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National plans to ensure the rights of persons with disabilities in Kazakhstan—amendments to the legislation

Manarbek M. Koishibayev^a, Yelena L. Nechayeva^a and Vladimir M. Kapitsyn^b

^aFaculty of Journalism and Political Science, L.N. Gumilyov Eurasian National University, Nur-Sultan, The Republic of Kazakhstan; ^bFaculty of Political Science, Lomonosov Moscow State University, Moscow, The Russian Federation

ABSTRACT

The signing and ratification of the Convention on the Rights of Persons with Disabilities by the Republic of Kazakhstan require amendments to the state legislation in order to comply with the norms of this international document. This article shows how Kazakhstan's legislation largely complies with the UN Convention on the Rights of Persons with Disabilities. However, there are still many challenges, which we discuss in this article. The main challenge of implementing the state disability policy is the lack of effective mechanisms to achieve the goals and the objectives set forth.

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Introduction

The Republic of Kazakhstan ratified the UN Convention on the Rights of Persons with Disabilities on February 20, 2015. The situation for the people with disabilities in the country has improved somewhat after the «Action Plan for Ensuring Rights and Improving the Quality of Life of Persons with Disabilities in the Republic of Kazakhstan for 2012–2018» was delivered.

Following the ratification of the Convention on the Rights of Persons with Disabilities by the Republic of Kazakhstan, the state legislation was analyzed. The analysis showed that, in general, the laws of the republic correspond to the norms of the Convention on the Rights of Persons with Disabilities, however, there are a number of new principles and provisions application and implementation of which require additions and amendments to the existing legislation. In order to bring the laws of the Republic of Kazakhstan in accordance with the UN Convention on the Rights of Persons with Disabilities, on December 3, 2015, a new law was passed. In this article, we

CONTACT Manarbek M. Koishibayev  manarbekjania@mail.ru  Faculty of Journalism and Political Science, L.N. Gumilyov Eurasian National University, Nur-Sultan, The Republic of Kazakhstan.

explore some of the remaining problems people with disabilities face in our country, in achieving their rights’.

Progress

The successful experience of implementing the state disability policy includes indexing of disability benefits, providing free blind aids, special means of transportation, compulsory hygienic items, provision of special social services, the creation of a unified electronic database of people with disabilities, and the introduction of INVATAXI (special taxi) for the people with disabilities. «Best Social Project» contests and the «Different–Equal» contests for the people with disabilities held annually throughout the country were also as a successful experience.

The purpose of the «Different–Equal» contests is to promote self-realization of people with disabilities and to involve the public in the creation of equal opportunities for people with disabilities in all spheres of life. There are several nominations: «Best social project», «Most close-knit family», «Best in profession», «Golden pen», «Best sportsman», «Best student», «Best creator», «Best painter» and «Best performer».

Problems

However, policy towards people with disabilities in Kazakhstan has the same problems as in most other countries. For example, just as in Western countries like the UK, NGOs provide social services to the public through the system of state social contract. There is a problem of quality of social services provided to the population. This often takes into account the price, not the quality and effectiveness of services, a very familiar problem in the UK also.

The people with disabilities in Kazakhstan receive fixed monetary benefits. The size of the monthly monetary benefit provides no chance to fulfill primary personal needs. In Kazakhstan, as in the UK, there is a problem with the payment of personal assistants of people with disabilities: «This means that disabled people are often left struggling to access basic levels of personal care necessary merely to stay alive, let alone have any kind of independent living, and/or relying on the unpaid labour of family members» (Graby and Homayoun 2019).

Due to lack of control in construction and transport, it has not been possible to create an accessible environment for people with disabilities. Wheelchair ramps, which are usually in place, do not meet regulatory requirements. There are problems with employment of people with disabilities and introduction of inclusive education. The fact that there is a quota does not guarantee the employment for people with disabilities. Apart from

creating an accessible environment at schools, there is lack of experienced and qualified experts willing to work with such children.

Social support of persons with disabilities is mainly based on a compensation basis, that is, on direct cash payments in the form of pensions and benefits, and the issuance of technical means of transportation. The present approach does not take into consideration the remaining capabilities, abilities and needs of persons with disabilities, does not sufficiently orient the society and persons with disabilities towards the development and use of the individual potential, and does not provide the conditions for their integration into society.

People with disabilities in closed residential institutions

Also, the rights of people with disabilities are violated in residential homes. The reports of the Commissioner for Human Rights in the Republic of Kazakhstan highlighted the potential high degree of vulnerability of persons in residential homes, their forced dependence on the administration of institutions (National Centre for Human Rights 2017).

«Children and young adults who grew up in closed institutions for children with disabilities reported that staff beat them, forcibly administered sedatives to punish or control them, and forced them to take care of younger children ... Currently, there are 19 such centers of a neuropsychiatric profile with coverage of more than 2 thousand children. The contingent of these institutions is predominantly children with intellectual and psychosocial disabilities or with developmental disabilities, including Down syndrome, autism, cerebral palsy and epilepsy.» (Human Rights Watch 2019a).

People with intellectual and psychosocial disabilities or with developmental disabilities are considered lost for the society; there are no conditions to realize their opportunities and meet their needs in rest, education, and work. The system created in the Soviet era and existing up to the present day is aimed at social isolation, social deprivation and denial of people who need the society to help them to adapt in certain areas of life, and to become equal. People with intellectual and psychosocial disabilities or with developmental disabilities undergo compulsory and long-term treatment in psychiatric hospitals, where strong drugs are used to limit their physical and mental activity. Parents or relatives are forced to put their children, including adults, in such institutions for long periods in order to earn some money or solve other household problems.

It is necessary to create conditions to let people with intellectual and psychosocial disabilities or with developmental disabilities return to society, and to restore family ties. Relatives and parents should be able to realize their life and professional plans (Human Rights Watch 2019b).

Solutions and the start of change

At present, the level of public awareness about the problems of disabled people has increased, and the attitude towards them has changed. This is promoted by NGOs, and the implementation of the state media plan. Mass media talk about people with disabilities who are striving to integrate into the society, and have achieved success in their work. Social networks play an important role in informing society. The society has begun to understand that people with disabilities are not in need of pity and charity, but need barriers to be eliminated so that they become equal with everyone.

There are the following opportunities for improving Kazakhstan's state policy for the disabled persons: increasing the number of state bodies dealing with the disabled; accrual of employment record; accumulation of pension contributions to parents and guardians who care for people with disabilities above the age of 18; support for business among people with disabilities; increasing benefits for the disabled against the growth of prices for utilities and food; creation of conditions for inclusive education at general schools (reducing the number of students in classes with disabled children, training of teaching staff to work with them, equipping schools in accordance with the regulations of special correctional schools). Where public tenders for the purchase of goods for the people with disabilities are held, it is necessary to focus not only on price but also on quality. Basically, real improvements require increased funding and depend on the capabilities of the state. Political will is required to increase financial support for people with disabilities.

The Ministry of Labor and Social Protection of Population carried out analysis of the results of the implementation of the «Plan to ensure the rights and improve the quality of life of persons with disabilities of the Republic of Kazakhstan for 2012–2018». A new plan to ensure the rights of persons with disabilities until 2025 is being prepared. The recommendations of the UN Special Rapporteur Catalina Devandas Aguilar, who visited Kazakhstan in 2017, have been taken into account. These proposals and recommendations are included in the concept of the draft Law «On amendments and additions to some legislative acts of the Republic of Kazakhstan on improving the quality of life of persons with disabilities». It is proposed to amend 11 codes and 51 laws.

The definitions of «a disabled person», «a disabled child» will be replaced by «a person with a disability», «a child with a disability» excluding the use of the definitions «a disabled person» and «a handicapped person».

The problem was in the peculiarities of translation of English terms into Kazakh and Russian (languages commonly spoken in Kazakhstan). Community leaders of people with disabilities believe that the English term «a person with a disability» is the best one to use. English words «disabled»,

«handicapped» were translated as «with limited capacities», «with limited health capacities». In their opinion, such a translation is not very correct, it is long and inconvenient to use. The expression «with limited capacities» is incorrect because there are no people with unlimited capacities. The expression «with limited health capacities» contains uncertainty when referring to a particular person. If the external signs of health problems are not visible, then the person can get into an awkward situation. The expression «people with limited health capacities» can be used in the media when referring to a social group of people designated in official documents as «invalids» (Rasulov 2012).

Conclusion

Thus despite some positive changes in Kazakhstan, people with disabilities are still facing barriers to social welfare. In Kazakhstan, a regulatory and legal framework of the public disability policy has been created, with state programs approved for the people with disabilities, but there are no sufficiently effective delivery mechanisms. Also the main contradiction between the number of people with disabilities growing from year to year and the state's ability to fulfill its social obligations towards them has become clearer in the unfavorable economic conditions of recent years. Consequently, just as in many countries with higher economic status, the role of the non-state sector in assisting people with disabilities should increase. The Republic of Kazakhstan is still at the beginning of a difficult way to fully integrate people with disabilities into society. Some of the problems we face are similar to those in other countries. Above all, people need to be more open to working together, and for people with disabilities to have more power to make changes.

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