarodnoy nauchnoy konferentsii molodykh uchenykh i studentov. Uralskiy gosudarstvennyy yuridicheskiy universitet [Evolution of Russian Law: Materials of the XVI International Scientific Conference of Young Scientists and Students. Ural State Law University]. — 2018. — Pp. 151–152.

² Opredelenie Verkhovnogo Suda RF ot 11.02.2019 No. 365-PEK18 po delu No. A40-155357/2012 [Resolution of the Supreme Court of the Russian Federation of 11.02.2019 No. 365-PEK18 in case No. A40-155357/2012] // KonsultantPlyus [ConsultantPlus].

right to the domain name, the basis is the fact of use of a virtually identical, with a combined trademark, designation.

Therefore, the civil law norms of Paragraph 1 of Article 1225 of the Civil Code of the Russian Federation, enshrining a certain category of intellectual property objects, are not fully aimed at ensuring the protection of the right holder's interests. Relying on Sub-paragraph 5 of Paragraph 2 of Article 1484 of the Civil Code of the Russian Federation and Sub-paragraph 4 of Paragraph 2 of Article 1519 of the Civil Code of the Russian Federation, the domain performs the technological function of the addressing means, which allows identifying the trademark in the Internet space with the help of a search string and the introduction of a letter designation.

Therefore, the above civil law norms are aimed at regulating the legal status of a domain name as an indispensable means of individualization. At the same time, it should be noted that the use of a domain name, which in its letter content is almost similar to the name of the trademark, makes it difficult for the buyer to understand when obtaining reliable information about a particular product of the company. In this case, it was decided that the owner of the combined trademark has the right to fully derive economic benefit from its use, including at the expense of the domain name registered for it¹.

Summarizing all of the above regarding the analysis of the legal status of a domain name in the domestic legislation, it should be concluded that it is rather vague and not fully regulated. As it was noted, the domain performs an important function with the implementation of addressing of a particular brand in the Internet space. Thus, the domain provides sales of products or realizes other property with the aim of obtaining economic benefits directly related to the brand name of a certain product.

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¹ Opredelenie Verkhovnogo Suda RF ot 17.05.2017 No. 307-ES17-4496 po delu No. A21-10484/2015 [Resolution of the Supreme Court of the Russian Federation from 17.05.2017 No. 307-ЭС17-4496 on the case No. A21-10484/2015] // KonsultantPlyus [ConsultantPlus].

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**THE SPECIFICS OF LEGAL GUARANTEES FOR THE REALIZATION
OF THE RIGHTS OF CITIZENS AND ORGANIZATIONS
IN ADMINISTRATIVE PROCEDURES FOR NOTARIAL ACTS COMMISSION
BY LOCAL GOVERNMENT OFFICIALS AND CONSULAR OFFICIALS**

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Abstract. *This article presents a comparative analysis of two administrative procedures for the performance of notarial acts — by local government officials and consular officials. Conclusions are drawn about the scope of legal guarantees. The possibilities of realization of the constitutional rights of citizens through the performance of notarial acts are noted, which is achieved both by regulating the procedure for the performance of notarial acts and establishing additional mechanisms of control over the quality of actions performed by the Ministry of Justice of the Russian Federation and courts of general jurisdiction, and by extending a number of principles of notarial activity to the activities of local government officials. The author points out that such a statement is effectively provided that consular officials perform such qualified actions as certification of transactions, which presupposes high quality standards of notarial actions and public confidence in this, the only possible, way of performing notarial actions outside the borders of the Russian Federation. As a practice-oriented part of the study, normative legal acts of the current legislation of the Russian Federation are cited.*

Keywords: *Notary, Notarial System, notarial acts, legal guarantees, notarization*

The notarial system, as an institution designed to ensure the protection of the rights and legitimate interests of citizens and organizations through the committing of notarial acts on behalf of the Russian Federation, potentially covers every citizen and every organization. Accessibility of the notarial form of protection is ensured by the mandatory requirement for the number of personnel of notaries — at least

one position of notary in a notarial district¹. The establishment of the legislative minimum for the quantitative composition guarantees the qualitative maximum, based on the mandatory requirement for membership in the notarial chamber of the subject of the Russian Federation, in the territory of which the notary carries out notarial activities — with the aim of compliance with uniform professional standards throughout the territory of the Russian Federation. If there is a vacant position of a notary within a notarial district for a long time, due to the lack of economic feasibility in filling this position, there is a mechanism established to support the notarial system in sparsely populated and hard-to-reach areas by the bodies of notarial self-government (the Chamber of Notaries of the constituent entity of the Russian Federation and the Federal Chamber of Notaries).

All these normative regulators are designed to ensure the accessibility of notarial proceedings throughout the territory of the Russian Federation. At the same time, the vast territories of the Russian Federation with different logistical and transportation infrastructure and the need to commit notarial acts outside the Russian Federation put the issue of accessibility of the notarial form of rights protection on the agenda. The commission of notarial acts by local government officials and consular officials is a way to implement the system of legal guarantees of the rights of citizens and organizations that may have a need to commit a notarial act, which will be unavailable due to objective reasons — the absence of a notary in the locality, or the applicant's presence outside the Russian Federation.

As G. V. Kostikova notes, the difficulties of functioning and development of notarial system in hard-to-reach and sparsely populated areas are due to objective reasons — remoteness of settlements from municipal centers, poorly developed transport and communication infrastructure, low population density, as well as the transition of notarial system from public to private².

Based on the analysis of the legal characteristics of notarial acts committed by notaries and local government officials and consular officials, based on the level of legal guarantees provided, it is possible to distinguish two legal procedures applied in the commission of notarial acts:

- 1) administrative procedure for notarial acts committed by local government officials and consular officials;
- 2) notarial proceedings (notarial procedure for the committing of notarial acts), carried out by notaries engaged in private practice and public notaries.

¹ As of 2020, there are 2184 notary districts in the Russian Federation // Official website of the Ministry of Justice of the Russian Federation. URL: <https://data.gov.ru/opendata/7707211418-notarokrug>. Mode of access: free. Checked. 21.09.2021.

² See: *Kostikova G. V. Nekotorye aspekty soversheniya notarialnykh deystviy na territoriyakh, gde otsutstvuet notaries* [Some aspects of committing notarial acts in territories where there is no notaries] // *Notarius* [Notary]. 2020. No. 2. P. 11.

These legal procedures differ in their legal characteristics and the level of legal guarantees provided. On the one hand, the right to commit notarial acts is vested in a special subject with a volume of unique legal guarantees inherent only to this legal institution, on the other hand, the authority to perform notarial acts is granted by a public-law body, which commits a notarial act “incidentally”, additionally within the framework of administrative procedures.

In this regard, the administrative procedure for notarial acts committed by local government officials and consular officials is an extraordinary way of implementing the rights of citizens and organizations interested in committing a notarial act, and has a number of peculiarities in terms of the implementation of legal guarantees of the rights of citizens and organizations intending to commit notarial acts, but deprived of the opportunity to visit a special subject — the notary.

The administrative procedure for notarial acts committed by local government officials is “codified” at the level of the Order of the Ministry of Justice of Russia from 07.02.2020 No. 16 “On approval of the Instruction on the procedure for notarial acts committed by local government officials”¹ (hereinafter — Order No. 16). Initially, we would like to draw attention to the wording used to characterize the actions of local government officials within the administrative procedure: “notarized document” (Paragraph 20); “notarized document” (Paragraph 21); “signatures on which are notarized” (Paragraph 24); “person applying for a notarized action” (Paragraph 21). Terminologically at the level of a legislative act does not distinguish between the notarial procedure committed by notaries and the administrative procedure for the commission of notarial acts by local government officials. In our opinion, from the point of view of the system of legal guarantees, such terminological identity is inadmissible, as the notarial action as a result of notarial procedure has a different content in all its constituent parts, forming an interrelated system of elements.

The aim of the administrative procedure for the committing of notarial acts is reduced to the observance of the minimum possible volume of guarantees for the observance of the interests of the participants of notarial proceedings and for the realization of the legally defined task to ensure, in accordance with the Constitution of the Russian Federation, Constitutions (Charters) of the constituent entities of the Russian Federation, the Fundamentals, the protection of the rights and legitimate interests of citizens and legal entities by means of committing by **officials of local self-government bodies and consular officials** envisaged by the law.

¹ Order of the Ministry of Justice of Russia from 07.02.2020 No. 16 “On approval of the Instruction on the procedure for the committing of notarial acts by local government officials” // Official Internet portal of legal information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 12.02.2020.

It is possible to identify the following elements that form an interrelated system of elements of legal guarantees in the administrative procedure for the committing of notarial acts by officials of local self-government bodies.

First, it is the “extraordinariness of the administrative procedure”, which is expressed in the establishment of a legally defined list of grounds for which an appeal to a local government official is allowed.

In accordance with Article 1 of the Fundamentals, duplicated in Paragraph 2 of Order No. 16, the following officials are authorized¹ to commit notarial acts:

1) in a rural/ urban settlement which does not have a notary public — the chief executive of the local administrative body of the rural/ urban settlement and (or) an authorized official of the local administrative body of the rural/ urban settlement;

2) in a locality located on the inter-settlement territory and having no notary public — the chief executive of the local administrative body of the municipal area and/or an authorized official of the local administrative body of the municipal area;

3) in a populated locality located within the territory of a municipal district, urban district, which is not its administrative center, in which there is no notary, — an authorized official of the local administration of the municipal district, urban district, if such official, in accordance with his/her job description, performs official duties in this locality.

According to Paragraph 2 of the Order of the Ministry of Justice of Russia dated 30.12.2015 No. 324², officials of local self-government bodies listed in Article 1 of the Fundamentals have the right to perform notarial acts *ex officio*. By decision of the head of the local government, the committing of notarial acts may be entrusted to one or more local government officials. The body in which the local self-government official is employed, within ten working days from the date of filling the position and (or) from the date of adoption of the relevant act on the vesting of the right to commit notarial acts in the local self-government official, shall send to the territorial body of the Ministry of Justice of Russia a completed form, attaching to it: three specimen signatures of the chief executive of the local administrative body; three impressions of the seal of the settlement or municipal area bearing the State Emblem of the Russian Federation.

Secondly, limitation of the list of notarial acts to be committed (Article 37 of the Fundamentals) and establishment of legislative restriction of the range of potential

¹ We would like to emphasize once again the inaccuracies of legislative technique and the expediency of using the categories — “authority”, “authorized”.

² Order of the Ministry of Justice of Russia dated 30.12.2015, No. 324 “On approval of the procedure and form for recording information on heads of local administrative bodies of rural/ urban settlements and specially authorized officials of local self-government of rural/ urban settlements, heads of local administrative bodies of municipal areas and specially authorized officials of local self-government of municipal areas to execute notarial acts” // Rossiyskaya Gazeta. 2016. January 27, No. 15.

applicants, participants of the administrative procedure for the commission of notarial acts by local government officials.

Local government officials have the right to commit notarial acts only in respect of persons registered at the place of residence or place of stay of persons.

Restriction of the list of notarial acts to be performed is related to the need for high professional competence in a number of the most important socially significant notarial acts, which does not imply double standards due to the different level of professional training of local government officials in the committing of notarial acts. Recent legislative changes indicate a tendency to further restrict the list of notarial acts committed by local self-government bodies¹.

Thirdly, the extension of the content of the principles of notarial activity to the activities of local government officials in the committing of notarial acts. In the framework of the implementation of public powers, local government officials are guided by the basic principles (legality; voluntariness; unity; objectivity; publicity; openness), enshrined in federal legislation². At the same time, the implementation of notarial activity involves the use of the principles of notarial activity, and in case of their competition (publicity and confidentiality) — the committing of an action based on the priority of the principles of notarial activity.

We consider it necessary to highlight the following principles, which should emphasize the provision of the system of legal guarantees of the rights of citizens and organizations in the committing of notarial acts by officials of local self-government bodies:

— the principle of independence of the local government official (Paragraph 4 of Order No. 16). When committing notarial acts, local government officials shall be guided by the Constitution of the Russian Federation, Constitutions (Charters) of constituent entities of the Russian Federation, the Fundamentals, the Civil Code of the Russian Federation, other regulatory legal acts of the Russian Federation, regulatory legal acts of constituent entities of the Russian Federation adopted within the limits of their competence;

— the principle of impartiality of a local government official (Paragraph 7 of Order No. 16). Local government officials may not commit notarial acts in their

¹ Federal Law No. 226-ФЗ of 26.07.2019 "On amendments to the Fundamentals of Legislation of the Russian Federation on Notarial system and Article 16.1 of the Federal Law "On general principles of organization of local self-government in the Russian Federation" amended the edition of Article 37 of the Fundamentals" to exclude the possibility of certification by local government officials of wills and limited the possibility of certification of powers of attorney for the disposal of real estate // Collection of Legislation of the Russian Federation. 29.07.2019. No. 30. Art. 4128.

² Federal Law of 06.10.2003 No. 131-ФЗ "On general principles of organization of local self-government in the Russian Federation" // Collection of Legislation of the Russian Federation. 06.10.2003. No. 40. Art. 3822.

own name and on their own behalf, in the name and on behalf of their spouses, there and their close relatives;

— the principle of assistance in the exercise of rights (Paragraph 6 of Order No. 16). Local government officials are obliged to assist individuals and legal entities in exercising their rights and protecting their legal interests, to explain their rights and obligations, and to warn them of the consequences of notarial acts committed so that legal ignorance cannot be used to their detriment;

— the principle of confidentiality (Paragraph 5 of Order No. 16). Local government officials in the execution of their official duties, as well as persons working in a local government body, are prohibited from disclosing information, publicizing documents that became known to them in connection with the committing of notarial acts, including after the termination of their powers or dismissal, except as provided for by the Fundamentals.

Fourth, the establishment of additional control subjects designed to ensure the unity of quality standards for the provision of notarial services by local government officials. According to the Resolution of the Constitutional Court of the Russian Federation No. 15-II of 19.05.1998, the implementation of uniform quality standards of notarial activities is ensured by notarial self-governance bodies, on which the state assigns responsibility for ensuring the proper quality of notarial actions. Accordingly, the implementation of notarial actions within the framework of administrative procedures requires the definition of a single center of public responsibility and the possibility of participation of notarial self-government bodies in ensuring uniform quality standards.

R. T. Kulishova points out that the rule-making of the Ministry of Justice of Russia on notarial system issues is an objectively demanded attribute of the mechanism of administrative impact on notarial activities, the aim of which is to improve the administrative and legal regulation of existing legal relations aimed at their effective development and ensuring the consistency of social interests¹.

Based on the Order of the Ministry of Justice of Russia from 07.02.2020 No. 15², the territorial body, guided by the information on the presence of violation of legislation on notarial activities in the actions (inaction) of local government officials, conducts an inspection to prevent violation of the rights of citizens and

¹ *Kulishova R. T.* Pravovoy status Ministerstva yustitsii Rossiyskoy Federatsii kak subekta publichno-pravovogo regulirovaniya notarialnoy deyatel'nosti [The legal status of the Ministry of Justice of the Russian Federation as a subject of public-law regulation of notarial activity] // *Notarius [Notary]*. 2018. No. 8. Pp. 3–8.

² Order of the Ministry of Justice of Russia from 07.02.2020 No. 15 "On approval of the Procedure for conducting by territorial bodies of the Ministry of Justice of Russia of the verification of the execution of notarial acts by local government officials" // Official Internet portal of legal information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 12.02.2020.

organizations applying for notarial actions to local government officials, with the aim of organizing the work on notarial actions. The subject of an unscheduled inspection is: 1) compliance by local self-government bodies with the requirements of the Fundamentals when granting local self-government officials the right to commit notarial acts; 2) compliance by local self-government officials with the requirements of the Fundamentals on the range of persons for whom they have the right to commit notarial acts; 3) organization of work on committing notarial acts; 4) compliance by local self-government officials with the rules of notarial record keeping; 5) compliance by local self-government officials with the requirements of the Fundamentals on the range of persons for whom they have the right to commit notarial acts.

Based on the results of an unscheduled inspection, within three working days from the date of its completion, a certificate shall be prepared and signed by the official of the territorial body of the Ministry of Justice of Russia who conducted the unscheduled inspection.

Notarial self-governance bodies shall carry out verification of information on the certification or revocation of a power of attorney by a local self-governance body. The procedure for sending to the Chamber of the Notarial System of the Subject of the Russian Federation information on the certification or revocation of a power of attorney by a local government body is established by Order of the Ministry of Justice of Russia No. 14 of 07.02.2020¹. Having received information about the certification or revocation of a power of attorney, which are made by a local government official, information about them, by virtue of the Order of the Ministry of Justice of Russia from 30.09.2020 No. 225², is entered in the register of notarial acts by an authorized employee of the Chamber of the Notarial System within two working days from the date of their receipt. The Chamber of the Notarial System shall perform automated format and logical control of information on the certification or revocation of a power of attorney by a local government official, as well as verification of compliance of the electronic signature of the local government official with the requirements of the legislation, using the means of the Unified Information System “Notariat”. If the submitted information passed format-logical

¹ Order of the Ministry of Justice of Russia from 07.02.2020 No. 14 “On approval of the Procedure for sending to the notarial chamber of the subject of the Russian Federation information about the certification or revocation of the power of attorney by the local government, whose official certified the power of attorney” // Official Internet Portal of Legal Information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 12.02.2020.

² Order of the Ministry of Justice of Russia from 30.09.2020 No. 225 “On approval of the Procedure for maintaining the registers of the unified information system of the Notaries, entering information into them, including the procedure for correcting technical errors made in such registers” // Official Internet portal of legal information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 05.10.2020.

control and was registered in the register of notarial acts, the information shall be sent to the local government official.

Fifth, endowing the administrative procedure with the property of formalism. The analysis of qualitative characteristics of notarial procedure has allowed us to identify that, unlike other legal procedures, notarial procedures, by virtue of the implementation of the constitutional statements of Article 45 of the Constitution of the Russian Federation, are endowed with an additional volume of legal guarantees and represent a system of consecutive actions (algorithms) aimed at ensuring the realization of constitutional rights in an extrajudicial manner. This involves the establishment of normative regulation of administrative procedure for the performance of notarial acts by officials of local self-government bodies, taking into account the “special public legal status of the Notarial System”¹ and the consequences of the actions performed. In this regard, there are increased requirements to the regulations of the performed actions and their ordering by certain stages.

Initiation of administrative procedure in accordance with the principle of dispositiveness occurs on the basis of free expression of will of the parties. An official of a local government body shall establish the identity of a citizen or a representative of a legal entity who has applied for a notarial act and check the place of residence. At the stage of initiation of the administrative procedure, the applicant shall have a document confirming payment for the notarial action. For the performance of notarial acts for which the legislation of the Russian Federation provides for a mandatory notarial form, the state duty is paid at the rates established by Article 333.24 of the Tax Code of the Russian Federation (TC RF), while for the performance of notarial acts for which the legislation of the Russian Federation does not provide for a mandatory notarial form, the local government official charges a notarial tariff in the amount established in accordance with the requirements of Article 22.1 of the Basics. In this case, unlike notaries, the official realizes not the principle of self-financing of notarial activity, but the principle of reimbursement established by the Tax Code of the Russian Federation.

¹ Resolution of the Constitutional Court of the Russian Federation dated December 23, 1999, No. 18-П “On the case of verifying the constitutionality of certain provisions of Articles 1, 2, 4 and 6 of the Federal Law of January 4, 1999 “On the tariffs of insurance contributions to the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation, the State Employment Fund of the Russian Federation and compulsory medical insurance funds for 1999” and Article 1 of the Federal Law of March 30, 1999 “On amendments and additions to the Federal Law “On tariffs of Insurance Contributions to the Pension Fund of the Russian Federation, the Fund social insurance of the Russian Federation, the State Employment Fund of the Russian Federation and compulsory medical insurance funds for 1998” in connection with complaints from citizens, public organizations of disabled people and requests from the courts” // Official website of the Constitutional Court of the Russian Federation. URL: <http://doc.ksrf.ru/decision/KSRFDecision30234.pdf>. Mode of access: free. Checked: 12/05/2019.

The bylaws list all possible documents on the basis of which the official shall carry out identity and capacity checks. Procedural rules for the execution of documents are specified separately. The content of notarized documents shall be read aloud to the person applying for a notarized act. Documents executed in a notarized manner shall be signed by the person applying for the notarized action in the presence of an official of the local self-government body performing the notarized action. At the request of the person applying for the notarial act, the official may perform the notarial act by producing the notarial document in electronic form.

Documents executed on paper shall not have erasures or additions, crossed out words or other unspecified corrections and may not be executed in pencil or with the help of dyes easily removed from the paper medium. The text of the notarized document shall be written clearly and distinctly, the amounts, numbers, and terms related to the content of the document shall be indicated at least once in words.

As a result of notarial acts, certificates shall be issued and certifying inscriptions shall be made on documents in accordance with the forms approved by the Order of the Ministry of Justice of Russia¹. At the same time, instead of the word “notary” the certificates and certifying inscriptions shall contain the full name of the position of the official, including the name of the local self-government body, as well as details of the order on granting powers to perform notarial acts, if notarial acts are not performed by the head of administration.

Sixth, establishment of the list of grounds for postponement and refusal to perform a notarial act and the procedure for appealing against a resolution on refusal to perform a notarial act.

As T. V. Yaroshenko points out, the list of grounds for refusal to perform a notarial act is closed, it should be followed by notaries in the performance of their professional duties, without going beyond the limits established by law. However, in the scientific literature this statement is criticized, finding its confirmation in practice².

The reasons for postponement of a notarial act by local government officials coincide in terms of reasons and terms with similar actions of notaries. Whereas the list of reasons for refusal to perform notarial acts is non-exhaustive and differs from the list of reasons for refusal of a notary to perform notarial acts. In accordance with Paragraph 27 of Order No. 16, local government officials shall refuse to perform a notarial act if: 1) the commission of such an action is contrary to the legislation of the Russian Federation; 2) the action is subject to commission by an official of

¹ Order of the Ministry of Justice of Russia from 30.09.2020 No. 226 “On approval of the forms of registers of registration of notarial actions, notarial certificates, certifying inscriptions on transactions and witnessed documents and the procedure for their execution” // Official Internet Portal of Legal Information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 05.10.2020.

² See, e.g.: Yaroshenko T. V. Otkaz v sovershenii notarialnykh deystviy: problemnye voprosy [Refusal to perform notarial acts: problematic issues] // Notarius [Notary]. 2020. No. 2. Pp. 18–21.

a local government body of another settlement, municipal, city district or municipal district (in relation to taking measures to protect inherited property) or a notary; 2) a request to perform a notarial act was applied by an incapacitated citizen, or a representative who does not have the necessary powers, a citizen who does not have registration at the place of residence or stay; 3) the power of attorney does not comply with the requirements of the legislation of the Russian Federation; 4) the documents submitted to perform a notarial act do not comply with the requirements of the legislation of the Russian Federation; 5) the facts stated in the documents submitted to perform a notarial act are not confirmed in the manner established by the legislation of the Russian Federation.

An official of local self-government bodies, at the request of a person who is denied a notarial act, shall, within ten days from the date of application for the notarial act, state the reasons for the refusal in writing and explain the procedure for its appeal. Appeal against a resolution on refusal to perform a notarial act shall be made in accordance with the general procedure established by Chapter 37 of the Civil Procedure Code of the Russian Federation within ten days from the date of commission or refusal to perform a notarial act to the district (city) court at the location of the person authorized to perform notarial acts.

Seventh, establishment of mechanisms of responsibility of local government officials. Despite the absence in Order No. 16 of mechanisms of compensation for damage caused by local government officials by analogy with the “three-stage” model of full compensation for damage caused by the actions of notaries, the state establishes mechanisms of liability of local government officials as one of the manifestations of guarantees of the rights of citizens and organizations that have applied for notarial acts.

As noted by I. E. Kabanova, the effective functioning of the institute of Notarial System is impossible without a system of measures ensuring the responsibility of participants of this type of legal relation. Property liability is a guarantee in the field of protection of rights, freedoms and legitimate interests of both individuals and legal entities¹. In case of damage caused to the person or property of a citizen, as well as damage caused to the property of a legal entity by a committed or imperfect notarial action, in accordance with Article 1064 of the Civil Code of the Russian Federation such damage shall be compensated in full by the person who caused the damage. If the damage was caused by unlawful actions of an official of a local self-government body, the relations of liability are built in accordance with Article 1069 of the Civil Code of the Russian Federation. According to Article 1069 of the Civil Code of the

¹ See: *Kabanova I. E.* Normativnye osnovy imushchestvennoy otvetstvennosti notariusov za prichinenie vreda pri osushchestvlenii imi publichnykh polnomochiy i dolzhnostnykh lits organov mestnogo samoupravleniya pri sovershenii imi notarialnykh deystviy [Normative bases of property liability of notaries for infliction of damage in the exercise of public powers and local government officials in the performance of notarial acts by them] // *Grazhdanskoe pravo [Civil law]*. 2018. No. 1. Pp. 40–42.

Russian Federation, damage caused to a citizen or a legal entity as a result of illegal actions and inaction of municipal bodies or their officials shall be compensated at the expense of the treasury of a municipal entity.

The court, considering the case, must establish the existence of guilt. If the guilt is expressed in the form of intent, the civil liability of the official of the local self-government body is incurred. If we draw an analogy with notaries and cases of bringing them to liability, it is possible to allow compensation of damage by a public entity. As follows from the data of Ingosstrakh insurance company, which compiled a summary of cases of indemnification of damage by entities that insured their professional liability, a mistake was made in the text of the notarial document: instead of the amount of 5.4 million the amount of 1.4 million was specified. The parties did not notice the mistake, the notary did not read the content aloud, and as a result, the parties signed the document¹. The notary became liable and reimbursed the party for 4 million in damages and court costs. This example may also occur in the practice of local government officials who perform notarial acts within the framework of “formalized” procedures.

As we see, the system of legal guarantees is provided, on the one hand, by imposing “restrictions” that do not allow extending the full potential of the notarial form to administrative procedures, on the other hand, by introducing additional mechanisms to ensure an appropriate level of protection of the rights of participants of administrative procedures for the performance of notarial acts.

The scope of legal guarantees in the administrative procedure for the performance of notarial acts by consular officials seems to be less developed in terms of normative consolidation, albeit at the subordinate level, of the possible actions of these subjects.

In accordance with Article 1 of the Consular Regulations of the Russian Federation², consular activity is carried out with the aim of protecting the rights and interests of the Russian Federation, the Russian Federation takes measures to ensure that citizens of the Russian Federation and Russian legal entities enjoy outside the Russian Federation the rights established by the Constitution of the Russian Federation, generally recognized principles and norms of international law, international treaties to which the Russian Federation and the host state are parties, and the legislation of the Russian Federation.

According to Article 13 of the Consular Regulations of the Russian Federation, a consular official is a citizen of the Russian Federation who holds a position of

¹ Notary's liability: insured and real // Official website of the Federal Notarial Chamber. URL: <https://notariat.ru/ru-ru/news/otvetstvennost-notariusa-zastrahovana-i-realna>. Mode of access: unlimited. Checked: 15.10.2020.

² Federal Law of 05.07.2010 No. 154-ФЗ “Consular Statute of the Russian Federation” // Collection of Legislation of the Russian Federation of 12.07.2010. No. 28. Art. 3554.

federal civil service in a consular office or consular section of a diplomatic mission of the Russian Federation and is authorized to perform consular functions. Consular functions are understood as the powers of consular institutions and consular departments of diplomatic missions of the Russian Federation to protect the rights and interests of the Russian Federation, citizens of the Russian Federation and Russian legal entities outside the Russian Federation. There are 13 consular functions in total, among which is the performance of notarial acts (Paragraph 7, Part 2 of Article 5 of the Consular Regulations of the Russian Federation).

Nowadays, the procedure of committing a notarial act by consular officials is regulated by one norm of the Consular Regulations of the Russian Federation and separate norms of Orders of the Ministry of Justice of the Russian Federation. Despite this, the administrative procedure for the commission of notarial acts by consular officials by virtue of the “specificity” of the action involves the presence of additional legal guarantees that form a system of interrelated elements. By analogy with the administrative procedure for the performance of notarial acts by officials of local self-government bodies, the following features can be emphasized:

First, the “extraordinary character of the administrative procedure” implies the possibility of appealing to an official of the consular institution in the presence of only exceptional legal facts. In accordance with Article 1 of the Basics, notarial acts on behalf of the Russian Federation in the territory of other states are performed by consular officials of the Russian Federation authorized to perform these acts. The granting of such powers to consular officials is conditioned by the identity of the task performed with the tasks performed by notarial bodies: protection of the rights and interests of citizens and legal entities entitled to enjoy outside the Russian Federation the rights established by the Constitution of the Russian Federation.

Unfortunately, despite the active use of the category of “territory of other states” in the legislative technique, there is no legislative definition of this term. In accordance with Article 67 of the Constitution of the Russian Federation, the territory of the Russian Federation includes the territories of its subjects, internal waters and territorial sea, airspace above them. The Tax Code of the Russian Federation concretizes the constitutional statements and defines that the term “territory of the Russian Federation” includes artificial islands, installations, and structures¹ over which the Russian Federation exercises jurisdiction in accordance with the legislation of the Russian Federation and the norms of international law².

¹ For example, if a person has a need to perform notarial acts at installations and facilities over which the Russian Federation has jurisdiction, even in the case of proximity of a foreign state, he may rely only on on-site notarial acts.

² See: Slovar terminov, ispolzuemykh v zakonodatelstve Rossiyskoy Federatsii [Glossary of terms used in the legislation of the Russian Federation]. — M.: Izdanie Gosudarstvennoy Dumy, 2014. P. 211.

Accordingly, if a person is outside the state border of the Russian Federation, we consider such a person to be in the territory of a foreign state, and only in this case this person has the need to perform a notarial act. The legal definition of a foreign state is given in Federal Law No. 297 “On the jurisdictional immunities of a foreign state and property of a foreign state in the Russian Federation”¹. In accordance with which a foreign state is understood as: a) a state other than the Russian Federation and its bodies of state power; b) constituent parts of a given foreign state (subjects of a foreign federal state or administrative-territorial formations of a foreign state) and their bodies to the extent that they are authorized to act with the aim of exercising the sovereign power of a given foreign state and act in this capacity.

Secondly, limitation of the list of notarial actions (Article 38 of the Basics, Article 26 of the Consular Regulations of the Russian Federation) of participants of the administrative procedure for the performance of notarial actions by consular officials. The extraordinary character of this procedure implies the exclusion from the possible notarial actions of those that require the provision to the participants of notarial legal relations of a complete system of interrelated elements that form legal guarantees of the rights of citizens and organizations. In this regard, for example, despite the possibility of certifying transactions, the possibility of certifying agreements on the alienation of immovable property located in the territory of the Russian Federation and transactions aimed at the alienation or pledge of a share or part of a share in the authorized capital of a limited liability company established in the territory of the Russian Federation is excluded.

Nowadays, a consular official has the right to perform the following notarial acts: 1) certify transactions (including contracts, wills, powers of attorney), except for contracts on the alienation of real estate located on the territory of the Russian Federation, and transactions aimed at alienation, or pledge of a share or part of a share in the authorized capital of a limited liability company created on the territory of the Russian Federation; 2) attest to the accuracy of copies of documents and extracts from them; 3) attest to the authenticity of the signature on documents; 4) attest to the accuracy of the translation of documents from one language to another; 5) certify the fact that the citizen is alive; 6) certify the fact that a citizen is in a certain place; 7) certify the identity of the citizen with the person depicted in the photograph; 8) certify the time of presentation of documents; 9) make maritime protests; 10) take measures to protect inherited property; 11) certify information about persons in cases provided for by the legislation of the Russian Federation;

¹ Federal Law of 03.11.2015 No. 297-ФЗ “On jurisdictional immunities of a foreign state and property of a foreign state in the Russian Federation” // Collection of Legislation of the Russian Federation. 09.11.2015. No. 45. Art. 6198.

12) certify the identity of the handwritten signature of a visually impaired person with a facsimile reproduction of his handwritten signature.

Unlike legislative restrictions on the powers of local government officials, the powers of consular officials remain unchanged¹ due to the lack of possible alternatives in performing notarial acts in the territory of other states.

Thirdly, the extension of the content of the principles of notarial activity to the activities of consular officials. As noted by N. A. Novikova, among the generally recognized principles of international law, on which, among other things, consular practice is based, the following can be named: the principle of sovereign equality of states, meaning full respect for the legal equality of different states; the principle of non-interference of one state in the internal affairs of another, meaning the impossibility of interfering in the internal competence of an independent sovereign state; the principle of reciprocity, meaning that the host country provides a certain legal regime to the consular officers of the sending state only on the condition that the sending state provides the same legal regime on its territory to the consular officers of the host state; the principle of retorsion, according to which one state has the right to take retaliatory actions to violations of the rights and freedoms of its consular officials on the territory of the receiving state; the principle of non-discrimination, which provides for the establishment on the territory of the host state for persons of one state exactly the same rights, advantages, and privileges as for persons of any third state². The implementation of notarial activity implies vesting consular officials with additional principles of notarial activity when realizing within the consular function of committing notarial acts. It is possible to identify the following principles, which should emphasize the provision of a system of legal guarantees of the rights of citizens and organizations in the performance of notarial acts by consular officials:

— the principle of confidentiality (Paragraph 2 of Article 26 of the Consular Regulations of the Russian Federation). The consular official performing notarial acts is obliged to observe the secrecy of notarial acts. A consular official guilty of

¹ The doctrine even attempts to justify new possible actions of consular officials, such as: providing free legal aid // See, for example: *Voronova O. N.* Rol i mesto notariusov, dolzhnostnykh lits organov mestnogo samoupravleniya i dolzhnostnykh lits konsulskikh uchrezhdeniy v sisteme okazaniya besplatnoy yuridicheskoy pomoshchi [The role and function of notaries, local government officials and consular officials in the free legal assistance system] // *Notarius [Notary]*. 2017. No. 4. Pp. 3–5; On the functioning of the institution of joint wills, see, for example: *Kostikova G. V.* Institut sovmestnogo zaveshchaniya v rossiyskom i zarubezhnom prave [Institute of conjoint will in Russian and foreign law] // *Notarius [Notary]*. 2019. No. 7. Pp. 27–29.

² See: *Novikova N. A.* Kommentariy k Federalnomu zakonu ot 05.07.2010 № 154-ФЗ “Konsulskiy ustav Rossiyskoy Federatsii” (postateynyy) [Commentary to the Federal Law of 05.07.2010 No. 154-ФЗ “Consular Statute of the Russian Federation” (article-by-article)] // *Spravochno-pravovaya sistema Konsultant Plyus [Consultant Plus legal reference system]*. 2011. 95 p.

disclosing the secrecy of notarial acts shall be liable in accordance with the legislation of the Russian Federation. In this case, it is a question of applying the statements of the Basics. Based on the statements of Article 5 of the Basics, it can be concluded that an official of a consular office is prohibited from disclosing information or documents which became known to him in connection with the performance of notarial acts, including after resignation or dismissal, except in cases provided for by the Basics. Based on the content of Article 17 of the Basics, the state is liable for the damage caused by the actions (inaction) of the consular official in accordance with Article 1069 of the Civil Code of the Russian Federation. S. A. Kirakosyan notes that the court may release the notary from the obligation to maintain secrecy if a criminal case is instituted against the notary in connection with the performance of a notarial act. The same obligation is imposed on a consular official (Paragraph 2 of Article 26 of the Consular Regulations of the Russian Federation)¹;

— the principle of impartiality of the official of the consular office (Paragraph 7 of Article 26 of the Consular Regulations of the Russian Federation). An official of a consular office may not perform notarial acts in his own name and on his own behalf, in the name and on behalf of his spouse, his, and relatives (parents, children, grandchildren).

Fourthly, the establishment of additional subjects of control designed to ensure uniformity of quality standards for the provision of notarial services by consular officials. Based on the Order of the Ministry of Justice of Russia dated 29.06.2015, No. 152², the consular office of the Russian Federation, where the official who certified the will or power of attorney works, sends information about the mentioned will or power of attorney through the Ministry of Foreign Affairs of the Russian Federation to the Federal Chamber of the Notarial System in the form of an electronic document signed with a qualified electronic signature. Information shall be sent by the Ministry of Foreign Affairs of the Russian Federation to the Federal Chamber of the Notarial System with the help of software and hardware means of guaranteed delivery ensuring protection of personal data contained in the information in accordance with the legislation of the Russian Federation in the field of personal data.

Having received the information, by virtue of Order of the Ministry of Justice of the Russian Federation No. 225 of 30.09.2020, the Federal Chamber of Notarial

¹ See: *Kirakosyan S.A. Problemy nasledovaniya po zaveshchaniyam, priravennym k notarialno udostoverennym* [Problems of inheritance under wills equivalent to notarized wills] // *Nasledstvennoe pravo* [Inheritance law]. 2017. No. 2. P. 20.

² Order of the Ministry of Justice of Russia of 29.06.2015, No. 152 "On approval of the Procedure for sending to the Federal Chamber of Notaries information on the certification or revocation of a will or power of attorney by a consular institution of the Russian Federation" // Official Internet Portal of Legal Information of the Russian Federation. URL: <http://www.pravo.gov.ru>. Published: 30.06.2015.

System shall automatically perform format-logical control of the information on the certification or revocation of a will or power of attorney submitted by the Ministry of Foreign Affairs of the Russian Federation, as well as verify the compliance of the electronic signature of the Ministry of Foreign Affairs of the Russian Federation with the requirements of the legislation of the Russian Federation regulating relations in the field of electronic signatures. The information submitted by the Ministry of Foreign Affairs of the Russian Federation shall be registered in the register of notarial actions if it has passed format and logical control.

O. V. Filippova, as well as a number of other authors¹, notes the importance of such information security and the possibility of information exchange².

Fifthly, giving the administrative procedure the property of formalism can be called conditional, as in the Consular Regulations of the Russian Federation there is only a wording determining that the consular official performs notarial acts in accordance with the legislation of the Russian Federation on Notarial System. Thus, formally, the specified subject should perform a notarial act within the framework of three mandatory stages, the specifics of which are not normatively regulated.

Sixthly, the list of reasons for postponement and refusal to perform a notarial act and the procedure for appealing a resolution of refusal to perform a notarial act seem to be less developed. Only one reason for postponing the case — the need to request additional information — has been identified. The procedure for issuing a ruling on refusal to perform a notarial act is not developed at all from the point of view of compliance with the terms and procedure for appealing against the refusal to act of an official of a consular office. There is a general wording, enshrined in Paragraph 3 of Article 16 of the Consular Regulations of the Russian Federation, which establishes that the actions (inaction) or decisions of consular officials can be appealed to the Head of the consular office, the head of the diplomatic mission of the Russian Federation in the host state and (or) to the federal executive body in charge of foreign affairs, or in court in accordance with the legislation of the Russian Federation. Paragraph 5 of Article 26 of the Consular Regulations of the Russian Federation establishes that a person who is denied a notarial act, at his request, must be set forth in writing the reasons for the refusal and explained the procedure for its appeal. This implies only a judicial procedure for appealing a notarial act performed, or the refusal to perform a notarial act of an official of a consular office in accordance with Chapter 37 of the Civil Procedure Code of the Russian Federation

¹ See, e.g.: *Yaroshenko T.V.* Primenenie informatsionnykh (elektronnykh) tekhnologiy v notarialnoy deyatel'nosti [Use of information (electronic) technologies in notarial activity] // *Notarius [Notary]*. 2020. No. 1. Pp. 38–41.

² See, e.g.: *Filippova O.V.* Informatsionnye tekhnologii v notarialnoy deyatel'nosti [Information technologies in notary activity] // *Zakon [Act]*. 2019. No. 7. Pp. 73–81.

in compliance with the general procedural terms of appeal to the court established for this category of cases.

T. V. Yaroshenko adheres to the same approach, noting that the Civil Procedure Code in the order of special proceedings provides for a judicial procedure for appealing not only the actions of notaries, local authorities, consular offices, but also persons who occasionally certify powers of attorney and wills¹.

Seventh, the establishment of mechanisms of responsibility of consular officials. Despite the absence in the Consular Regulations of the Russian Federation of mechanisms of compensation for damage caused by consular officials, the state establishes mechanisms of liability. By analogy with consular officials, if there is damage caused to the person or property of a citizen, as well as damage caused to the property of a legal entity, by a committed or imperfect notarial act, in accordance with Article 1064 of the Civil Code of the Russian Federation, such damage shall be compensated in full by the person who caused the damage. If the damage is caused by unlawful actions of a local government official, the liability relations are built in accordance with Article 1069 of the Civil Code of the Russian Federation. When compensating for damage caused by officials in the course of notarial acts, in accordance with the position of the constitutional review body², it should be taken into account that the statements of the Constitution of the Russian Federation and federal legislation guaranteeing everyone judicial protection of their rights and legitimate interests, as well as compensation for damage caused by illegal actions and decisions of state bodies and officials, do not imply the right of a citizen to independently determine the type and measure of responsibility of persons vested with public authority. Legal liability, if it goes beyond the restoration of relations violated by a wrongful act or compensation for the damage caused by this act, is a means of public-law response to offending behavior, in this regard, the type and measure of responsibility of the person who committed the offense should be determined on the basis of public-law interests, rather than the private interests of the victim.

A comparative analysis of two administrative procedures for the performance of notarial acts — by officials of local self-government bodies and officials of a consular institution — allows us to conclude that the scope of legal guarantees

¹ See: *Yaroshenko T.V.* *Primenenie informatsionnykh (elektronnykh) tekhnologiy v notarialnoy deyatel'nosti* [Use of information (electronic) technologies in notarial activity] // *Notarius* [Notary]. 2020. No. 1. P. 15.

² Resolution of the Constitutional Court of the Russian Federation of 08.12.2011, No. 1714-O-O "At the request of the Blagoveshchensk City Court of the Amur region on the constitutionality of Paragraph 3 of Part five of Article 12, Part three of Article 17 and Part one of Article 34 of the Fundamentals of Legislation of the Russian Federation on Notaries" // Official website of the Constitutional Court of the Russian Federation. URL: <http://doc.ksrf.ru/decision/> Mode of access: free. Checked: 05.12.2020.

is not homogeneous, and applicants within the framework of the procedure for the performance of notarial acts by officials of local self-government bodies have greater opportunities to realize their constitutional rights through the performance of notarial acts. This is achieved both by regulating the procedure of notarial acts and establishing additional mechanisms of control over the quality of actions performed by the Ministry of Justice of the Russian Federation and courts of general jurisdiction, and by extending a number of principles of notarial activity to the activities of local government officials. This is despite the fact that consular officials perform such qualified actions as certification of transactions, which implies high standards of quality of notarial actions and public confidence in this, the only possible way of performing notarial actions beyond the borders of the Russian Federation.

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THE RIGHT TO HEALTH OF PERSONS WITH DISABILITIES

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Abstract. *Today, people with disabilities face a huge number of problems, especially the realization of the right to health. Realization and protection is an urgent issue both for Russia and for the international community as a whole.*

The formation of the right to health for people with disabilities is considered to be one of the fundamental human rights. At the international level, there is no comprehensive approach to studying the formation of the very content of the right to health. The provisions on the right to health contained in the main international human rights agreements recognize the inadmissibility of discrimination in all its forms in the realization of this right. The issue of the general status of persons with disabilities in international law and the specifics of international protection of the right to health of persons with disabilities is particularly relevant. Providing convincing evidence that the right to health of persons with disabilities is an integral element of the right to health in general, it is noted that the right to health of persons with disabilities is influenced by the following factors: social, cultural, economic, which together have an impact on the physical and mental health of persons with disabilities. It emphasizes the importance of specifying the definition of the “right to health of persons with disabilities” and determining the role of the right to health of persons with disabilities in the system of international law.

Keywords: *persons with disabilities, disability, right to health, international law, human rights.*

The human right to health has various formulations in universal and regional human rights treaties, state constitutions, and national legal acts. Nevertheless, with regard to the realization and protection of the right to health, there are problems of economic, political, financial, legal, administrative, social and other character. These issues also affect persons with disabilities. In this regard, in order to study the right of persons with disabilities to health in international human rights law, it is necessary, first, to comprehensively study the history and the formation of the right of persons with disabilities to health as a human right.

It should be noted that the science of international law in general and international human rights law, in particular, lacks a comprehensive approach and study of the very formation of the right to health. Some aspects of this issue have been discussed indirectly within the framework of analyzing the general history of development and formation of international human rights law, which, accordingly, cannot fully disclose the issue of the formation of the right to health.

Attention should be paid to the development of the right to health of persons with disabilities within the framework of international human rights law.

The WHO Constitution enshrined the following provision: “the enjoyment of the highest attainable standard of health is a fundamental right of every human being without distinction of race, religion, political opinion, economic or social condition”¹.

On July 26, 1945, the UN Charter was adopted, which entered into force on October 24, 1945. According to many authors, it was the UN Charter that laid down the principle of promoting and respecting human rights and defining the powers of all six principal UN bodies without exception in the promotion of human rights and freedoms².

The American Declaration of the Rights and Duties of the Human Being of May 2, 1948, also enshrined the right to health in its content. One of the articles of this Declaration states that everyone has the right to preserve and maintain his or her health by taking the necessary sanitary and social measures with respect to food, shelter, clothing, and medical care, according to the capacity of public and community resources³.

Nevertheless, looking at Article 25 of the Universal Declaration of Human Rights, it already contains the enshrinement of a social right. Article 25 of the Universal

¹ See, e.g. The Constitution of the World Health Organization was adopted by the International Health Conference held in New York from 19 June to 22 July 1946, and signed on 22 July 1946 by representatives of 61 countries (off. Rec. Wld Hlth Org. 2, 100). The amendments adopted by the XII World Health Assembly (resolution WHA12.43) entered into force on October 25, 1960.

² The Oxford Handbook on The United Nations / Ed. by Th. G. Weiss, S. Daws. Oxford University Press, 2007. 810 p.

³ American Declaration of the Rights and Duties of Man (Bogotá, May 2, 1948) Art. XI // [www.cidh.oas.org](http://www.cidh.oas.org: [Electronic resource].): [Electronic resource]. — URL: <http://www.cidh.oas.org/Basios/English/Basic2.American%20Declaration.html>. (date of address: 11.11.2019).

Declaration of Human Rights states: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social security”¹.

Health-related aspects are closely related to a person’s “standard of living” that is “necessary for the maintenance of health”. This refers to the right to “adequate food, clothing, housing, medical care and social security”². This article is also an affirmation that the right to health is linked to other human rights.

The International Covenant on Civil and Political Rights³ and the International Covenant on Economic, Social and Cultural Rights also affirm the link with other fundamental human rights and freedoms.

More recently, the Committee on Economic, Social and Cultural Rights, in its General Comment No. 14, confirmed that the right to health is closely linked to and dependent on the realization of other human rights⁴.

Article 12, Paragraph 1 of the International Covenant on Economic, Social and Cultural Rights states:

“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

Paragraph 2 of this Article lists a number of measures necessary for the full realization of this right:

“2. The measures to be taken by the States Parties to the present Covenant for the full realization of this right shall include the measures necessary to:

- a) ensuring the reduction of stillbirths and infant mortality and the healthy development of the child;
- b) improving all aspects of environmental and industrial hygiene;
- c) preventing, treating and controlling epidemic, endemic, professional and other diseases;
- d) creating an environment that provides everyone with health care and medical attention in the event of sickness”⁵.

¹ Prava cheloveka: sbornik mezhdunarodnykh dogovorov. T.I (chast pervaya): Universalnye dogovory [Human rights: a compilation of international treaties. Vol. I (part one): Universal treaties]. OON. Nyu-York; Zheneva, 2002. P. 5.

² Universal Declaration of Human Rights (adopted by the UN General Assembly on 10.12.1948, Article 25 // www.consultant.ru: [Electronic resource]. — URL: https://www.consultant.ru/document/cons_doc_LAW_120805/707fa15f83b08460bda25bf3ee28aeb05ede183f/?ysclid=lbavl5ive993864061 (date of address: 02.09.2020).

³ Quinn G., Degener T. Human rights and disability: the current use and future potential of United Nations human rights instruments in the context of disability. NY: Geneva: United Nations, 2002. P. 89.

⁴ International Covenant on Economic, Social and Cultural Rights. Adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1996 // www.un.org: [Electronic resource]. — URL: http://www.un.org/ru/documents/decl_conv/conventions/pactecon.shtml. (date of address: 02.02.2021).

⁵ Ibid.

It should also be noted here that this list of measures is quite illustrative, but not exhaustive. In our opinion, this Article gives the broadest notion of the right to health.

At the same time, many scientists believe that the wording of the right to health in Article 12 of the International Covenant on Economic, Social and Cultural Rights brings clarity of conceptual character, which, in turn, contributes to the realization of the right to health¹.

In Paragraph 1 of Article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”².

Let us note that in this Covenant the concept of “health” is not used as a concept of complete physical, mental and social well-being, but implies exactly the “attainable” level of health, mental and physical.

And the “highest attainable level of physical, mental health” is not limited to the right to health care.

They perceive medical care here as a very real, tangible service that can be provided to a citizen and guaranteed by the state. It is important to note that attention is emphasized on the need to guarantee the provision of citizens with a minimum level of medical care by the state.

The “accessibility” of medical facilities, goods and services, which “must comply with the requirements of medical ethics and not contradict the cultural traditions of the population” is a certain criterion in this case. Achieving equality here in access to health services for a vulnerable group depends on a multitude of constantly changing socio-economic factors³. With this in mind, the Committee on Economic, Social and Cultural Rights, in its General Comment No. 14⁴, has identified a number of general and mandatory conditions necessary to lead a healthy life and maintain health.

The Convention on the Rights of Persons with Disabilities, 2006, in addition to the core Article 25, which states that States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without

¹ See: The Core International Human Rights Treaties. United Nations Human Rights Office of the High Commissioner. United Nations. New York; Geneva, 2014. P. 11–27.

² International Covenant on Economic, Social and Cultural Rights. Adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1996 // www.un.org/ru/documents/decl_conv/conventions/pactecon.shtml. (date of address: 02.02.2021).

³ Women and Gender Equity Knowledge Network. “Unequal, Unfair, Ineffective and Inefficient-Gender Inequity in Health: Why it existand how wechangeit?” // Final Report to the WHO Commission on Social Determinants of Health. September, 2007. P. 12–13.

⁴ Economic and Social Council. Committee on Economic, Social and Cultural Rights. Twenty-second session. Geneva, April 25-May 12, 2000 // [Electronic resource]. — URL: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAZ2qaojTzDjMCO00gX5V%2FxFevrspahcSeU9T883zaKN3UwGR3%2BTLPPXXkRXGwl1t8htgWj9T8vsFZ11>.

discrimination on the basis of disability, States shall take all appropriate measures to ensure that persons with disabilities have access to gender-sensitive health care services, including health rehabilitation. For example, Paragraph 2 of Article 22 — States Parties shall protect the confidentiality of information on the identity, health status and rehabilitation of persons with disabilities on an equal basis with others. Article 27 not only recognizes the right of persons with disabilities to work on an equal basis with others, but also, in Paragraph (a), prohibits discrimination on the basis of disability with respect to matters relating to all forms of employment, including the provision of safe and healthy working conditions¹.

These agreements recognize the right to health and specify its realization in relation to specific categories of people, such as persons with disabilities.

With regard to the role of the right to health of persons with disabilities in the system of international law, it should be borne in mind that persons with disabilities are “special” participants in relations, which is due to a number of factors. In particular, many factors, their personal characteristics, the participation not only of legal representatives of persons with disabilities in the realization of their rights and interests, but also of persons with disabilities themselves are important. It is of interest to study the differences between the general status of persons with disabilities in international law and the peculiarities of international protection of the right to health of persons with disabilities. Within the framework of the general status of persons with disabilities in international law belongs to the totality of human rights enshrined in international treaties.

The right to health belongs to the group of inalienable natural rights and freedoms of a person accompanying the vital activity of a person, this is applicable to the right to health of persons with disabilities. The Universal Declaration of Human Rights of 1948 establishes its essence in a general formulation: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services. Motherhood and infancy are entitled to special care and assistance”².

It should be noted that the implementation of international legal norms is, as a rule, a much more complex and responsible task than their adoption. The resolution of this issue is possible only if there is an optimal mechanism of implementation as a certain set of legal and organizational means used by subjects

¹ Convention on the Rights of Persons with Disabilities: UN General Assembly Resolution 61/106 of December 13, 2006 // www.un.org: [Electronic resource]. — URL: https://www.un.org/ru/documents/decl_conv/conventions/disability.shtml (date of address: 29.09.2019).

² Vseobshchaya deklaratsiya prav cheloveka / Osnovnye mezhdunarodnye dogovory po pravam cheloveka [Universal Declaration of Human Rights / Basic International Human Rights Agreements]. — Organizatsiya Obedinennykh Natsiy, Nyu-York i Zheneva, 2006. P. 7.

of international law at the international and national levels in order to implement the prescriptions of the norms of international law¹.

In our opinion, with a comprehensive approach to the definition of the right of persons with disabilities to health, we can talk about both individual and collective rights.

A. M. Solntsev includes the environmental factor in the definition of the right to health and notes the close interaction of the right to health in general with environmental human rights. This position is also applicable to the definition of the right to health of persons with disabilities².

The position of the World Health Organization (WHO) is that the state of health is influenced simultaneously by many factors, primarily individual biological features and socio-economic status, which are not under the direct influence of the state. In addition, the right of a disabled person to health correlates with the right to use a set of goods, means, services and conditions intended for their realization.

WHO's position emphasizes the obligation of States to care for the health needs of their populations, including persons with disabilities. The concept of moving from access to decent and cost-effective health protection and health services to the human right to reproductive health is emphasized. The right to health imposes a legal obligation on States to ensure access to timely, acceptable and affordable health care of adequate quality, as well as relevant determinants of health, such as safe drinking water, sanitation, food, housing, health-related information and health education, and gender equality³. For example, Article 35 of the Charter of Fundamental Rights of the European Union of 2000 confirms that health protection is the right of a person with disabilities to have access to preventive health measures and to benefit from health care under the conditions provided for in the legislation of the Member States of the European Union⁴. In other words, it is the realization of a set of social, economic, and medical standards for the well-being of the human person, taking into account the fulfillment of the above-mentioned obligations by the member states.

¹ *Pleskach V.N.* Prava cheloveka i mekhanizmy ikh zashchity v sovremennom mire: ucheb pos. [Human rights and mechanisms of their protection in the modern world: textbook] SPb.: Izd-vo SPbGUSE, 2012. P. 160.

² *Solntsev A.M.* Zashchita ekologicheskikh prav cheloveka v kontekste internatsionalizatsii konstitutsionnogo prava [Protection of environmental human rights in the context of internationalization of constitutional law] // *Vestnik Kostromskogo gosudarstvennogo universiteta* [Bulletin of Kostroma State University]. No. 4, 2016. Pp. 196–199.

³ *Karkishchenko E.I.* Mezhdunarodno-pravovye aspekty deyatel'nosti Vsemirnoy Organizatsii Zdravookhraneniya: dis. ... kand. yurid. Nauk [International legal aspects of the activity of the World Health Organization: dissertation of the Candidate of Legal Sciences]: 12.00.10 / Ekaterina Igorevna Karkishchenko. M., 2004. 107 p.

⁴ *Chetverikov A.O.* Charter of fundamental rights of the European Union (Nice, December 7, 2000) // *eulaw.ru*: [Electronic resource]. — URL: <https://eulaw.ru/treaties/charter/> (date of address: 12.02.2021).

Scientific ideas about the content of the right to health protection began to emerge in the Soviet period. Thus, F. M. Rudinskiy distinguished four main powers of the right in question: the right to protection of inviolability of life and health, the right to free qualified medical care provided by state health care institutions, the right to ensure the possibility of a long and active life, the right to the highest attainable level of physical and mental health¹.

The right to health of persons with disabilities is monitored at the international level through the submission of reports to the Committee on the Rights of Persons with Disabilities and the Conference of States Parties to the Convention. Prior to the establishment of the Committee on the Rights of Persons with Disabilities, the problems of persons with disabilities were considered by the UN Economic and Social Council. In January 2013, 17 persons with disabilities joined the Committee.

In addition to the Committee on the Rights of Persons with Disabilities, the International Labour Organization (ILO) and the World Health Organization (WHO) are concerned with the inclusion of persons with disabilities. As for the World Health Organization, it supports and monitors the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities in relation to health care, rehabilitation, training for persons with disabilities.

The right to the enjoyment of the highest attainable standard of physical or mental health, as established in the International Covenant on Economic, Social and Cultural Rights of 1966 (Article 12)², is conditioned by access to the benefits of scientific progress in health and to high quality social and health services. The measures taken by States Parties to the Covenant to realize it include: ensuring the reduction of child mortality, the healthy development of children, the improvement of all aspects of hygiene, the prevention, treatment, and control of epidemic, endemic, professional and other diseases, and the creation of an environment conducive to health care and medical attention. General Comment No. 14, adopted by the UN Committee on Economic, Social and Cultural Rights at its regular session in 2000, clarifies the essential elements that define the human right to health and their direct impact, including in relation to persons with disabilities:

- a sufficient number of functioning health facilities, goods, services, and programs and their accessibility;
- medical ethics and cultural criteria;

¹ *Rudinskiy F. M. Zhizn i zdorovye sovetskogo cheloveka kak obekt konstitutsionnoy okhrany. Sovetskoe gosudarstvo i pravo* [Life and health of a Soviet human being as an object of constitutional protection. Soviet State and Law]. M.: Nauka, 1979, No. 1. Pp. 5–12.

² International Covenant on Economic, Social and Cultural Rights. Adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1996 // www.un.org: [Electronic resource]. — URL: http://www.un.org/ru/documents/decl_conv/conventions/pactecon.shtml. (date of address: 02.02.2021).

— availability of qualified medical personnel, quality medicines and medical equipment, safe drinking water and adequate sanitation¹.

The last element is the most important for the realization of the right to health among persons with disabilities.

It should be noted that a comprehensive approach to the right to health in general was noted in earlier international instruments, as the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms does not explicitly guarantee the right to protection of health or the right to be healthy.

The mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health was established by the UN Commission on Human Rights in 2002 and renewed by the UN Human Rights Council in 2019².

The mandate aims to: collect, request, receive and exchange information on the realization of the right to health; coordinate cooperation with stakeholders in this field; prepare reports on the realization of the right to health and recommendations for its promotion and protection; and address specific issues related to alleged violations of this right³.

General Comment No. 9 (2006) of the Committee on the Rights of the Child noted that children with disabilities face discrimination in all aspects of their lives, including in the realization of the right to health⁴. Specific provisions relating to the rights of children with disabilities were formulated in the Convention on the Rights of the Child in 1989. It prohibits discrimination against children on the basis of health status (Art. 2) and introduces an obligation to care for children with disabilities in order to ensure the child's fullest possible inclusion in social life (Art. 23). An Article of the Convention on the Rights of Persons with Disabilities is also dedicated to children (Art. 7), stating that States have an obligation to ensure

¹ General Comment No. 14 on the right to the highest attainable standard of health (2000) Committee on Economic, Social and Cultural Rights // [tbinternet.ohchr.org](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=ru&TreatyID=9&DocTypeID=11): [Electronic resource]. — URL: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=ru&TreatyID=9&DocTypeID=11 (date of address: 15.02.2021).

² Ensuring healthy lifestyles and promoting well-being for all at all ages. 16 United Nations: The Sustainable Development Goals Report, 2020 // [unstats.un.org](https://unstats.un.org/sdgs/report/2020/): [Electronic resource]. — URL: <https://unstats.un.org/sdgs/report/2020/> (date of address: 07.02.2021).

³ The mandate of the Special Rapporteur was established by Resolution No. 2002/31 of the UN Commission on Human Rights, supported and renewed by Resolution No. 6/29 of the UN Human Rights Council 2007. The mandate was renewed by Resolution No. 42/16 of the UN Human Rights Council 2019.

⁴ General Comment No. 9, "Rights of children with disabilities" (2006): Committee on the Rights of the Child. Para. 11 // [tbinternet.ohchr.org](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=ru&TreatyID=5&DocTypeID=11): [Electronic resource]. — URL: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=ru&TreatyID=5&DocTypeID=11 (date of address: 09.12.2018).

the realization of all rights of children with disabilities on an equal basis with other children, to act in their best interests and to ensure the realization of their right to be heard and taken seriously. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identity is enshrined as a principle of the Convention on the Rights of Persons with Disabilities (Art. 3), as is the general obligation of States (Art. 4, Para. 3) to consult children through their representative organizations in the development of relevant legislation and policies.

The right to attain the highest attainable standard of health and the right to quality and affordable health care are inalienable rights of every child. However, in many countries around the world, discrimination, inaccessibility, and lack of targeted health-care programs that take into account the specific needs of children with disabilities continue to impede the realization of the health rights of children with disabilities. Many health insurance schemes discriminate against persons with disabilities when considering the cost of the health care they require. Some social insurance programs do not take into account the additional costs incurred by families with a child with disabilities, whose costs for goods and services often exceed those of other families. Measures should be taken to target services to mitigate the negative impact of disability and to promote universal, non-discriminatory and accessible health care, whereby health care for children with disabilities should be based on their free and informed consent, as well as to remove barriers to the realization of the rights of children with disabilities and recognize the importance of international cooperation to improve the lives of children with disabilities in every country.

Analysis, its history of the emergence and formation at the international legal level of the right to health allows us to assess the gradual development of human rights and freedoms in the field of health, understanding the importance of protecting this right. The human right to health was enshrined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and other fundamental international human rights treaties of universal and regional character. As a separate category of human rights, this right has been prioritized in the policies and practices of States. It should be noted here that at the domestic level, the right to health has also become important, and states have assumed obligations to realize it to the fullest extent. According to the relevant international legal instruments, caring for the health of each individual should be seen as an obligation of the state, not as a state prerogative to take any positive action in the field of health care.

The realization of the right to the highest attainable standard of health is possible only through an effective and integrated health system based on legal and regulatory mechanisms that operate in accordance with universally recognized international standards and national and regional priorities.

The right to health and access to health services is recognized in national legislation in most countries of the world. Health is a state of complete physical, mental and social well-being and not merely the absence of disease or physical defect. The WHO Constitution specifies the enjoyment of the highest attainable standard of health as a fundamental right of every human being. The right to health includes access to timely, acceptable and affordable health care of adequate quality. The promotion of the right to health also requires Member States to create an environment in which everyone can enjoy the highest attainable standard of health and that health services are provided on the basis of free and informed consent.

Based on the mentioned above, the right to health of persons with disabilities in the system of international law can be defined as an institution of international law in the sector of international human rights law. As an institution of international law, it can be defined as a system of international legal norms and principles that predetermine the protection of the right to health of persons with disabilities through the formation of international standards in this area and the creation of special mechanisms to control the observance of a set of relevant rights in the field of health care by states.

The right to health of persons with disabilities is a set of rights designed to ensure the highest attainable level of physical and mental health of persons with disabilities, a decent standard of living for persons with disabilities, taking into account the principle of non-discrimination and their specific needs, by ensuring equal access to health care, education, information, proper working conditions, ecology, appropriate housing and sanitary conditions.

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**REFORMING THE UN SECURITY COUNCIL
IN AN ERA OF CHANGE**

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Abstract. *This article emphasizes the importance of the UN Security Council in maintaining global order and security, and the need for it to adapt to a rapidly changing geopolitical environment and growing global threats. The text proposes a number of reforms, including expanding the membership of the Security Council to ensure more equitable representation, improving the decision-making process, adopting a more proactive approach to peace and security, and increasing transparency and accountability. The authors emphasize that a stronger and more effective UN Security Council is needed to maintain global order and security, and call on the international community to support these reforms.*

Keywords: UN, Security Council, reform, veto, 21st century.

Introduction: With the development of multipolarity in the world, the UN Security Council¹ plays an increasingly important role in maintaining international peace and security. However, the current structure of five permanent and ten non-permanent members of the Council does not maximize its effectiveness and legitimacy, making it difficult to resolve international conflicts in a timely manner. This article reveals key ideas for reforming one of the main organs of the UN. Despite its significant role in maintaining international peace and security, the Security Council has been criticized for being outdated and unrepresentative of current global power dynamics. As the global environment changes, there is a growing need for a more representative and democratic Security Council that reflects the interests and perspectives of all member states, not just the permanent members.

The United Nations Security Council (UNSC)² was established after World War II with the aim of maintaining international peace and security. However, in an era of rapid change and growing global challenges, the UNSC has been criticized for its outdated composition and ineffective decision-making process. Reforms are therefore needed to ensure that the UNSC remains relevant and capable of addressing security threats in an era of change.

Veto power: One of the most critical problems with the actual structure of the UNSC is the lack of representation of certain regions and countries. The five permanent members of the UNSC (China, France, Russia, the UK, and the US) were granted this status in 1945 and have the power to veto any substantive resolution. This veto power has effectively blocked any meaningful reforms of the UNSC and has resulted in the current membership inadequately reflecting the geopolitical realities of the 21st century.

One of the main criticisms of the veto is that it creates an imbalance of power in the Council by giving permanent members a disproportionate level of control over the Council's decision-making process. It can be argued that such an imbalance undermines the legitimacy of the Council and undermines the democratic principles of the UN. Moreover, it can be argued that the veto power can be used to prevent the Council from taking action against the interests of the permanent members, even if such action is necessary to promote global peace and security.

¹ Azumendi B., Kherrans L. Reforma Soveta Bezopasnosti OON: mezhdunarodnyy zhurnal po pravam menshinstv i grupp [International journal on the rights of minorities and groups]. 2017. Pp. 128–149; Chivvis K. S. Ukreplenie Soveta Bezopasnosti OON: plan deystviy [Strengthening the UN Security Council: a plan of action] // Survival. 2018. Pp. 77–88.

² Gryaznova O. N., Proskurina O. V. Reforma Soveta Bezopasnosti OON: problemy i perspektivy [Reform of the UN Security Council: problems and prospects] // Vestnik MGIMO-Universiteta [The Bulletin of MGIMO-University]. 2018. V. 16. No. 4. Pp. 17–28; Haas P. M. The United Nations Security Council: from the Cold War to the 21st century // International Studies Review. 2018. Pp. 138–143.

Another problem with the veto is that it can lead to inaction in the face of global crises. The Council's inability to reach consensus on issues such as Syria, Yemen and the Israeli-Palestinian conflict has underscored the limitations of the veto and raised concerns that the Council's decision-making process is overly politicized and does not address the root causes of those crises.

Despite criticism of the veto power, attempts to reform it have met with resistance from permanent members who are unwilling to relinquish their powers. However, some proposals have been made, such as the "Code of Conduct" initiative, which seeks to limit the use of the veto in cases of mass atrocities. The initiative was introduced by France and Mexico in 2013 and has since been supported by more than 100 UN member states.

The Code of Conduct invites permanent members to voluntarily refrain from using the veto in situations where there is credible evidence of genocide, war crimes, crimes against humanity or ethnic cleansing. If a permanent member were to use the veto in such cases, it would be required to provide an explanation for its decision. The initiative also calls on the Council to take timely action in situations where there is a risk of mass atrocities, even if consensus cannot be reached.

The Code of Conduct initiative has been praised by many as a step toward greater accountability and responsibility in the Council. However, the initiative has faced significant difficulties in gaining support from permanent members. Russia has been particularly critical of the initiative, arguing that it would limit the ability of permanent members to protect their own interests.

Nevertheless, the Code of Conduct remains a promising proposal for veto reform, and it is important that the international community continue constructive dialog and negotiations to achieve meaningful reform.

Expansion of the UNSC:¹ To address this issue, the UNSC should be expanded to include more countries and regions, especially those in Africa and the Middle East, which are currently underrepresented. This expansion should also take into account the diversity of the international community and should not be limited to including only developed countries. In addition, the veto power of permanent members should be reconsidered and potentially limited, as it undermines the UNSC's ability to effectively address global security concerns.

Countries' views on UNSC reform vary widely. The "Big Four" countries, which include Brazil, India, Japan, and Germany, are strong supporters of reform, calling

¹ *Khaimovich M. L.* Reformirovanie Soveta Bezopasnosti OON: istoriya, problemy i perspektivy [Reforming the UN Security Council: history, issues and prospects] // *Mirovaya ekonomika i mezhdunarodnye otnosheniya* [Global economy and international relations]. 2019. V. 63. No. 2. Pp. 72–84; *Krasnov A. A., Kozhanov A. I.* Reformirovanie Soveta Bezopasnosti OON: problemy, predlozheniya, perspektivy [Reforming the UN Security Council: issues, proposals, prospects] // *Mir i politika* [World and politics]. 2018. V. 26. No. 1. Pp. 49–60.

for expansion of the Council by increasing the number of permanent members. They argue that a reformed UNSC¹ would better reflect current geopolitical realities and enhance the legitimacy and effectiveness of the Council.

However, the P5 countries, consisting of China, France, Russia, the United Kingdom and the United States, are cautious about reform because they would lose some of their privileged status if new permanent members were added.

African countries, on the other hand, call for two permanent seats for African countries, given the size, population and strategic importance of the continent. The African Union is in favor of the “Ezulwini Consensus” which calls for two permanent seats with veto power and five non-permanent seats on the UNSC.

The Ezulwini Consensus is an important agreement that was reached at the African Union summit in Ezulwini, Swaziland in 2005. The consensus concerns the African Union’s position on UN Security Council reform.

The Ezulwini Consensus was reached in response to calls for greater African representation on the Security Council. At the time, Africa was not represented among the permanent members and had only 3 non-permanent seats on the Council. The consensus called for an expansion of the Security Council to 26 members, with 6 new permanent seats for Africa, and 5 new non-permanent seats for other regions.

The Ezulwini Consensus has become a key factor in the ongoing debate on Security Council reform. Many African countries argue that the current structure of the Council is unfair and outdated, and that greater representation is needed to make the Council’s decisions more representative of the global community. However, there has been little progress in reforming the Council in recent years because of disagreements among member countries over the specifics of the reform process.

Despite those challenges, the Ezulwini Consensus remains an important symbol of African unity and determination to achieve greater representation in the international system. It serves as a reminder that the voices and views of all countries, regardless of size or geopolitical power, are significant in shaping the future of the global community.

Other countries have expressed their views on reform, with some supporting the addition of new permanent members and others favoring a more modest expansion of non-permanent seats. Small island states also argue that they should have a voice in the Council, given their unique challenges, such as climate change.

¹ *Kuper A.F.* Pereosmyslenie Soveta Bezopasnosti: sushchestvennaya reforma ili strategicheskaya adaptatsiya? [Rethinking the Security Council: substantive reform or strategic adaptation?] // *Mezhdunarodnye otnosheniya*. 2018. Pp. 385–399; *Likht G.* Budushchee Soveta Bezopasnosti OON: reforma ili zamena? [The future of the UN Security Council: reform or replacement?] // *Mezhdunarodnaya politika* [The International politics]. 2019. Pp. 753–767.

Non-compliance with resolutions: It is also important to note that one of the main challenges of the UN Security Council is the problems associated with non-compliance with resolutions. Non-compliance with these resolutions can have significant consequences for both the state in question and the international community as a whole. When a state fails to comply with a resolution, it can be seen as a challenge to the credibility of the Security Council and the international community as a whole. This can lead to a breakdown in negotiations and increased tensions, which in turn can lead to a weakening of the international legal system and a reduction in the UN's ability to maintain peace and security. Failure to comply with decisions can also damage relations between states, leading to diplomatic tensions, economic sanctions and trade embargoes. When a state ignores a Security Council resolution, it may be considered an act of aggression or disrespect to the international community.

One example of non-compliance with a UN Security Council resolution is the case of North Korea's nuclear weapons program. In 2006, the UN Security Council adopted Resolution 1718, which imposed sanctions on North Korea in response to its nuclear weapons tests. The resolution called on North Korea to abandon its nuclear program and submit to international disarmament efforts. However, North Korea continued to pursue its nuclear weapons program and conducted numerous tests in defiance of the resolution. The country also continued to develop ballistic missiles capable of delivering nuclear warheads, further escalating tensions with the international community. Despite the imposition of additional sanctions and diplomatic efforts to persuade North Korea to abandon its nuclear program, the country continues to behave defiantly and build up its nuclear capabilities. This non-compliance with the UN Security Council resolution has become a serious concern for the international community, as it poses a significant threat to regional and global security. The case of North Korea's non-compliance with Resolution 1718 underscores the limitations of UN Security Council resolutions in addressing complex and persistent security issues. While resolutions can serve as a framework for solving problems and promoting international cooperation, they ultimately depend on the willingness of individual countries to comply with them.

Another example of non-compliance with the UNSC resolution is Armenia's unlawful actions. The Second Karabakh War, which took place from September 27 to November 10, 2020, allowed Azerbaijan to restore its territorial integrity by military force in the face of the failure and powerlessness of the law and the international community, which condemned the illegal occupation of Azerbaijani territories but never had the means to back up these condemnations with punitive measures. In the context of this war, international law has suffered greatly. The conflict opened "Pandora's Box" and showed that even a small state like Armenia can irresponsibly

violate all the principles of international law and fail to implement four UN Security Council resolutions (822, 853, 874 and 884), which have a peremptory character, what to say about the leading states of the world. International law is not a buffet from which one can choose what one likes; international law implies rights and obligations for all.

Another example of non-compliance with a UN Security Council resolution is Iran's nuclear program. In 2006, the UN Security Council adopted Resolution 1696, which required Iran to suspend all uranium enrichment activities and submit to international efforts to address concerns about its nuclear program. However, Iran continued to pursue its nuclear program and refused to comply with the resolution. In response, the Security Council adopted additional resolutions, including Resolution 1737, which imposed sanctions on Iran and called on it to suspend uranium enrichment activities. Despite the imposition of sanctions and diplomatic efforts to persuade Iran to comply with the resolutions, the country continued to develop its nuclear capabilities and expand uranium enrichment activities. The case of Iran showed the limitations of sanctions and diplomatic efforts in forcing the country to comply with international norms and rules.

Conclusion: Summarizing the above, it is important to note that the UN Security Council is one of the main UN bodies responsible for maintaining global order and security. However, in light of rapidly changing geopolitical conditions and growing global threats, the UNSC must adapt to new challenges¹.

One of the important reforms that need to be undertaken is the expansion of the Security Council's membership to reflect a more equitable and balanced representation of the world.

In addition, the UNSC's decision-making process should be improved to speed up crisis response and conflict prevention. The UNSC should also adopt a more proactive approach to peace and security, including more active engagement on global issues such as climate change and international terrorism.

Finally, it is important to increase the transparency and accountability of the UNSC to build trust between the UN and its members, as well as among the public. This could include broader discussion of decisions taken, more frequent reporting on activities, and improved mechanisms for checking and balancing the UNSC's actions.

Overall, a stronger and more effective UNSC is necessary to maintain global order and security in an era of change. The international community must unite in

¹ *Suksen Kh.* Reformirovanie Soveta Bezopasnosti OON: voprosy i vyzovy [The reformation of the UN Security Council: Issues and challenges] // *Zhurnal razvivayushchikhsya obshchestv* [The journal of developing societies]. 2018. Pp. 391–408; *Tkhakur R.* Budushchee Soveta Bezopasnosti OON: reforma, rasshirenie ili zamena? [The future of the UN Security Council: reform, enlargement or replacement?] // *Global Governance*. 2018. Pp. 187–204.

support of these reforms to ensure that the UNSC continues to fulfill its important mission in the world.

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