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PROMOTING THE RIGHTS OF PERSONS WITH DISABILITIES IN CENTRAL ASIA: INSTITUTIONAL EXPERIENCES AND THE WAY FORWARD



Promoting the Rights of
Persons with Disabilities
in Central Asia:
Institutional Experiences
and the Way Forward

Critical Lessons from the
National Human Rights Institutions

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Lessons Learned Series: Rule of Law, Justice and Human Rights

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Dear Readers,

National Human Rights Institutions (NHRIs) and the offices of Ombudsman play an important role in defending human rights in accordance with international and regional standards. The structure of such national institutions, however, varies from country to country reflecting various approaches to rights protection of different groups of population. The examples include, among others, Ombudsman with the general mandate, specialised mechanisms with thematic mandates (i.e., gender, children, minorities, persons with disabilities etc.) equality bodies etc. Typically these offices are established by a provision of constitution and/or an act of law. Most of them share a common mission as independent and impartial institutions designed to hold the national administration in all of its manifestations accountable to its citizens.



UNDP's relationships with national human rights institutions (NHRIs) and Ombudsman offices flow from its core mission of human development. Human development is about expanding the choices people have to lead lives which they value, the resources which would make those choices meaningful, and the security to ensure that those choices can be exercised in peace. Without institutional protection of human rights at the national level, none of these are possible to achieve.

In Central Asia, UNDP Regional Centre for Europe and the CIS (UNDP BRC) has been working with these institutions to strengthen abilities to influence these processes. One of the critical areas identified is the lack of institutional capacities to address the challenges of the Persons with Disabilities. Despite the robust framework that UN Convention on the Rights of Persons with Disabilities (UNCRPD) proposes, many institutions including Ombudsman offices in Central Asia are still not well equipped and capacitated to deal with the particular challenges it poses for the national human rights system.

As we launched our 'Special Ability' initiative to support member states in the ratification and implementation process, UNDP BRC has been partnering with the NHRIs - offices of Ombudsman in particular - to develop a functional guidance, some sort of home-grown strategy to strengthen staff and institutional capacities. In response to growing demands, our regional project support to the NHRIs ('NHRI Plus') convened a series of training workshops and visioning meetings throughout 2011-12 with representatives of the Ombudsman and UNDP Country Offices from Central Asia. This guidance note is an outcome of such long, consultative process. I wish to take this opportunity to thank all our participating offices and partners to join us in this important journey.

I hope this guidance note, our modest offering, will be useful in giving meaning to UN and members states' proclaimed commitment – making the 'UN Convention on the Rights of the Persons with Disabilities' work.

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Executive Summary

Protecting and promoting the human rights of persons with disabilities has emerged as a priority theme for National Human Rights Institutions also due to the emphasis the Convention on the Rights of Persons with Disabilities places on national monitoring. Various initiatives in Central Asia highlight the importance of accessibility for and inclusion of persons with disabilities across all spheres of life. National Human Rights Institutions play a vital role in supporting such initiatives as the protection and promotion of the rights of marginalized groups in societies is one of their key competences.

The first part of this document brings together the manifold initiatives throughout the Central Asian Region related to increasing the visibility of persons with disabilities and their growing inclusion in mainstream society in Central Asia. Importantly, it also sketches some of the key challenges that policy changes may face.

The second part of the document highlights and captures the important contribution that the experts in National Human Rights Institutions can make, under the ten strategic areas, from non-discrimination to access to education and employment. Drawing on examples in social policy, health, education and employment, the document underscores the importance of mainstreaming initiatives related to inclusion and accessibility and stresses the potential that such policies hold for societies at large.

PART I

1

Introduction

1.1. Key principles related to promoting and protecting rights of persons with disabilities

The **Convention on the Rights of Persons with Disabilities – CRPD** (hereinafter: Convention) enunciates a set of general principles¹ – a novel approach for a human rights treaty. The principles of autonomy, inclusion, accessibility, non-discrimination, equality, gender equality, child-appropriateness as well as diversity are a succinct summary of the CRPD's core and lend themselves to comparatively easy application. What is more, their application can be helpful to the inclusion of other marginalized groups and the strengthening of human rights protection and promotion more generally.

Accessibility

Accessibility is understood broadly, encompassing at least six dimensions: the most established is the physical or architectural dimension: ensuring that mobility impaired persons – as well as elderly people and those using prams, rollers and other mobility devices – have access to all premises.

¹ Article 3 CRPD.

The social model entails a social dimension to access: are attitudes and prejudices vis-à-vis persons with disabilities overcome in the planning and design of programs and policies? What measures are being taken to ensure that paternalistic behaviour towards persons with disabilities and stereotypical portrayals are replaced with images that showcase the autonomy and enablement of persons with disabilities?

Access to communication plays a role for hearing and visually impaired persons as well as those who are non-verbal and may require augmentative and other devices to communicate. Persons with learning difficulties require easy to read formats and language that is easy to understand – intellectual accessibility.

A human rights based approach highlights that persons with disabilities have largely been deprived of adequate opportunities to achieve good quality education and possibilities to earn sufficient income: economic accessibility or affordability, respectively, is therefore of great importance. Finally, institutional accessibility shall ensure that structural barriers, which limit the opportunities for persons with disabilities to participate on an equal basis with others, be removed: in planning, programming, etc.

Inclusion

The human rights response to marginalization and exclusion is inclusion: taking pro-active steps to make sure that everyone, particularly persons with disabilities, can participate, contribute and engage on an equal basis with others. Inclusion importantly means that the structures and systems in place are changed in such a way that everyone, regardless of their support needs, can participate. So rather than having to specially plan for a ramp or to arrange for an extra transportation service, venues and transportation should be planned in a way that enables the equal participation. Instead of establishing a separate school or employment institution, regular schools and work places should be designed to limit physical barriers and create an environment where stigma is non-existent so that persons with disabilities are welcome like everyone else.

Rights holders

The personhood and therewith the rights-holding-capacity of persons with disabilities is frequently called into question. Paternalistic approaches trump the decision making by persons with disabilities; laws derail or limit the decision making power of persons with disabilities, and stereotypes assume that persons with disabilities are a-sexual. While the Universal Declaration of Human Rights would suggest that “all persons are equal” and accordingly have equal rights to enjoy all human rights, the pervasive attitude is one that assumes some sort of limited subjectivity for persons with disabilities at best, and more frequently frames persons with disabilities as objects. In that vein, it is important to reframe the debate and unequivocally enshrine the equal right of persons with disabilities to be subjects and therewith rights holders.

Non-discrimination

Equality is a core human rights principle and non-discrimination its basis. The CRPD provides a comprehensive clause on non-discrimination, which states:

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.”²

Reasonable accommodation

The CRPD defines reasonable accommodation very clearly: “Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”³ Furthermore, the Convention calls on States Parties to *ensure* that reasonable accommodation is in place to comply with equality and non-discrimination requirements.⁴ While other core human rights treaties obviously stress the importance of non-discrimination, the concept of reasonable accommodation, which is designed to redress individual barriers to access, is a leap in taking the issue from an abstract-general to a concrete-individual level.

Participation

The CRPD is the first human rights treaty to specifically assign a role to civil society and to oblige States to discuss policy, law and program plans with civil society, more specifically with persons with disabilities themselves. Redressing the exclusion of persons with disabilities at various political levels (federal, regional, and local, e.g.), the provision’s implementation is also set to improve the quality of policy making more generally, by including experts in their own right to discussions that previously have largely been off-limits to non-government entities. Note that in addition to being an obligation, participation is featured as a general principle and as such features more than 30 times in the CRPD’s text.

Biopsychosocial model

Shifting from the starkly medical approach to impairment to the impact of stigma, attitudes and other discriminatory practices and their impact as embodied in the social model, is the CRPD’s most obvious contributor to uniqueness. The shift from pretending to “fix peo-

² Article 2 CRPD.

³ Article 2 CRPD.

⁴ Compare Article 5 (3) CRPD.

ple” to the need to “fix society,” enshrines a paradigm that addresses salient features of marginalization well beyond the realm of persons with disabilities: discrimination is often far more subtle than the broad-brush-stroke anti-discrimination clauses would suggest, and the combination of structural forces within society – attitude leading to patterns – is more forceful than previously acknowledged.

One may wish to note that the CRPD does not contain a definition of “disability” or “impairment,” respectively, rather a description is provided, which reflects the evolving nature of impairment and stresses the impact of attitudinal or social barriers respectively.⁵ Consequently, the World Health Organization’s biopsychosocial model is reinforced, leading to a reshaping of the way that impairments are assessed by introducing non-medical experts and broadening the range of assessors generally. The shift of paradigm also entails that the assistance need rather than the degree of impairment takes centre stage.

1.2 The role of NHRIs in promoting and protecting the rights of persons with disabilities

A **National human rights institution** (NHRI) has a constitutional and / or legislative mandate to protect and promote human rights. NHRIs are independent, autonomous institutions that operate at the national level. They are part of the State, created by law, and funded by the State.⁶ The Principles relating to the Status of National Institutions⁷ – the **Paris Principles** – set minimum international standards for the establishment of such institutions. NHRIs can broadly be grouped into three categories: human rights commissions, ombudsmen, and specialized national institutions designed to protect the rights of a particular group.

The CRPD provides for both international and national monitoring mechanisms. To “promote, protect and monitor the Convention’s implementation” States have to “give due consideration to the establishment or designation of a framework that includes one or more independent mechanisms.”⁸

“When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.” In other words: the Paris Principles are to guide the institution nominated and tasked with monitoring the CRPD’s implementation.

⁵ Preamble (e) and Article 1 CRPD.

⁶ Compare, OHCHR, National Human Rights Institutions – History, Principles, Roles and Responsibilities, 13; see also UNDP-OHCHR, Toolkit for collaboration with National Human Rights Institutions, Glossary, xvii.

⁷ Paris Principles, United Nations General Assembly Resolution A/RES/48/134, ANNEX.

⁸ Article 33 Para 2 CRPD, see also OHCHR, Monitoring the CRPD, 30.

Importantly, the monitoring process has to involve persons with disabilities as experts in their own right as well as their representative organizations. The CRPD expressly notes this obligation in Article 33 (3): “Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.” This duty is initially enshrined in the obligations part of the Convention, namely Article 4 (3).⁹

The Paris Principles set out competences & responsibilities as well as stipulations on composition and guarantees for independence and pluralism. Accordingly, NHRIs are thus tasked to protect human rights based on a broad mandate through comprehensive monitoring, investigations and reporting, counselling and advising to parliaments and governments, and possibly individual complaint mechanisms and alternative dispute resolution, among others.¹⁰

The composition is to reflect the breadth of society and importantly, the manifold actors involved in the promotion and protection of human rights, including civil society and non-governmental organizations, respectively. The CRPD builds on this aspect with its obligation to involve civil society, particularly persons with disabilities.

With regard to guarantees for independence, the Paris Principles foresee measures that ensure a distinct distance – independence – from the executive branch. To enable real independence, the appointment of NHRI representatives shall be based on an official act, which establishes the specific duration of the mandate.

NHRIs have an important role in outreach and coordination, particularly between civil society and government. Note that Article 33 (1) CRPD in addition thereto requires the establishment of **focal points** within government, which are to be managed by a **coordination mechanism**, which is also specifically envisaged.

Key focus areas for NHRIs in Central Asia

National Human Rights Institutions have a designated role in the Convention on the Rights of Persons with Disabilities. There are areas of particular attention that have been selected as key focus areas in the region:

- **Participation of persons with disabilities** is key to bringing about inclusive societies. The CRPD enshrines participation as an obligation (Article 4 Para 3). NHRI can support the implementation of the CRPD by making sure that participation of persons with disabilities is implemented in monitoring as well as by advising the amendment of legislation to ensure equal opportunity for persons with disabilities to effectively participate.

⁹ Article 4 (3) CRPD reads: In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

¹⁰ OHCHR, NHRI Professional Training Series, 22.

Furthermore, participation in policy development shall be strongly encouraged and demanded by NHRI, in accordance with the CRPD's obligations. Finally, the founding and strengthening of organizations of persons with disabilities – not just organizations for persons with disabilities – shall be encouraged.

Strengthening participation of civil society – and therewith DPOs (Disabled People's Organization) – has also been recommended by the UPR to countries in the region: to increase the frequency and quality of exchange with civil society as part of efforts to improve human rights implementation.

- **Education** is key in dismantling social barriers that prevent the full inclusion of persons with disabilities, particularly when seeking to encourage “the mainstream” to interact with persons with disabilities without hesitation, fear and stereotypes (Article 24). Education is important to assist persons with disabilities in attaining the level of independent living and self-determination that the Convention envisions, also by increasing the opportunities to fend for oneself and be less vulnerable to abuse and violence and more easily reliant on support from others for decision-making processes.

Education plays a vital role in reducing violence and making people generally and particularly persons with disabilities, less vulnerable to abuse; the issue of violence has been the subject of recommendations to countries in the region, both from the UPR but also from the treaty bodies.

- **Awareness-raising** is a red thread in the Convention and accordingly in this Strategy. The CRPD is the first human rights treaty to specifically address awareness-raising (Article 8) and utilizing this provision and appreciating the manifold opportunities to increase the awareness about the social model and therewith a modern image of persons with disabilities is an important contribution that National Human Rights Institutions can make.

Promotion and protection of the rights of persons with disabilities in country contexts

Persons with disabilities are largely viewed as second-rate citizens in the Central Asia region. Widespread prejudices hold that persons with disabilities are unable to contribute to society in a meaningful way, lack capacity to work and are frequently deemed “useless” or “passive,” particularly when it comes to decision-making but more broadly in participating in society on an equal basis with others.¹¹

To understand the scope of the overview that follows, it should be noted that the availability of data in the region is very patchy. Obviously there is very limited data on persons with disabilities themselves as only a part of the potential group is reflected in the data available – compare the roughly 4% of the population to the 15% estimate of the WHO. Within that group, there is very specific data available on certain services that have been rendered, e.g., prostheses and other devices that have been made available. Considerable data exist on employment and education; however, it looks very marginally at the situation of persons with disabilities and does not take into account the wider scope of the employment market. As for the health issues, more general questions of access to health care services are not reflected at all, while other areas, e.g., availability of mental institutions are.

The picture is incomplete given that there is scant to no data on obstacles to inclusion and contributors to exclusion of persons with disabilities. Cross-cutting collection of data and statistics based on accessibility and inclusion – rather than just focused on a medically framed impairment – is wanting.

¹¹ See EBL Report: EEva Tupi, Pamela West, Legislation in Central Asia regarding Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities, 2012 (hereinafter: Tupi/West)

The following section will look into existing legislative frameworks, available statistics, and the main findings of the contextual analysis related to limitations faced by persons with disabilities in the region.

2.1. Basic Regulations

The Basic Regulations on Persons with Disabilities in the region are:

Kazakhstan:¹²

- Constitution of Kazakhstan. Adopted 1995
- Law on Social Protection of Disabled Persons 2005.
- Law on Support for Children with Disabilities 2002
- Criminal Code 1997
- Labour Code 2007
- Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women 2009
- Law on prevention of domestic violence 2009
- Law on Education 2007
- Law on Wheelchairs 2005
- Rules of providing the disabled persons with special means of transport in 2005
- Code on marriage and family 2011
- Resolution on personal assistance and sign language interpretation 2005
- Rules of the Medical and Social Expertise 2005
- Regulations on the organization of psychological, medical and educational consultation 2004

Kyrgyzstan:¹³

- Kyrgyz Constitution 2010
- Criminal Code 1998
- Law on the Rights and Interests of Persons with Disabilities 2008
- Law on the Basis of Social Services 2001
- Education Law 2003
- Labour Code 2003
- Law on Social and Legal Protection against Domestic Violence 2003
- Law on State Benefits 1998
- Family Code 2000

¹² Tupi/West, iv.

¹³ Ibid, Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

Tajikistan:¹⁴

- Tajik Constitution 1994
- Law on Social Protection of People with Disabilities 2010
- Labour Code 1998
- Criminal Code
- Family Code 2006
- Education Law 2005
- Initial Vocational Education Law

2.2. Data and Statistics

The percentage of population with impairment in Kazakhstan, Kyrgyzstan and Tajikistan is said to be well below 4%.¹⁵ That is far less than the most conservative estimate of the World Health Organization (WHO) for any given population, which was recently increased from 10% to the more accurate figure of 15%.¹⁶

While the sex ratio for Tajikistan is 97,5 to 100, women with disabilities are substantially fewer than men: out of 171.447 there are 83.377.¹⁷

Many factors contribute to this disparity in numbers. Policies that focus on the alleged inability to work necessarily limit the number of those potentially eligible for compensation or other social benefits. Societies' attitudes are also a strong factor in the invisibility of persons with disabilities: prejudice does not only exclude persons with disabilities, it also furthers stigmata and therewith shame associated with impairment. Frequently, persons with disabilities are hidden and rendered invisible:

The reason of difficulties in obtaining reliable information about the child can be the parents who prefer to avoid any registration by traditional ideas about disability. This trend of hiding the child with disabilities may need to consolidate payment for each inspection of medical and social expertise, as well as for medical reports and the information on the benefits, this restrains parents from their child to be examined and registered.¹⁸

¹⁴ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012; Tupi/West, iv.

¹⁵ Data of the Ministry of Social Development of the Kyrgyz Republic; the Ministries of Labor and Social Security, Healthcare, Education and Science, Transportation, Culture and Information of the Republic of Kazakhstan, and the Statistical Agency under President of the Republic of Tajikistan provided in 2012.

¹⁶ Compare World Health Organization/World Bank, World Report on Disability, June 2011.

¹⁷ Data of the Statistical Agency under President of the Republic of Tajikistan, 2012.

¹⁸ Information of the Association of Parents of Disabled Children of the Kyrgyz Republic, 2012.

“If you are not counted, you do not count,” is the recurrent result. According to the UNICEF report, “CEE and CIS countries often interchange statistics on chronic health problems and certain medical conditions and symptoms with data on disability. In Central and South-Eastern European countries, where health ministries are not in charge of disability registers for children, the results of health screening of infants and school-aged children are often presented as proxy data on disability prevalence.”¹⁹

Among those who do get counted, a lot of data exists: the type and amount of prostheses fitted, the benefits in cash granted as well as the schools attended – for those children with disabilities that have been granted the status of having an impairment.²⁰ While officially there are only three categories of benefits, there is a diversity of impairments as well as causes of impairments that are recognized. Impairments since birth, labour related injuries, trauma related to a work accident, war veterans as well as “persons who participated in the liquidation of the Chernobyl catastrophe.”²¹

The data on persons with disabilities is obtained varyingly from the Ministry of Social Affairs or the Ministry of Health, indicators that figures on impairment, accessibility and inclusion are not yet obtained through census data or other surveys.

Frequently, the award of the status – or the denial for that matter – is cause for complaints lodged with Ombudsman Offices. The Tajik Ombudsman shared the following accounts:

One example of this is the appeal made by Z. V., a Russian Federation citizen, received by the Ombudsman for Human Rights of the Kaluga region of Russia to assist in compensation for damage to health. This appeal was sent to the joint stock company „Tochiknakbsoz” and taken under control of the Ombudsman. Currently, the amount accumulated over the past time has been paid. „Tochiknakbsoz” has expressed commitment to make timely payments of recoverable damages in the future.

After the complaint made by U. I., a person with second group of disability who resides in the regional centre of social services for pensioners and disabled people in Dushanbe, about its failure to provide adequate standard of living and insults made by one of inhabitants of the institution, an on-site verification was conducted. As a result of inspection and discussions with the management and residents of the institution, the issue was resolved favourably. U. I. was offered an apology and improved living conditions.

The request made by A. U. and A. O. to return them to the home for the elderly and disabled of Yavan province was positively resolved with the assistance of the Ombudsman for Human Rights. The applicants once again reside at the institution.

¹⁹ UNICEF, Children in Transition in CEE/CIS and Baltic countries, 2005.

²⁰ For instance, statistical data on disability provided by the Ministries of Labor and Social Security, Healthcare, Education and Science, Transportation, Culture and Information of the Republic of Kazakhstan, 2012.

²¹ Data provided by the Ministry of Labor and Social Security of the Republic of Tajikistan, 2012.

2.3. Key areas of concern

Categorization

A categorization system is in place, which awards persons with disabilities a status based on a medical assessment. It takes into account the presumed ability to work based on a classification of bodily and mental functions. The severity of the impairment impacts the category, overall there are three classifications. There is a collective category for children with disabilities who are lumped together as having an impairment.

The categorization is purely medical and focuses on what the examined person allegedly cannot do, leaving out entirely the prospects of what a person could do, were they given adequate support: "In Kazakhstan, the status of "disabled" is established by carrying out medical and social assessment and medical and legal procedures at the same time. The definition of disability (i.e., the degree of injury/ damage) is the basis of classification, and statistics in the field of disability in general."²²

The barriers that persons with disabilities face, importantly the attitudes of society at large, possibilities for access and opportunities to participate are not factored into the exam. The largely or solely medical teams do not allow for the assessment by experts from other fields, which could assist in compiling a more holistic appraisal of the person. What is more, persons with disabilities themselves are not awarded an opportunity to contribute to their examination, adding their experience and therewith expertise to the assessment.

A lot depends on the outcome of the examination and the category awarded. The social benefits, which persons with disabilities receive in the absence of an opportunity to be employed, depend on the category they are awarded.

The results of the examinations do not nearly afford the acknowledgement of an impairment to the majority of persons with disabilities in the region.

"Vulnerable"

Persons with disabilities are frequently described as a vulnerable group. There are certainly a lot of factors that contribute to their marginalization and therewith an increased vulnerability:

- Stigma and discrimination;
- Violence and abuse;
- Restrictions in exercising civil and political rights;
- Exclusion from participating fully in society;

²² Law of the Republic of Kazakhstan, April 13, 2005, Social security of disabled persons in the Republic of Kazakhstan

- Reduced access to health and social services;
- Reduced access to emergency relief services;
- Lack of educational opportunities;
- Exclusion from income generation and employment opportunities;
- Increased disability and premature death.²³

While persons with disabilities frequently live in highly vulnerable circumstances, it is important to note that they are not per se vulnerable: this would be very much a pity-based view on disability rather than one that is framed by human rights.

Given the lack of opportunities to enjoy education, obtain professional skills and reach gainful employment, many persons with disabilities live on the margins of or in poverty. The conservative estimate is that persons with disabilities are twice as likely to live in poverty as the population average.

Social benefits

In Kazakhstan parents and legal guardians of children with disabilities receive a benefit equal to the minimum wage for children with disabilities under 18 years of age in accordance with the 2005 Law "On State Benefits for Families with Children." In 2011 54828 persons are said to have received this payment of 17.439 tenge (US\$ 117.00).²⁴ The state budget expenditures on social protection of people with disabilities at 1 January 2012 amounted to 120 093.0 million tenge. The expenses for rehabilitation costs such as orthopaedic, rehabilitation, prosthesis, hygienic products as well as personal assistance services were covered through regional budgets.²⁵

In accordance with the Law of the Republic of Kazakhstan „On state social benefits in connection with disability, loss of bread winner and age in the Republic of Kazakhstan“, the persons with disabilities, depending on the degree of disability and the causes of the disease are paid a monthly state social benefits for disability.²⁶

In Tajikistan the state budget allocated 834 somoni per institutional resident per month.²⁷ The monthly allowance for food and medications in these institutions is 241 somoni (US\$ 51.00). An amendment to the law "On Pension Provision for Citizens of Tajikistan" provides for 800 somoni pension for persons in the first group of impairment, which equates to ten times the minimum pension, currently at 400 somoni.²⁸

²³ Comapre WHO, Mental Health & Development, 2010, 8.

²⁴ Data of the Ministry of Labour and Social Security of the Republic of Kazakhstan, 2012

²⁵ Ibid.

²⁶ Law of the Republic of Kazakhstan "On state social benefits in connection with disability, loss of bread winner and age in the Republic of Kazakhstan"

²⁷ Data of the Ministry of Labor and Social Security of the Republic of Tajikistan, 2012.

²⁸ Ibid.

In accordance with the Law of December 29, 2009 no. 318 „On state benefits in the Kyrgyz Republic“ those who are entitled to monthly social allowance include:

- a. Children with disabilities, children with cerebral palsy and children with HIV or AIDS under eighteen years old at the absence of opportunity to qualify for a pension;
- b. Persons with disabilities since childhood of I, II and III groups in the absence of an opportunity to qualify for pension. The amount of monthly social benefits is established by the Government of the Kyrgyz Republic according to the capabilities of the budget and considering the economy with the cost of living.²⁹

Non-discrimination and “prevention”

The anti-discrimination clause of the Kyrgyz Constitution mentions impairment as one of the prohibited grounds of discrimination.³⁰ In Tajikistan the 2010 Law “On Social Protection of Disabled Persons” prohibits discrimination against persons with disabilities in the fields of employment, education and access to health care.³¹ The Kazakh 2007 Labour Code also prohibits discrimination on the ground of disability in the implementation of labour rights.³²

Article 14 of the Constitution of the Republic of Kazakhstan provides for the prohibition of discrimination on grounds of origin, social status, or any other circumstances. One of the principles of the state policy in the sphere of social protection of disabled people according to the law „On Social Protection of Disabled Persons in the Republic of Kazakhstan“ is the principle of non-discrimination on grounds of disability.³³

Non-discrimination in its comprehensive meaning, including the denial of reasonable accommodation and in all spheres of life, has yet to be recognized fully in the region. Treaty Bodies have made observations on equality challenges and non-discrimination problems more generally.

The CESCR Committee observed on Kazakhstan: “The Committee is concerned that constitutional provisions and other legislation that are in force in the State party do not provide comprehensive protection from the prohibited forms of discrimination in all areas relating to economic, social and cultural rights.”³⁴

The CESCR Committee called on Tajikistan to “adopt, in consultation with civil society, specific anti-discrimination legislation and a plan of action to combat it. The Committee also urges the State party to increase awareness about international anti-discrimination standards among judges and other members of the legal profession.”³⁵

²⁹ Data of the Ministry of Social Development of the Kyrgyz Republic, 2012.

³⁰ Tupi/West, 5.

³¹ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012.

³² Article 7 of Labor Code of the Republic of Kazakhstan of May 15, 2007

³³ Article 14 of the Consitution of the Republic of Kazakhstan, Article 5 of the Law of the RK “On Social protection of disabled people in the Republic of Kazakhstan”

³⁴ CESCR Committee, Concluding Observations, Kazakhstan, E/C.12/KAZ/CO/2 (2010), Para 12.

³⁵ ESCR Committee, Concluding Observations, Tajikistan, E/C.12/TAJ/CO/1 (2006), Para 47.

In its assessment of implementing the Convention on the Rights of the Child, the Committee recommended that Tajikistan “take all necessary measures to implement existing legislation and ensure that all children within its jurisdiction, particularly girls, children with disabilities, children in care institutions, children living in rural areas and other vulnerable groups of children, enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. The Committee also recommends that the State party prioritize and target social services for children belonging to the most vulnerable groups. The Committee encourages the State party to launch comprehensive public education campaigns to prevent and combat the negative traditional and religious attitudes, including gender discrimination.”³⁶

The CEDAW Committee observed on Kazakhstan: “the Committee continues to be concerned about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society in Kazakhstan.”³⁷

According to Kazak experience, persons with disabilities often face discrimination in relation to the below areas, which may also serve for classification of “discrimination on grounds of disability”:³⁸

- prejudices and biases including language and terminology;
- access to justice;
- employment;
- education;
- healthcare;
- housing;
- access to infrastructure, including access to transport;
- access to information and information technologies;
- sexual and reproductive rights.

It is noteworthy, that the issue of “prevention” of disability comes up in all reports from the region. “The biggest concern is evoked by the fact that about 56 per cent of children under eighteen years became disabled due to insufficient development of family planning programs, implementation of preventive measures for women of childbearing age, as well as low-quality obstetrics.”³⁹ The Kazakh law on social and medical support for children with special needs of 2002 also makes reference to the need for “prevention.”⁴⁰ Likewise, Tajikistan lists the need to “strengthen preventive measures to reduce the formation of disability.”⁴¹

There is no doubt that poverty, including inadequate maternal health care, contributes to many impairments, which could be prevented. Improving service delivery, ensuring access to education as well as quality medical services will significantly contribute to averting various

³⁶ CRC Committee, Concluding Observations, Tajikistan, CRC/C/TJK/CO/2 (2010).

³⁷ CEDAW Committee, Concluding Observations, Kazakhstan, CEDAW/C/KAZ/CO/2 (2007), Para 13.

³⁸ Information provided by Kazakhstan’s national expert Liazzat Kaltayeva, 2012.

³⁹ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012..

⁴⁰ The law of the Republic of Kazakhstan on social and medical-pedagogical correctional support for children with disabilities and special needs of July 11, 2002.

⁴¹ Report of the Ombudsman for Human Rights in the Republic of Tajikistan for 2009 – 2010.

disabilities. However, one has to keep in mind anti-discrimination and tread a careful line when discussing “prevention” as there are medical procedures available today, which target presumed “imperfections” and alleged impairments that are clearly overreaching and violate the dignity and rights of persons with disabilities.

Health

The negative attitudes towards persons with disabilities also held by health workers impact the quality and delivery of health care services to persons with disabilities.⁴² Generally, health care is largely seen through the prism of mental health and institutions for persons with psychiatric, psycho-social and related impairments.⁴³ The more general problem of access to general/mainstream health care services for persons with disabilities does not feature as a general challenge.

In Tajikistan the Ministry of Health operates homes for children, which provide medical support to orphans and children who do not have parental care as well as children with disabilities with physical impairments and challenges, respectively.⁴⁴

An important aspect of health care services, which intersects with other fields, including vocational training and employment, is rehabilitation. For example, Tajikistan has recently commissioned such facilities in the Baljuvon and Varzob districts.⁴⁵ The concept of Community Based Rehabilitation (CBR) has yet to be established and implemented. In Tajikistan the law, “On Social Security of Persons with Disability” provides for “individual rehabilitation program and employment of persons with disabilities, which is an important mechanism for rehabilitation of the disabled and their return to a dignified life in society. An individual rehabilitation program should be developed separately for each adult and child with a disability. Madina Usmanova, Head of the Legal Assistance Centre, “Bureau for Human Rights and Law Enforcement” said that most people with disabilities do not know about these programs. Thus, 74 per cent of respondents (the majority of them were women) said they did not know about it and had never heard of the individual rehabilitation program, 24 per cent had heard of the individual rehabilitation program but do not have it, and only two per cent of respondents from Isfara said they knew and have an individual rehabilitation program, but they could not show it. A large number of respondents are dissatisfied with the size of their pension, which is about 80-100 somoni, considering it insufficient.”

The Law of the Kyrgyz Republic, “On health care organizations in the Kyrgyz Republic” of August 13, 2004 no.116, establishes a general duty of health care providers to ensure available, timely, high-quality, and skilled health care to the necessary extent, set for specific levels of health.

⁴² Tupi/West, 26.

⁴³ E.g., information on medical psychiatric institutions and health care organizations provided by Kazakhstan’s national expert Liazzat Kaltayeva, 2012.

⁴⁴ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012

⁴⁵ Press release on the results Ministry of Labor and Social Protection of the Republic of Tajikistan, January 17, 2012

The right to health, the prevention of disability, health care, rehabilitation, provision of medicines, providing orthopaedic products and individual means of transport is regulated by the legislation of the Kyrgyz Republic in the field of health, as well as by the program of state guarantees to ensure health care for the citizens of the Kyrgyz Republic (Article 24 of the Law on persons with disabilities, Article 70 of the Law „On Protection of the health of citizens of the Kyrgyz Republic“ of January 9, 2005 no. 6).

The law provides for certain concessions and benefits for persons with disabilities, among them: In the field of precaution and prevention of disability, the state has committed itself to the implementation of measures to protect the health, improve the ecological environment, promote healthy lifestyles, provide safe working conditions, prevent injuries in the workplace, and reduce occupational diseases (Article 26).

Health insurance does not cover all persons with disabilities. According to the Law of the Kyrgyz Republic of October 18, 1999 no. 112, „On Health Insurance in the Kyrgyz Republic“, to unemployed people who are officially registered with the state employment services (persons with disabilities of group III), children with disabilities since childhood, those receiving social benefits, and retirees, premiums for mandatory health insurance are paid from the national budget of 1.5 calculated index year (Article 9).⁴⁶

The right to health of citizens of the Republic of Kazakhstan, including persons with disabilities is enshrined in the Constitution. The basic document in the health sector is the Code of the Republic of Kazakhstan „On people's health and the health care system,“ which establishes the state guarantees such as: the provision of guaranteed free medical care; equal access to health care; quality of care; access, quality, efficiency and safety of medicine; freedom of reproductive choice; reproductive health and reproductive rights; and others.⁴⁷

BOX 1: Healthcare system in Kazakhstan

As of January 1, 2011, Kazakhstan's system of healthcare operated 34 mental health institutions. Of these, 14 hospitals have 5 090 places (including two national organizations – the National Research Centre for Psychiatry, Psychotherapy and Addiction and the Republican Psychiatric Hospital of specialized type with intensive supervision), and 20 in-patient wards with 4 530 places. There are large-scale medical and social institutions, such as Kupchanovskoe medical and social institution of Akmola region intended for permanent residence of 535 persons with neuropsychiatric disorders. The Ural medical and social institution of general type has a 4-storey building for the elderly and disabled with 260 places and two two-storey buildings with 150 places to accommodate men and women with mental illness with the total planned number of beds of 560.

⁴⁶ The Law of the Kyrgyz Republic "On health care organizations in the Kyrgyz Republic" of August 13, 2004 No.116.

⁴⁷ The code of the Republic of Kazakhstan "On people's health and health care system" of September 18, 2009.

For each person with disabilities, in accordance with his/her rehabilitation potential, an individual program of rehabilitation is developed, which determines the range of rehabilitation measures, including the medical, social and vocational rehabilitation measures to restore and (or) compensate for damaged and lost functions.

Specialized rehabilitation assistance to persons with disabilities is provided on the basis of regional and national rehabilitation centres, dispensaries, clinics, large research institutions, as well as sanatorium organizations.

According to the information of non-governmental organizations, there is no sufficient information on the list of health services provided free of charge, on the efficiency of different continuous care and rehabilitation measures in the outpatient departments and spa facilities, and on the quality of care.

Social protection

Persons with disabilities are at a significantly higher risk of living in poverty: societal pressures, low quality education and very limited opportunities to access employment contribute to economic constraints, which increase the likelihood of impoverishment.⁴⁸ Tajikistan has included persons with disabilities, particularly children with disabilities in its Poverty Reduction Strategy for 2007-2009 under the heading of support for vulnerable groups.⁴⁹

Social protection of persons with disabilities in Kyrgyzstan is largely understood as providing benefits -a rights based approach to assistance and support measures is largely missing in the region. The notion of independent living has yet to take root: "The legislation does not provide for the hiring of personal assistants for all individuals in accordance with their needs. Action plan on the State of the basic program of integration and rehabilitation of the disabled, 2004-2007 of August 9, 2004 no. 583 provides for the personal assistant for persons with disabilities of group I only."⁵⁰

As part of the Universal Periodic Review a recommendation was made to Kyrgyzstan to „continue its efforts aimed at the development of policies and programmes for poverty alleviation and eradication, with special emphasis on vulnerable groups, including people with disabilities and women and children, and mainstream a gender perspective into all relevant policies and programmes being developed."⁵¹

⁴⁸ See, generally, World Bank/World Health Organization, World Report on Disability, 2011.

⁴⁹ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012.

⁵⁰ Action plan on the State of the basic program of integration and rehabilitation of the disabled, 2004-2007 of August 9, 2004 no.583.

⁵¹ Recommendation No. 76.112, Report of the Working Group on the Universal Periodic Review, Kyrgyzstan, A/HRC/15/2, 16 June 2010

BOX 2: Access to social services for persons with disabilities in Kyrgyzstan and Kazakhstan

The Law of the Kyrgyz Republic "On the basis of social services in the Kyrgyz Republic" of December 19, 2001 no.111 grants the right to receive social services, regardless of the degree of disability that meets the intent of Article 19 CRPD;

The legislation does not provide for the hiring of personal assistants for all individuals in accordance with their needs. Action plan on the State of the basic program of integration and rehabilitation of the disabled, 2004-2007 of August 9, 2004 no.583 provides for the personal assistant for persons with disabilities of group 1 only;

The right of citizens to social services at home is enshrined in Article 11 of the Law "On basic social services as one of the types of social services". Persons with disabilities who are lonely and in need of constant care or assistance service are provided by social services at home (Article 11 of the Law on persons with disabilities). Home service is implemented by the social welfare services (social workers). For the clients of social service services are free. On July 5, 2011 the government approved the Model on provision of social services at home no. 365, which establishes the organization of social services at home, standards of social services, admission requirements and de-registration of social service. Model provision expressly provides for the customer to choose the social service of the services that are best suited to their individual needs. In the framework of the Universal Periodic Review by Kyrgyzstan, efforts are recommended to guarantee social protection of disabled persons and their full integration into society.

Since 2005, new forms of social services for the disabled have appeared in Kazakhstan, while the volume of their funding increases annually. Some of the services by organization for people with disabilities are provided through public social order. However, these measures are not enough to ensure full participation by disabled persons in all aspects of life. Many of those people with disabilities, who live at home, alone or in families are dependent on the help of their relatives and often lead isolated lives. This is primarily due to the lack of access in and outside the home, and the lack of a developed system of social support. In addition, lack of accessible traffic and public buildings make it difficult for people with disabilities to ensure free movement and their participation in public life. Only 6 % of public transport in the country is accessible, virtually all of this transport is in the capital and major cities. The overwhelming majority of roads, sidewalks, stops, train stations and airports are not available for the disabled. These circumstances fail to comply with building codes and the lack of control has led to most of the public and residential buildings not being accessible by the disabled. No measures are taken for the adaptation of premises in which persons with disabilities live to their needs. Sidewalks and public spaces are not adapted for the visually impaired, such devices as tactile paths and sound signals are absent. Disabled people with hearing and vision impairments do not have sufficient access to information. Internet, especially mobile connection, is now becoming the main method of communication for persons with disabilities of different categories, but the high cost of Internet services is a problem for people with disabilities who have no other income other than state benefits. All of these factors prevent disabled persons from fully implementing their economic, social and cultural rights. The CESC Committee, in its concluding observations, advised Kazakhstan to adopt a national strategy and plan to ensure that all persons with disabilities enjoy the same economic, social and cultural rights as the rest of the population. The Committee also encouraged to allocate resources for a full and effective implementation of the Law on Social Security of Disabled Persons.

An important aspect of social protection is adequate housing. The challenge of providing accessible housing is particularly stark in that building codes and other regulations frequently provide for adequate regulations, however, implementation often does not comply with those rules. In addition, persons with disabilities are to have a choice over their living arrangements on an equal basis with others, which they are frequently denied.⁵²

In Kazakhstan the Special Rapporteur on the Right to Housing was particularly concerned about the high rate of demolition of informal housing, which also negatively affects persons with disabilities: “(The Special Rapporteur) was dismayed to hear that a great number of vulnerable individuals, including pregnant women, children and persons with disabilities, had been made homeless as a result of such demolitions.”⁵³

As part of the Universal Periodic Review a recommendation was made to Kazakhstan to „continue its efforts to guarantee social protection for persons with disabilities and their full integration into society.”⁵⁴

Accessibility

Access to housing, to buildings more generally, and, equally important, to transportation remains a challenge. In Kyrgyzstan: “Although some buildings are equipped with a ramp at the entrance, in many cases, they do not correspond to the real needs and do not provide access to the property (the angle is too large, small doors, sliding trim, etc.). For example, in the opinion of the Office of the State Architectural and Construction Supervision of Bishkek, ramps installed at City Hall, Bishkek, in Lenin district administration – do not meet the standards of the Construction Code, because the slope is more than 10 per cent, the surface of the ramp is slippery, smooth, not rough.”⁵⁵

In Tajikistan: “The adoption and implementation of the General Plan of Urban Development in Dushanbe, which provides for the construction of new buildings and structures, allows the introduction of an accessible environment for persons with physical impairments. The Ombudsman intends to monitor the design and technical documentation for the construction of new facilities for consideration of interests to create an accessible environment for persons with disabilities in accordance with the Law on architecture and urban planning and international standards of human rights.”⁵⁶

According to Holland,⁵⁷ “the physical environment, public transportation and work environments remain pervasively inaccessible for people with mobility, sensory or mental dis-

⁵² Tupi/West, 25.

⁵³ Report, Special Rapporteur on Housing, Country Visit Kazakhstan, Para. 74.

⁵⁴ Recommendation No. 85, Report of the Working Group on the Universal Periodic Review, Kazakhstan, A/HRC/14/10, 23 March 2010

⁵⁵ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

⁵⁶ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012.

abilities.”⁵⁸ Furthermore, “policies regarding new construction and public spaces exist, but are rarely enforced.”⁵⁹ He explains that representatives of organizations of persons with disabilities try to find consensus on such issues by pushing for alternative – that is separate – models of transportation as to not alienate their counterparts, rather than for a transformative change that would represent the paradigm shift.⁶⁰

In terms of public transportation, a set of challenges need to be overcome. In addition to design and construction, there are financial implications but also broader infrastructure problems: “There are no conditions for transport of persons with disabilities on passenger buses and shuttles. Passenger transport is not equipped with special devices for access of people with disabilities. The reasons for this state of affairs is well known – insufficient funding. According to the director of Bishkek Transportation Authority, it would be necessary to purchase low-floor vehicles accessible for people with disabilities, but purchase of such vehicles is not envisaged in the budget. Also, it would be necessary to create conditions for low-floor vehicles, as in the Republic the road conditions are not suitable for such transport.”⁶¹

The notion of accessibility, which enables independent living and decision making of persons with disabilities, has yet to be fully understood. Support and assistance to individuals, to ensure their independence and their choice of participating on an equal basis with others are not yet widely spread and understood.⁶²

Accessibility also includes the important angle of communication: assistance for persons with hearing, visual, or speech impairments. Accordingly, technology as well as information has to be provided in accessible fashion and formats.⁶³ Sub-titling of news, sign-language interpretation of public debates and assistance in making doctor’s appointments for deaf people as well as supported communication for persons who are non-verbal or who have very little verbal speech, need to be provided.

Accessibility of society is also about social barriers and the change of attitudes vis-à-vis persons with disabilities. While training of certain professional groups is mentioned, the importance of awareness raising and of creating a different image of persons with disabilities is not fully reflected in the region yet.

Access to justice

“The buildings of courts are very important for the efficient functioning of a modern judicial system. Premises which encourage and not prevent from the effective work of courts are

⁵⁷ Holland, The current status of disability and activism of NGOs in post-communist Europe.

⁵⁸ Holland, 551.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

⁶² Tupi/West, 11.

⁶³ Tupi/West, 11 f.

available and attractive for the public, provide safety for all users and demonstrate the transparency and worth of a judicial process, serve as a symbol of that value that is given by the Government to the judicial system of the country.”⁶⁴

Persons with disabilities have been identified as being among the most marginalized in access to justice in CIS.⁶⁵ In addition to non-discrimination and free legal aid, the centrality of legal empowerment as well as access to justice for persons with disabilities have been identified as key areas of concern and action in CIS.⁶⁶

Some judges react surprised to the notion that persons with disabilities may wish to seek protection and support from courts.⁶⁷ The perception of persons with disabilities and the barriers which they face bar them from accessing justice even though they are specifically listed as a constituency entitled to free legal aid.⁶⁸

Furthermore, there are significant gaps in persons with disabilities accessing information about their rights, legislation and other legal materials. There is a lack of accessible formats for this kind of information and a lack of awareness of the needs of persons with disabilities among court clerks as well as judges.⁶⁹

Frequently, the buildings themselves are inaccessible – lacking ramps or lifts to enter the court building as such. Additionally, court rooms and chambers may prove inaccessible. Finally, the procedures are not designed to enable accessible formats such as sign language interpretation or Easy-to-Understand-Formats.⁷⁰

As part of the Universal Periodic Review a recommendation was made to Kazakhstan „to continue the work being done to improve national legislation and law enforcement practices in the field of protecting the rights of disabled persons, according due consideration to generally acknowledged international standards.”⁷¹

Violence

The particular vulnerability of individuals in health and social care homes and places of detention and punishment should also be noted. In Kazakhstan, the “lack of public control over the observance of the rights of the persons detained in these facilities leads to additional

⁶⁴ Information provided by UNDP Kyrgyzstan, 2012.

⁶⁵ UNDP, Access to Justice Survey Report, 17 f.

⁶⁶ UNDP, Access to Justice Survey Report, 21.

⁶⁷ Information provided by UNDP Kyrgyzstan, 2012.

⁶⁸ Information provided by UNDP Kyrgyzstan, 2012.

⁶⁹ Information provided by UNDP Kyrgyzstan, 2012.

⁷⁰ Information provided by UNDP Kyrgyzstan, 2012.

⁷¹ Recommendation No. 85, Report of the Working Group on the Universal Periodic Review, Kazakhstan, A/HRC/14/10, 23 March 2010.

conditions for appearance of discrimination,” was noted.⁷² Furthermore, “persons in need of special protection against all kinds of discrimination, violence, abuse and exploitation include women, children and elderly people. The vulnerability of people with disabilities among migrants who often become the victims of exploitation and forced begging should also be mentioned.”⁷³

In addition to the increase of vulnerability in institutions, the following has to be kept in mind: “six out of ten women experience physical and/or sexual violence in their lifetime. It is the leading cause of death and disability among 16-44 year old women.”⁷⁴

Violence against persons with disabilities is wide-spread, given that there are presumptions of them being a-sexual as well as sorcery to the effect that intercourse with a disabled person will provide for a “cure”. “Women with disabilities experience both the stereotypical attitudes towards women and towards persons with disabilities.”⁷⁵

Recommendations have been made to Kyrgyzstan related to protection from violence on a general level, including protection of children from physical or mental violence and violence against women, including domestic violence, also by strengthening existing provisions for the investigation of and punishment for such crimes as well as the provision of support and protection to the victims.⁷⁶

Violence, particularly against women in domestic circumstances, was also raised as an issue in Tajikistan. Recommendations to the government included social, educational and legal safeguards, public awareness campaigns to sensitize the community and to continue building law enforcement capabilities and capacities.⁷⁷

Family Life

Persons with disabilities are frequently not considered to have a desire, let alone a right to marry and found a family. The WHO Guidance Note on Promoting Sexual and Reproductive Health of Persons with Disabilities highlights the disparities in this area.⁷⁸ The Special Rapporteur on Violence against Women notes that persons with disabilities frequently find themselves in unstable relationships, which can turn abusive. With women having fewer social and economic possibilities, discrimination against them is likely to be perpetuated. “in the event

⁷² Information provided by Kazakhstan’s national expert Liazzat Kaltayeva, 2012.

⁷³ Ibid.

⁷⁴ UN Women in Eastern Europe and Central Asia, 13.

⁷⁵ Report by Special Rapporteur on Violence Against Women, A/67/227, Para 20.

⁷⁶ Recommendation No. 76.56- 76-60, Report of the Working Group on the Universal Periodic Review, Kyrgyzstan, A/HRC/15/2, 16 June 2010.

⁷⁷ Recommendation No. 88.18, 88.34-36, Report of the Working Group on the Universal Periodic Review, Tajikistan, A/HRC/19/3, 12 December 2011.

⁷⁸ WHO/UNFPA Promoting sexual and reproductive health for persons with disabilities, 2009.

of child custody disputes, courts may use the discriminatory stereotype that the non-disabled partner must be a more competent parent, when awarding custody.”⁷⁹

Education

The 2007 Kazakh law on education provides quotas for persons with disabilities of first and second groups and those disabled since childhood, to study in the educational establishments implementing professional educational programs on technical, professional, post-secondary and higher education as well as social assistance to disabled children and children with limited access to public assistance.⁸⁰ As of January 1, 2012 inclusive education is organised for 20,354 children (18.9% of the total number of school age children with disabilities). 1,677 preschool children (4%) are enrolled in 98 inclusive preschools. The percentage of schools that have created conditions for inclusive education of children is 19.1% (1,426 schools).⁸¹

By the governmental Decree of the Republic of Tajikistan no. 228, of April 30, 2011, a national concept of inclusive education for children with disabilities in 2011-2015 was adopted, which defines the primary directions of the development of inclusive education and promotes equal rights for children with disabilities in receiving education.⁸² As part of the Universal Periodic Review, a recommendation to Tajikistan stated: “Incorporate in the domestic law the explicit prohibition of child labour; adopt an array of measures to guarantee inclusive education and the non-discrimination of children with disabilities in the regular education system.”⁸³

The Kyrgyz Ministry of Labour and Social Security and the Ministry of Education use different definitions and criteria of „disability“ among children and adolescents, so that any attempt to estimate the number of people becomes problematic. The data available clearly downplays the number of persons with special educational needs. The data provided by the Ministry of Labour and Social Protection on the number of children tested by Medical and Social Expert Commission does not include children and adolescents who have not been examined and/or have not been registered as disabled. The Ministry of Education provides information on the number of secondary school graduates, but they do not provide information on the achievements of students with disabilities and the opportunities available to them after graduation. In both cases, there is no precise information on the number of people who may have special educational needs.⁸⁴

⁷⁹ Report by Special Rapporteur on Violence Against Women, A/67/227, Para 29.

⁸⁰ Law on education of the Republic of Kazakhstan of July 27, 2007.

⁸¹ Data provided by the Ministry of Education and Science, Transportation, Culture and Information of the Republic of Kazakhstan, 2012.

⁸² Decree of the Republic of Tajikistan no. 228 of April 30, 2011.

⁸³ Recommendation No. 88.55, Report of the Working Group on the Universal Periodic Review, Tajikistan, A/HRC/19/3, 12 December 2011

⁸⁴ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012..

BOX 3: Education for children with disabilities in the Kyrgyz Republic

The number of children with disabilities in the Kyrgyz Republic is constantly growing due to various social causes. The current situation in this area is alarming. A large number of children have no access to education at all, or a quality education because of public and private education system in the country is focused on their needs and characteristics. Public policy on access to education for children with disabilities is rather formal and does not provide appropriate safeguards and conditions. The country has maintained the Soviet-era system of special schools, which cannot sufficiently serve those in need and complicates the problem of social adaptation of persons with health problems. According to official statistics from 2011 in Kyrgyzstan there are 22 000 children with multiple and severe health problems under 18 years old, while non-official data claim the actual number is 35 % higher. As, only 6 000 out of these attend school, at least, 16 000 children appear not having access to proper education. The right to study in institutions of higher education for children with disabilities is guaranteed by the Kyrgyz law. According to Article 33 of the Code of the Kyrgyz Republic on Children, the authorized state body distributes quotas annually approved by the Government in the field of education in public institutions for full-time (budget) form of training and benefits for full-time (contract) and correspondence courses for people with disabilities. Yet, the system is still far from the inclusive education, which is closely linked to the ability of the educational system to oppose injustice and promote equality of opportunity, while considering the unique needs and abilities of each student.

There are some important obstacles, which need to be overcome, particularly with regard to social barriers: the resistance of parents to have their children educated generally or to send them to special institutions, the challenge of lack of transportation or the reluctance to send children to boarding schools.⁸⁵ What is more: a serious obstacle to the introduction of inclusive education is the unpreparedness of society.”⁸⁶

In Tajikistan an important offer was made to train and educate teachers to support children with disabilities, however the country is facing a big problem with the availability of trained personnel. Due to the limited number of interested applicants the planned enrolment figures are not achieved.⁸⁷

“Vocational education in Kyrgyzstan is provided through public employment services at educational centres of professional education, or in other institutions. The training is funded from the state budget. At the present time rehabilitation groups operate in twenty vocational schools. In addition to rehabilitation centres, students from among the orphans study at educational institutions. Children with the disability of hearing and in poor health are taught in vocational schools no. 18 and 27 of Bishkek and no. 25 of Kant. Persons with disabilities of I and II groups are not covered although they are willing and able to learn, for example, remotely or

⁸⁵ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012.

⁸⁶ Ibid.

⁸⁷ Ibid.

at home.”⁸⁸ Vocational training is also foreseen in the Tajik Law on Social Protection as well as on Vocational Education: “Professional education of the disabled (initial vocational, secondary vocational, higher professional, graduate vocational education) is provided by general educational institutions. For people with disabilities who need special conditions for vocational education, special vocational schools of various types are organized, or conditions in general vocational schools are adapted. In case of successful completion of entrance examinations to higher educational establishments, orphans and children left without parental care, as well as persons of first and second disability groups able to study in higher educational institution according to the conclusion of a medical and labour expert commission, are admitted free of competition.”⁸⁹ Vocational training and education of disabled persons in special vocational schools for the disabled are provided in compliance with the state educational standards, which are based on educational programs adapted for persons with learning disabilities.”⁹⁰

Employment

Persons with disabilities must be offered not only benefits, but also work. The Ombudsman for Human Rights in the Republic of Tajikistan observes that “the most acute topic of social rehabilitation of persons with disabilities is to help them realize the right to work.”⁹¹ According to the Tajik quota, 261 persons with disabilities were employed in 2011 and 47 are said to have found employment in the first quarter of 2012.⁹²

According to the law of the Republic of Kazakhstan „On employment of Population“, the state takes measures to promote the employment of target groups, including persons with disability. Citizens belonging to the target groups enjoy the right of priority to undergo professional training/re-training and to participate in community labour. In 2011, employment agencies were addressed by 3 558 job seekers with disabilities, including 1,510 women and 830 persons aged 16 – 29 years. Among people with disabilities who applied, 1,330 people were from rural areas, including 458 women and 292 young persons. Of the total number of unemployed applicants, 2,474 persons with disabilities (69,5%) were employed, including 1,023 women and 592 young persons. Among the employed persons with disability, villagers comprised 1,030 people, including 331 women and 208 young citizens. In 2011, with references from employment agencies, 246 persons with disability completed professional training courses, and 1,638 people participated in community labour. 751 unemployed people with disabilities were employed in social services.”⁹³

“In line with Articles 314 and 315 of the Kyrgyz Labour Code the quota is approved for persons with disabilities and it was 586 jobs in 2012. However, for the first quarter of 2012, ac-

⁸⁸ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

⁸⁹ Law “On Higher and Postgraduate Professional Education” of the Republic of Tajikistan, Articles 13, pt. 2

⁹⁰ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012.

⁹¹ Ibid.

⁹² Data by the Ministry of Labor and Social Protection of the Republic of Tajikistan, 2012

⁹³ Information provided by Kazakhstan’s national expert Liazzat Kaltayeva, 2012

BOX 4: Employment opportunities for people with disabilities in Kazakhstan and Kyrgyzstan

While no one in Kazakhstan should be subjected to discrimination on grounds of disability when implementing labour rights, addressing the employment of people with disabilities is hampered due to the low competitiveness of people with disabilities in the labour market and the lack of conditions for their employment. In some cases it is unprofitable for employers to provide the disabled with the special conditions for their employment and pay (79 % of the total number of the disabled people are of working age). As part of various government programs, such as "Employment 2020" and the "Road Map", jobs for people with disabilities in are funded both from the local budget and an employer. However, experience shows that the vast majority of people with disabilities can work only in organizations of disabled people and their production units. Due to time limitation, terms of such contracts are limited, at the end of these periods due to lack of sufficient funds to disability organizations, such contracts are terminated. It is not only the fact that the employer is not ready to bear the cost for reasonable accommodation that hinders long term employment, but a number of barriers to physical infrastructure, low expectations of the employer form the employee with the disability. Small Entrepreneurship Fund "Damu" has a program to support entrepreneurs with disabilities. The fund also provides indirect support to the disabled people for the development of their own business, as well as training and consulting services in the field of entrepreneurship. However, the need in a more serious approach to the development of entrepreneurship among people with disabilities, including the opening of special micro-credit programs for the disabled people, is evident.

In Kyrgyzstan, 90 % of 133 000 people with disabilities were unemployed in 2011. Several state agencies at central and local levels are responsible for assistance, development and protection of persons with disabilities. Institutions engaged in these issues are under the Ministry of Education and Science, the Ministry of Health, Ministry of Youth, Labour and Employment of the Kyrgyz Republic, and the Ministry of Social Development of the Kyrgyz Republic. However, there are no coordinated and focused inter-work rehabilitation programs and vocational training of persons with disabilities in the present time. Bodies of the state employment service provide advice and financial support for the organization of business activities (micro-credit) to the citizens registered as unemployed and willing to do business. However, this measure does not apply to persons with disabilities of I and II group, although the group II is also able to carry out work in special conditions, using assistive devices, and (or) a specially equipped workstation with assistance of others. In accordance with Articles 314 and 315 of the Labour Code of the Republic in 2012 the quota is approved for persons with disabilities and it contains 586 jobs. However, for the first quarter of 2012, according to the Ministry of youth, labour and employment, there are only 25 people employed, 13 of which are employed with the quotas on employment, the other quotas on jobs were not filled due to the mismatch of special people with special needs, skills, or also other reasons. A survey shows that 71.42 % of employers in the employment of persons with disabilities take the position of apparent discrimination. In 46.42 % of cases the main criterion for employers when hiring appears physical health, 25 % of employers explain their refusal to employ persons with disabilities due to the reason that for hiring people with disabilities relevant jobs need to be created for carrying out work. Finally, according to the survey, it appears that there are no authorized bodies dealing with employment of people with disabilities and the local self-government bear most of the load in this respect (57.14 %) by determining the quota for jobs in conjunction with the Employment Service.

According to the Ministry of Youth, Labour and Employment, there are only 25 people employed, thirteen of which are employed with the quotas on employment, the other quotas on jobs were not filled due to the mismatch of persons with disabilities, special skills, or also other reasons. On average, each year over the period of 2010 to April 1, 2012, the number of persons with disabilities who applied is about 797 people, of which about 207 people are employed. A survey shows that 71.42 per cent of employers in the employment of persons with disabilities take the position of apparent discrimination. In 46.42 per cent of cases the main criterion for employers when hiring appears physical health, 25 per cent of employers explain their refusal to employ persons with disabilities due to the reason that for hiring people with disabilities relevant jobs need to be created for carrying out work.”⁹⁴

The establishment of social enterprises for people with disabilities, who might be less competitive in the open labour market, is one of the effective tools for contributing to their employment opportunities. Social enterprises can offer permanent employment or provide vocational training and social rehabilitation. In return, they are provided with benefits that may include exemption from the profit tax, and reduced single social tax. The tax benefits provided to these enterprises are very important in the promotion of their activities. The number of people with disabilities employed in subsidiaries of Disabled People’s Organizations in Uzbekistan is more than 3,000. This represents about 10% of all persons with disabilities employed in Uzbekistan.

Main obstacles identified by NHRIs

The Kyrgyz Ombudsman Office has determined the following challenges and problems that persons with disabilities face. They appear exemplary for the region:⁹⁵

- Insufficient funding. The budget for social welfare is determined on a residual principle, which does not allow social benefits to conform to the recognized standards of living, cost of living;
- Failure to comply with the legislation on the rights of persons with disabilities;
- Inadequate policies and standards. Policy development has not always taken into account the needs of persons with disabilities, or existing policies and standards are not implemented;
- Lack of social services. Persons with disabilities are more vulnerable to significant lack of services such as health care, rehabilitation, as well as support and assistance;
- Problems with the provision of services. Poor coordination of services, understaffing and poor staff training can affect the quality, availability and adequacy of services for persons with disabilities;
- Lack of information and communications. There is little information in an accessible format, and the interests of people with disabilities in the area of communication are not met. Deaf people often experience inconvenience at access to sign language interpretation;
- Limited access of persons with disabilities to infrastructure, buildings, public transport;

⁹⁴ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

⁹⁵ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

- The definition of disability should reflect an understanding of disability as a social phenomenon. It is necessary to abandon the definitions based on the medical evidence and formulated depending on the types of health problems, or from definitions emanating from the concept of daily life, in which the failure of such activities is linked to health problems. Legislation of the Kyrgyz Republic shall equally protect all persons with disabilities, including whether with mental and intellectual disabilities;
- Elimination in legislation of any signs of discrimination on grounds of disability: the general guarantee of non-discrimination on the basis of disability and guarantee to ensuring the provision of reasonable accommodations in the educational process, employment, health and participation in political and public life and other legally binding provisions. It is necessary to identify factors affecting the evaluation of reasonable accommodation;
- Legal measures to ensure the personal independence of persons with disabilities, the right to live independently and participate fully in all spheres of life. Development of minimum standards and guidelines for the accessibility of services and facilities open to the public;
- Responsibilities of the state bodies and municipal authorities should be specified along with the formal recognition of the rights of persons with disabilities, as well as the legal defence to protect from their violation;
- Revision of civil, criminal and civil procedural Law to determine the partial incapacitation of persons with mental illness, opportunities for decision-making with external support to enable a disabled person to make decisions on personal and legal issues by himself and to inform about them. Removing barriers for the incapacitated person to choose a lawyer to be involved in the process on issues affecting their rights;
- Recognizing the right of persons with disabilities to the inclusive education system, the removal of legal barriers to the inclusion of people with disabilities in the general education system of the country, development of educational standards to ensure that persons with disabilities could be educated along with others;
- Adoption of measures to ensure inclusive open labour market for people with disabilities and the promotion of opportunities for employment and self-employment;
- Adoption of legal measures to create the institutional conditions for the implementation and monitoring of the rights recognized by the Convention: a coordination mechanism within government and independent body for the promotion, protection and monitoring of the rights of the disabled, by creating a new structure or by enriching the existing one with the relevant functions.

From the experience of the Tajik Ombudsman on the Rights of the Persons with Disability, it is appropriate to point out the following several areas that require increased attention from the government:

- accessible and safe environment for people with disabilities;
- issues of medical and social rehabilitation of persons with disabilities;
- social partnership and the development of civic society initiatives in the area of the rights of persons with disabilities.⁹⁶

⁹⁶ Information provided by the Ombudsman for Human Rights in the Republic of Tajikistan, 2012

Kazakhstan's legislation sets a sufficiently wide range of rights and social services for persons with disabilities. However, questions remain acute that concern unhindered access to infrastructure, public transport, the right to education, work, health and others. The lack of ramps, elevators, lights, audio and tactile signs in buildings and on the roads makes it difficult to integrate disabled persons into society.

The local republican executive authorities have conducted an inventory in the framework of phase one of the Development plan for 2012 – 2013 to ensure the rights and improve the quality of life of persons with disabilities in the Republic of Kazakhstan in 2012 – 2018. The results show that of nearly 90,000 objects of social infrastructure, 57.7 per cent require measures to provide access to persons with limited mobility, first of all for persons with disability.⁹⁷

⁹⁷ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012.

Principles of NHRIs working with persons with disabilities



he work of NHRIs is based on a set of principles, which are closely linked to human rights principles. How to make those accessible and inclusive? The following section tries to explain ways in which equality and accessibility should be utilized to promote the rights of persons with disabilities:

3.1. Equality & non-discrimination

Striving for equality and combating all forms of discrimination is at the heart of the work of NHRIs. Contributing to the compliance of international norms and observing the implementation of national norms on non-discrimination is one of the key elements of NHRI.⁹⁸ After all, human rights are about ensuring that all persons effectively feel that they are “born free and equal in rights and dignity,” according to Article 1 Universal Declaration of Human Rights.

The obstacles for persons with disabilities have been laid out above. There are hurdles and barriers to their equality in every sphere of life, particularly in the attitudes of society at large and most political officials. NHRIs play a significant role in making clear what effective and meaningful equality for persons with disabilities is about: not just about downsizing institutions but giving persons with disabilities a choice where and with whom to live. Not to stop

⁹⁸ See also, OHCHR, NHRI Book, 3.

with acknowledging that persons with disabilities have by law and by the CRPD the same capacity to make decisions about all aspects of life but to clarify and explain what that means in practical effect: how persons with high support needs can communicate, how patronizing behaviour limits persons with disabilities, when and how persons with disabilities are not allowed to make mistakes and take risks that people in the mainstream take for a given.

NHRIs have to involve persons with disabilities themselves in various policy processes, making sure that they get a chance to participate and that their voice is heard. It is one thing to invite persons with disabilities – with varying forms of impairment – to meetings, it is another aspect to make sure that they can speak and are recognized as having their own opinion. There are significant power struggles involved, which threaten the equality of persons with disabilities: first and foremost the fact that persons with disabilities get invited to participate in policy dialogue. The next challenge is who actually gets invited: persons with disabilities as experts in their own right or the managers and directors of institutions who have their own – highly commendable and important – opinions and agenda?

When reviewing legislation: are the rights of persons with disabilities adequately addressed, are there traces of the medical view of persons with disabilities, are there patronizing assumptions about what persons with disabilities allegedly can and cannot do?⁹⁹

NHRIs also have an important role in showing that they themselves have understood what accessibility and inclusion means: the premises of the NHRI should be accessible – the front door, the sanitary facilities, the meeting rooms and ideally the entire office. The publications should be accessible: Braille versions as well as Easy-To-Understand formats of information about the NHRI should be made available.

Furthermore, “an institution must demonstrate that it has been absolutely non-discriminatory and shown no nepotism in recruitment. It must stand as an example. Because of the need for the institution to demonstrate pluralism and diversity at all levels, an institution should also, where appropriate, use special measures to advance the position of underrepresented minorities and women.”¹⁰⁰ Accordingly, NHRIs should seek to recruit persons with disabilities among their staff and consultants.

3.2. Accessibility

As has been explained above, accessibility has multiple dimensions, which have to be explained and implemented in efforts to ensure the inclusion of persons with disabilities. Importantly, one should remember that many of the accessibility measures enshrined in the

⁹⁹ See further, below.

¹⁰⁰ OHCHR, NHRI Book, 157.

CRPD also benefit persons who are not recognized as having an impairment and that particularly efforts toward reducing stigma and stereotypes around persons with disabilities as well as the removal of communication barriers, once implemented, will benefit other marginalized groups.

Physical accessibility means that the premises of a NHRI are accessible for all, including mobility impaired persons but also persons with reduced or no vision as well as hearing impaired persons: floor signage and other tactile devices around the premises and within the office should be made available as much as signs that are in large print and easy to understand. A clear layout of the office with doors that are adequately wide and sanitary facilities that can be accessed by mobility-impaired persons using wheelchairs, are also important.

Without public knowledge, persons with disabilities will, however, hardly show up. Used to being excluded and not given much, if any political attention, persons with disabilities and their representative organizations have to be encouraged to participate. NHRIs might find themselves having to bolster the representation of disabled people's organizations (DPOs) and support their establishment. The publications and awareness raising of NHRIs have to include a contemporary representation of persons with disabilities in images but also in an inclusive way: special reports and chapters on persons with disabilities are important but equally important is the discussion of their rights as part of the general rights discourse. NHRIs in their advocacy for awareness-raising about rights have to add the importance of implementing the rights of persons with disabilities.

Representing a contemporary image of persons with disabilities is closely linked to communication accessibility: making sure that publications by the NHRIs are available to all persons with disabilities: starting with the web site to comply with standards of technical and visual accessibility, adding sign language videos and providing basic documents also in Easy-To-Understand formats are important measures to be taken. Documents that are distributed ahead of meetings should be made available in accessible formats for visually impaired persons as well as for persons with intellectual impairment. Particularly with laws and regulations that affect persons with disabilities, the NHRIs should ensure that the government and parliament are held accountable if they do not provide drafts and other amendments in accessible format.

The marginalization of persons with disabilities is self-evident.¹⁰¹ Given the limited opportunities for persons with disabilities to find gainful employment and sustain themselves economically, it is paramount that economic accessibility – affordability – is ensured for them. Advocacy for persons with disabilities by NHRI therefore has to underscore the economic and social hardship that the vast majority of persons with disabilities experience.

¹⁰¹ Compare section above, on social protection of persons with disabilities.

3.3. Participation and inclusion

According to the CRPD, persons with disabilities and their representative organizations have to be consulted in policy matters that concern them – compare the obligations of the Convention set out in Article 4 Para 3. In addition, participation and inclusion are both core principles in the CRPD: Article 3. Discussions of NHRIs, but importantly human rights discussions more generally, have to be inclusive of persons with disabilities and their representative organizations (DPOs).

A disabled people's organization (DPO) is a membership organization run by persons with disabilities; it has the legitimacy to represent the interests of persons with disabilities. DPOs usually undertake advocacy activities, promoting the rights of PWD and representing their interest in relations with service providers/government. Some of these organizations are also involved in direct service provision.

There are different types of DPOs, which include:

- National level organizations representing a single impairment group e.g., these may manage or coordinate regional or district sub-groups;
- National level organizations representing persons with disabilities in general;
- National level organizations of women with disabilities;
- Municipal level DPOs based on disability;
- Small community-based organizations with limited geographic coverage, e.g., parents groups of children who are intellectually impaired or deaf-blind;
- Cross-disability organizations which based their activities on modern principles and use HRBA to advocate for disabled people's rights.

When deciding which DPOs to work with, key considerations will be the nature of their representation (number of impairments represented and whether they reach and represent the interests of rural grass-roots members, whether they equally represent women and men with disabilities, and include gender equality issues within their priorities) and their capacity, in particular their understanding of governance processes. Each national context will be different.¹⁰²

A major challenge for DPOs is funding: advocacy for the rights of persons with disabilities is rarely the core function of such organizations; at the very least it is not one that has adequate resources behind it. Sometimes, DPOs also involve themselves in service provision, which enables them to garner some revenue. However, the involvement as service providers is fraught with challenges in the relationship vis-à-vis the government – as service provision frequently involves subsidies – and in the development of advocacy skills.

Reaching out to civil society, particularly DPOs, is an easy task for NHRIs, which they should engage in as often as possible. In the context of the CRPD such outreach is also an obligation.

¹⁰² Compare UNDP Guidelines on Inclusion of Persons with Disabilities.

BOX 5: Political participation of persons with disabilities in Kyrgyzstan and Kazakhstan

*In accordance with Article 52 of the Constitution of the **Kyrgyz Republic**, every citizen has the right to participate in the discussion and adoption of laws and decisions of national and local importance, as well as to elect and be elected to bodies of state power and local self-government. The right of the persons who are listed as voters, but for health or disability reasons cannot come to the polling station to vote, allow them to vote in their place of residence (Article 33 of the Constitutional Law "On the Election of the President of the Kyrgyz Republic and the deputies of the Parliament of the Kyrgyz Republic" Article 33 of the Law "On elections of deputies of local councils");*

In accordance with Article 60 of the Constitutional Law "On the Election of the President of the Kyrgyz Republic and deputies of the Parliament of the Kyrgyz Republic", quota of representation in a political party is set for persons with disabilities;

In addition, the Electoral Law provides for access to the polling for persons with disabilities (ramps, rails), but there is nothing about political information, newsletters, campaign materials, etc.

In Kazakhstan, since 1997, coordinating councils have been established for the disabled under the local governmental authorities. Since 2005, the Government of the Republic of Kazakhstan has operated the Coordinating Council for Social Security for People with Disability, of whose 23 members 14 (or 61%) are members of associations for people with disabilities. Similar councils have been established in the provinces. In 2012, for the first time, head of a public association for disabled persons was appointed as an adviser on disability issues to the Minister of Labour and Social Security.

Women with disabilities are in much less favorable conditions for political participation, as compared to men with disabilities, and in comparison with women without disabilities. This situation began to change with the advent of the national movement of women with disabilities, so that at the present time, many female leaders of organizations for the disabled are members of the Commission for Women, Family and Demographic Policy under the local government. In 2011, one of the leaders of women with disabilities was appointed a member of the National Commission for Women, Family and Demographic Policy under the President of Kazakhstan. Following the consideration of Kazakhstan's report on CCPR, the UN Human Rights Committee recommended that the state "should intensify its efforts to increase the participation of women in the public and private sectors and, if necessary, to implement the provisions of the Covenant through the adoption of appropriate temporary special measures. It is advised to take the necessary measures to eliminate the common negative stereotypes of women as well as to ensure that the representation of women in both sectors reflect the progress made in raising the level of their education".

In the 2012 elections to representative bodies six candidates representing disability organizations were registered, one became a member of the representative body of the local representative office (district maslikhat). However, the experience has shown that the political parties are not willing to include candidates with disabilities in their lists, there are also physical barriers during the campaign, and economic barriers, as a candidate with a disability has to incur additional expenses to pay assistants, special transportation, adaptation of information materials in accessible language and formats. Taking part in the election of representatives poses certain difficulties for persons with speech disorders and those with particularly severe or multiple disabilities.

This responsibility has great potential to strengthen the ties of the NHRI to civil society beyond the realm of DPOs: “National human rights institutions are also expected to interact with an ever-growing group of non-governmental organizations (NGOs), citizens, networks and regional bodies, and to take on new issues: transitional justice, climate change and development, for example.”¹⁰³

Kazakhstan has announced plans to develop a mechanism of consultations with non-governmental organizations.¹⁰⁴ Tajikistan was commended for its involvement of civil society in its CESCR reporting;¹⁰⁵ as was Kazakhstan;¹⁰⁶ Kyrgyzstan has been recommended to improve its processes.¹⁰⁷

¹⁰³ OHCHR, NHRI Book, 3.

¹⁰⁴ See Para 92, UPR Report, A/HRC/14/10.

¹⁰⁵ See E/C.12/TJK/Co/1, 2.

¹⁰⁶ E/C.12/KAZ/CO/1, 42.

¹⁰⁷ See CEDAW Report: CEDAW/C/KGZ/CO/3, 27.

4

Institutions for the protection and promotion of the rights of persons with disabilities

The OHCHR notes: „as new instruments are adopted, NHRIs are frequently called on to play a role. For example, the Convention on the Rights of Persons with Disabilities gives an explicit role to NHRIs under its article 33.”¹⁰⁸ The CRPD foresees two distinct entities for monitoring the promotion and protection of rights of persons with disabilities and additional mechanisms to ensure the coordination and facilitation of accessibility and inclusion policy. NHRIs play a natural role in discharging the monitoring mandate and have to cooperate and coordinate with the main policy management mechanisms.

4.1. Monitoring

Independent Mechanism

Article 33 Para 2 CRPD calls for the creation of an independent mechanism. It “provides that States designate or establish ‘a framework including one or more independent mechanisms’. The task of the independent mechanisms is to promote, protect and monitor the implementation of CRPD. States have the choice to either designate existing bodies or establish new *ad hoc* bodies. Depending on their existing bodies, they may also either designate or establish a sin-

¹⁰⁸ OHCHR, NHRI Book, 3.

gle independent mechanism or designate or establish several independent mechanisms. How States have to designate or establish a 'framework', however, has still to be clarified."¹⁰⁹

Article 33 Para 2 CRPD reads: *States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.*

A distinct reference to the principles relating to the status and functioning of national institutions for protection and promotion of human rights makes clear that compliance with the Paris Principles of the CRPD monitoring mechanism is obligatory. Accordingly, the principles of independence, pluralism and the fulfilment of human rights principles, have to be applied in the creation of the mandate and discharging thereof.

Independent authorities to protect against violence and abuse

Article 16 Para 3 CRPD enshrines the obligation: "In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities."

The CRPD is very strong on the protection of persons with disabilities from violence, abuse and all other forms of exploitation: more than four provisions are dedicated to this issue, which takes on urgency given that conservative estimates state that persons with disabilities are five times as likely to experience violence in their life time.

The independent authorities designed to prevent the occurrence of violence are not described in any detail in the CRPD. It is not entirely clear how the independent authority is possibly different from a National Preventive Mechanism in line with the Optional Protocol of the Convention Against Torture. What is, however, very clear is that there is an obligation to designate such an independent authority – or a number of such authorities – to help the urgent task of protecting persons with disabilities against violence, abuse and other forms of exploitation.

Kazakhstan has a working group to review the cases of torture and other cruel or degrading treatment or punishment, which has been functioning since 2008 under the Ombudsman. It includes high-level representatives of government agencies and international and national human rights organizations. In 2011, members of the working group visited 17 correctional facilities in the Country.¹¹⁰

¹⁰⁹ OHCHR Europe Regional Office, Study on the Implementation of Article 33 CRPD, 2010, 6.

¹¹⁰ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012

Focal points and coordination

In an effort to support implementation at the national level, the CRPD foresees the designation of focal points (Article 33 Para 1) – that is the responsibility of various leaders in all departments of public administration to be tasked with making sure that policies and regulations are designed in an accessible and inclusive way. “Focal points are an issue of internal public administration. The purpose is to appoint a governmental department for handling matters relating to the implementation of CRPD. The focal points should both have the necessary resources to carry out their function and be sufficiently accessible to persons with disabilities. States may also designate several focal points or sub-focal points.”¹¹¹

Frequently, administrations have already designated gender focal points and possibly human rights focal points throughout the system. Focal points on the CRPD are intended in the same way and to serve the same purpose, albeit with a focus on inclusion and accessibility. The CRPD furthermore foresees a co-ordination mechanism to boost cooperation between ministries and to avoid that policymakers adopt isolated measures. The establishment or designation of a coordination mechanism, however, is not a legal obligation. It is optional.¹¹²

4.2. Participation

“Nothing about us without us” is the slogan of DPOs to reinforce that no policies and regulations should be drawn up without relying on the expertise of persons with disabilities themselves. The English version of the CRPD uses the term “participation” more than 30 times and enshrines it as a principle (Article 3) and an obligation (Article 4 Para 3). Accordingly, the monitoring processes are also to be inclusive of persons with disabilities and their representative organizations: “By way of substance, the voices and experiences of persons with disabilities must be central in monitoring reports in recognition of the fact that persons with disabilities are the experts on their own situation.”¹¹³

Importantly, this is reflected in Article 33 Para 3 CRPD, which establishes: *Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.*

In Kazakhstan, “NGOs are an important source of information for the Ombudsman about violations of human rights and an additional human rights enforcement mechanism for handling citizens’ complaints and monitoring the observance of human rights in the oblasts¹¹⁴. In turn, NGOs address the Ombudsman for Human Rights to bring their proposals, recommen-

¹¹¹ OHCHR Europe Regional Office, Study on the Implementation of Article 33 CRPD, 2010, 4.

¹¹² OHCHR Europe Regional Office, Study on the Implementation of Article 33 CRPD, 2010, 4.

¹¹³ OHCHR, Monitoring the CRPD – Guidance for Human Rights Monitors, 34.

¹¹⁴ Administrative region in Kazakhstan

dations to the high level of the government, significantly enhancing the ability of civilian control over the actions of the executive branch. This partnership is mutually beneficial for both the national human rights institution and for the public sector.”¹¹⁵

Furthermore, as a rule, NGO representatives are part of the Ombudsman’s visits to social and penal institutions in the oblasts. This practice contributes to the development of civil control, which can more quickly and efficiently perform monitoring tasks.

In 2011 and the first half of 2012, employees of the Kazakh Ombudsman’s Office conducted monitoring visits to 32 public facilities in eight oblasts, including homes for the elderly and disabled, centres for people with neuropsychiatric disorders, boarding schools for children with disabilities due to developmental pathology, rehabilitation centres for persons with disabilities, special educational organizations for children with impaired hearing and vision, training and vocational enterprise associations of the Kazakh Society for the Blind and the Kazakh Society for the Hard-of-hearing, and centres of social adaptation for homeless persons.

Monitoring activities were held with the participation of representatives of the public association “Aru Erne” of the city of Actobe, the legal centre for women’s initiatives “Sana Sezim” of the city of Shymkent, the Centre for Women’s Support of the city of Taldykorgan, the Association of children’s and adolescents’ organizations of the city of Semeya, and the public monitoring commission on North Kazakhstan region.

During visits to these institutions factors were noted that hindered the realization of their rights by persons with disabilities; in particular, some institutional buildings are not adapted to the free movement of persons with disabilities in a wheelchair. There was insufficient work done in regards to education of persons with disabilities on legal and healthcare opportunities, monitoring of the implementation of individual work plans for each disabled person, and development of vocational rehabilitation of persons with disabilities. Attention was drawn to the poor control of the institutions’ administration of housing, especially children’s housing, of which they are the owners, and a lack of interaction with non-governmental organizations working with people with disabilities.¹¹⁶

¹¹⁵ Information provided by Kazakhstan’s national expert Liazat Kaltayeva, 2012.

¹¹⁶ Ibid.

5

Tasks of the institutions for the protection and promotion of the rights of persons with disabilities

With an international convention firmly based on the principles of accessibility and inclusion very clear obligations exist to provide for national monitoring, also based on these guidelines: “Robust, evidence-based reports by States, national human rights institutions, disability organizations and other civil society groups and United Nations offices with a relevant mandate will contribute to ensuring that the human rights guaranteed under the Convention are transformed into action and real change in the lives of persons with disabilities.”¹¹⁷

5.1. Legislative, policy and implementation review

The CRPD obliges governments:¹¹⁸

- (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

¹¹⁷ OHCHR, CRPD Monitoring Manual, 33.

¹¹⁸ Article 4 (1) CRPD.

- (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
- (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

Existing and proposed legislation will accordingly have to be reviewed in light of the CRPD and its provisions, particularly the general principles:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Accordingly, suggestions should be made to reflect the social-model of impairment, to increase the possibilities of independent living for persons with disabilities but also to broaden awareness of a contemporary image of persons with disabilities. Accessibility in its many aspects – particularly social, communication and physical – should be addressed, especially when planning new legislation and policies. E.g., the overhaul of institutional arrangements, the size of such facilities could be a good starting point to foster independent living models. Also, social work related policies need to be reviewed with a view to increasing pro-active engagement with persons with disabilities who may be “hidden” in private homes. Employment policies have to take into account the needs of persons with disabilities. Also, civil laws have to be checked for potentially patronizing and limiting rules.

Legislation is, however, only one part. Implementation is the equally if not more important aspect: especially the assessment of impairments is an area where a lot depends on the practical application of the rules provided. Generally, attitudes have a significant impact on how interrelation with persons with disabilities work – or do not.

There are, importantly, areas and occasions when it will be helpful and possibly necessary to ensure that programs, policies and legislation are in place that mainly support persons with disabilities and, alternatively or possibly equally, those that are geared toward ensuring accessibility and inclusion of persons with disabilities. This is called the twin-track approach: ensuring specific interventions and opportunities for persons with disabilities as a group and efforts to ensure mainstreaming. A good example is employment: the overall aim is to create an employment market that is inclusive of and accessible to persons with disabilities while at the same time ensuring that those persons not readily accepted as potential employees, also find support in alternative forms of occupation.



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5.2. Awareness review

Implementing the paradigm shift enshrined in the CRPD – viewing persons with disabilities as legal subjects with equal rights and full capability – is profound for most countries and societies. The image and public opinion of persons with disabilities will not be altered unless awareness is raised in a very targeted and strategic way. The CRPD foresees a whole set of measures to be taken to raise awareness (Article 8). It is the first time that a human rights treaty enshrines such obligations and they should duly be utilized, also beyond the scope of the CRPD as an important tool to create awareness and instigate change.

In contemporary society a lot of awareness raising is done through imagery: advertisement, pictures in magazines, footage in television reports and scenes in films. A helpful example is the campaign of the German government following the ratification of the CRPD. The image depicts a woman, a gentleman and another woman with the first one trying to reach a cash-machine, which is situated far too high. The gentleman and the other woman look on curiously. The main message states “impairment can be fixed.” The sub-title states “simply make everything accessible: together we will implement the Convention.”

5.3. Participation

Participation encompasses a range of efforts and mechanisms. It is primarily understood as an expression of the right of every person to take part in the conduct of public affairs. This important right is enshrined in the Article 29 CRPD in an accessible frame. The CRPD expands

BOX 6: PR campaign on promotion of rights of persons with disabilities in Uzbekistan

In 2010, a national PR campaign on promotion of rights of persons with disabilities was conducted in Uzbekistan. The Cabinet of Ministers issued a Resolution to oblige National Television and Radio Company of Uzbekistan, Uzbek Agency of Communication and Information as well as other government bodies to (i) support the national PR campaign and (ii) cover all expenses related to broadcasting and dissemination. UNDP, UNICEF, UNESCO and World Vision shared expenses to produce 5 short documentaries, 4 social animated films, 2 TV talk shows, more than 30,000 posters and 120 billboards on rights of persons with disabilities to education, employment, accessible environment and family life as well as a Q&A guidebook "Equal rights – Equal opportunities" with explanation of exercising rights of persons with disabilities. All materials are also placed on the web portal of the Ministry of labour and social protection of population - mehnat.uz (Please also follow the link <http://www.undp.uz/en/publications/publication.php?id=276> to see publications, posters and social animated films).

Trainings for more than 80 journalists and PR specialists including representatives of UNCT had been conducted on appropriate coverage of disability issues and presentation of images of persons with disabilities. As a follow-up, the Contest on "Best Information Product on disability issues" was organized. More than 120 published articles, broadcasted documentaries and TV shows were submitted for the Contest on "Best Information Product on disability issues". The number of publications that portrayed people with disabilities as having rights, as opposed to being "objects of charity" increased threefold during 2010 in comparison with the time period of 2005 and 2008.

this notion in relation to developing policies and rules related to persons with disabilities by explicitly foreseeing the obligation to involve persons with disabilities and their representative organizations in such processes – Article 4 Para 3 CRPD. Importantly, this also includes decision-making processes affecting their lives and their full participation and inclusion in society.¹¹⁹

Importantly, the CRPD also enshrines such a right to participation in the context of monitoring, stating that civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process – Article 33 Para 2.

„Monitors should check with persons with disabilities and their representative organizations that reporting has adequately and correctly summarized the human rights situation as it affects individuals and that they are broadly in agreement with the recommendations for corrective action. This is important given the explicit inclusion of the principle of participation in the Convention and the fact that persons with disabilities have so long been excluded from decision-making processes affecting them. Monitors should also be aware of the difference between organizations of persons with disabilities (DPOs) and NGOs working on disability, including service providers. Careful consideration should be given to the position of DPOs, especially if organizations have diverging views.”¹²⁰

¹¹⁹ OHCHR, A/HRC/19/36, 22.

¹²⁰ OHCHR, Monitoring the CRPD, 63.

6 Collaboration



ollaboration at all levels is key to the advancement of promotion, protection and fulfilment of human rights of persons with disabilities.. The following section provides an overview of some of the key partners and the ways and modalities of this collaboration.

6.1. Disabled people's organizations

- „Shyrak“, Association of women with disabilities
- International Disability Alliance
- Disabled People's International
- Mental Disability Advocacy Centre
- “Merosi Ajam”, Khorog, GBAO
- Foundation of Aid For Disabled Children “Neki”, Dushanbe
- Public Organization “Sadoqat”, Istravshan, Soghd Oblast
- Public Organization “Shoto”, Isfara, Soghd Oblast
- Public Organization “Special Olympics Tajikistan”, Dushanbe
- Public Organization “Zarshedabonu”, Kulob, Khatlon Oblast
- Public Charity Organization “Zdorovie”, Dushanbe
- Kyrgyz Republic Society of Disabled Persons
- Union of Young Disabled of Chui Oblast
- Association of Parents of Disabled Children (ARDI)
- Nurbala.kg

6.2. NGOs

- Amnesty International
- Centre for Legal Policy Research
- Charter for Human Rights
- Committee for monitoring reform and human rights
- Federation of Trade Unions of the Republic of Kazakhstan
- Freedom House
- Handicap International
- ICCO
- Kazakh Psychological Association
- Kazakhstan International Bureau for Human Rights and Rule of Law
- Lawyers' Association
- League of Women Creativity
- Penal Reform International (PRI)
- Ray of Hope, public fund
- Right, public foundation
- Union of Crisis Centres
- Zan, Law centre
- Central Asia NGO Network
- Coalition for Democracy and Civil Society

6.3. National institutions

i. Parliament

In Kazakhstan, the Ombudsman takes part in the meetings of the Committees of the Senate and the Majilis¹²¹ of the Parliament, which gives the Ombudsman the opportunity to make suggestions on the issues of legislation and enforcement.

It has become common practice of the Ombudsman Office staff to participate in the working groups of the Parliament of Kazakhstan to assess draft laws.

The educational activities of the Ombudsman for Human Rights, which involve members of Parliament, representatives of government agencies and NGOs, promote constructive exchange of views and the emphasis on human rights issues.¹²²

¹²¹ Kazakhstan has a bicameral Parliament composed of the lower house (the Majilis) and upper house (the Senate).

¹²² KAZ, 18.

In accordance with Article 11 of the Kyrgyz Law „On Ombudsman (Akyikatchy)“, the Ombudsman presents an annual report to the Parliament for the period January 1 to December 31 of the previous year, on the observance of the rights and freedoms of citizens of the Kyrgyz Republic by public authorities, local authorities, associations of citizens, enterprises, institutions and organizations regardless of ownership, and their officials who violated the rights and freedoms of a man and a citizen by actions or inaction, as well as on the identified deficiencies in the legislation to protect the rights and freedoms of man and citizen.

In case of necessity, the Ombudsman (Akyikatchy) may present *Jogorku Kenesh*¹²³ a special report on particular issues related to compliance with the human rights and civil liberties in the Kyrgyz Republic¹²⁴.

ii. Social Ministry and other pertinent Ministries with regard to cross-cutting nature of CRPD

The Kazakh Office of the Ombudsman for Human Rights cooperates closely and fruitfully with the Ministry of Labour and Social Security and the Ministry of Healthcare in protecting the rights of elderly persons, persons with disabilities, and labour rights.

This interaction takes place while considering complaints of violation of socio-economic rights, developing proposals for the improvement of national legislation in the field of social security, and participating in educational activities.

As a result of the joint efforts initiated by the Ombudsman individual appeals are resolved and the rights of citizens are restored.

The Ombudsman's Office and the Ministry of Labour and Social Security, together with other government stakeholders actively participated in the development of the first phase (2012 – 2013) of the development plan to promote the rights and improve the lives of people with disabilities in the Republic of Kazakhstan for 2012 – 2018, approved by the government of the Republic of Kazakhstan on January 16, 2012. This plan was adopted in the framework of Kazakhstan's preparation for the ratification of the CRPD.¹²⁵

In Kyrgyzstan, the Ombudsman closely cooperates with the Ministry of Social Development of the Kyrgyz Republic, in particular with the following institutions and agencies under the Ministry's competence:

- Neuropsychiatric homes for children;
- Homes for the elderly and disabled;
- Rehabilitation centres;

¹²³ UNESCAP, Local Government in Central Asia, <http://www.unescap.org/huset/lgstudy/country/kyrgyzstan/kyrgyzstan.html>

¹²⁴ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012.

¹²⁵ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012.

- Neuropsychiatric homes for adults;
- Social Fund of the Kyrgyz Republic;
- Ministry of Health;
- Ministry of Youth, Labour and Employment;
- The Ministry of Education and Science;

iii. Regional/rural/provincial entities

The Kazakh Ombudsman continuously interacts with regional Akimats (regional administration bodies), regional institutions of social welfare, education, health, the penal system in the framework of handling public complaints, implementation of monitoring visits to social and penitentiary system facilities, and organizing round table-discussions.

In 2011 and the first half of 2012, the Ombudsman sent 229 requests to local authorities. In the absence of regional offices of the Ombudsman in 2011, round table discussions were organized in nine oblasts of the country on the subject „Working with the oblasts as an important component of the activities of the Ombudsman“ for representatives of health care, education, social welfare, law enforcement, prosecutors and the non-governmental sector.

On the eve of these activities, the Ombudsman and the office staff of the central government carried out monitoring visits to institutions of penal system, social facilities, and centres for social adaptation of homeless persons, the results of which were discussed in the round table discussions.

Organizing events for representatives of nine oblasts of the country has helped identify several problems which public and law enforcement agencies, as well as non-governmental organizations have to face, and provide appropriate practical and methodological assistance.¹²⁶

In Kyrgyzstan, there are representative offices of Akyikatchy (Ombudsman) in seven regions of the Kyrgyz Republic. Ombudsman of the Kyrgyz Republic collaborates with regional and district divisions of the aforementioned ministries and agencies. In addition, cooperation is maintained with the town, district and local councils.¹²⁷

iv. Gender and other focal points

The Kazakh Ombudsman's Office cooperates with the National Commission for Women, Family and Demographic Policy (an advisory body to the President of the Republic of Kazakhstan) through the exchange of information in the field of women's rights and participation in educational activities. In the framework of the preparation of the combined third and fourth

¹²⁶ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012.

¹²⁷ UNESCAP, Local Government in Central Asia, <http://www.unescap.org/huset/lgstudy/country/kyrgyzstan/kyrgyzstan.html>.

periodic reports on the implementation of CEDAW in 2011, a working group was created, which included an employee of the Ombudsman's Office among others. The Office of the Ombudsman for Human Rights interacts on a regular basis with members of the National Commission for Women, Family and Demographic Policy under the President of Kazakhstan.¹²⁸

Ombudsman of the Kyrgyz Republic cooperates on women's rights issues with a number of agencies and organizations:

- The Ministry of Youth, Labour and Employment;
- Centre for Women;
- The Congress of Women of the Kyrgyz Republic;
- Emergency response centre „Sezim“.

6.4. International financial institutions

In Kazakhstan, a number of international financial institutions have committed to support the rights of persons with disabilities. Some have already adopted policies aiming at applying the principles of inclusion and accessibility transversally, most have already started the process of reviewing their standards and policies with a view to apply the CRPD:

- World Bank
- International Monetary Fund
- Asian Development Bank
- European Bank for Reconstruction and Development

6.5. UN agencies

The Kazakh Ombudsman's Office pays special attention to collaboration with the United Nations and its specialized agencies. The Ombudsman for Human Rights annually takes part in the meetings of the Third Committee of the UN General Assembly, in which a report is presented on the situation with, and the ongoing work on, human rights in the country, and the prospects of developing human rights mechanisms.

The Office of the Ombudsman has established close contacts with the office of the UN High Commissioner for Human Rights in Central Asia, in the framework of which they continuously hold meetings and consultations. Of big importance is the interaction between the Ombudsman's Office and the High Commissioner for Refugees and their Office for Central Asia. Last year, information exchange and joint activities were carried out on a regular basis.

¹²⁸ Information provided by UNDP Kazakhstan, 2012.

In 2011, in the framework of cooperation with the United Nations Development Programme in Kazakhstan, employees of the Ombudsman's Office participated in the regional conference „Promoting human rights and justice for people with disabilities“ held in Ashgabat (Turkmenistan), and the round table discussion in Almaty to discuss the recommendations of the Universal Periodic Review of Kazakhstan and the National Action Plan for Human Rights in the Republic of Kazakhstan for 2009 – 2012.

While cooperating with the UN Development Fund for Women (UNIFEM) in 2011, the aforementioned international conference „Equal opportunities for all: Integration of women with disabilities into society“ was held, organized by the Commissioner for Human Rights, the association for women with disabilities „Shyrak“, Ministry of Labour and Social Security, UNIFEM, and the OSCE Centre in Astana.

It should also be noted that for several years in the framework of cooperation with the International Labour Office, an employee of the Ombudsman's Office has been a fellow member of the National Coordinating Council on combating the worst forms of child labour, which is intended to contribute to the elimination of child labour.

The Office of the Ombudsman provides close cooperation with the UN Children's Fund (UNICEF) in Kazakhstan on the basis of the Memorandum of Cooperation signed with this organization. Pursuant to this memorandum, a UNICEF consultant on the rights of children works full time in the Ombudsman's Office.

In June 2011, a tripartite cooperation agreement was signed between the Kazakh Office of the Ombudsman for Human Rights, the UN Children's Fund in Kazakhstan and the Office of Penal Reform International in Central Asia. The purpose of this project is to develop a system of independent monitoring of public childcare.¹²⁹

The Ombudsman of the Kyrgyz Republic developed and adopted the programme on technical assistance for 2008 – 2010 with the support of UNDP, UNICEF, UNHCR, and UNHCR. In addition, the partnership agreement on technical assistance to the institution of the Ombudsman was signed between the Ombudsman and the UNDP, UNICEF, OHCHR, UNHCR, UNIFEM, and the United Nations Programme on HIV/AIDS.

Other UN initiatives in the region are enabled by the UN Development Group Asia Pacific, UNRCs, WHO, UNESCO, UNODC, and UNFPA as well as UNEP, UNESCAP and FAO.

6.6. Regional bodies

Cooperation with the Asian regional organizations, in which humanitarian issues of human dimension have become a priority in recent years, is of great importance. The Ombudsman

¹²⁹ Information provided by Kazakhstan's national expert Liazzat Kaltayeva, 2012.

participates in forums and conferences organized by international organizations (Organization of Islamic Cooperation, the Shanghai Cooperation Organization, the Economic Cooperation Organization), in which he reports on the situation with, and the ongoing work on, human rights in country, and the improvement of legislation and law enforcement.

Also, the Ombudsman and the Office staff are involved in human rights activities undertaken by national human rights institutions in other Central Asian countries

In 2011, the Republic of Kazakhstan, holding the presidency of the Organization of Islamic Cooperation (OIC), promoted the formation, within the OIC framework, of an Independent Permanent Commission on Human Rights. In 2011, the Ombudsman as the head of Kazakhstan delegation took part in the first session of the Standing Committee of the above-mentioned Commission.¹³⁰

A noteworthy development of a regional body in neighbouring regions is the Council of Europe's Disability Action Plan, which foresees action lines in the areas of: participation in political and public life, participation in cultural life, information and communication, education, employment, vocational guidance and training, built environment, transport, community living, health care, rehabilitation, social protection, legal protection, protection against violence and abuse, research and development, awareness raising.¹³¹

6.7. Donors

In Kazakhstan, a trilateral cooperation project was implemented in 2010 – 2011 by the Commissioner for Human Rights, the OSCE Centre in Astana and the Danish Institute for Human Rights, aimed at institutional improvement of the Ombudsman's activities. The project was financed by the Danish Institute for Human Rights. In the framework of the project a series of conferences, round table discussions, training workshops were conducted for representatives of government agencies, NGOs and the media with the help of international experts, to issue guidance to the Ombudsman's Office staff for dealing with appeals of individuals and businesses. The Ombudsman's Office and the General Prosecutor's Office staff also familiarized themselves with the work experience of the Ombudsmen in Hungary and Austria.

In 2011, with the financial support from the United States Agency for International Development (USAID), and in the framework of cooperation between the Kazakh Ombudsman and UNICEF, issues of children's vulnerabilities were studied in the context of risk behaviour, sexual exploitation and human trafficking.¹³²

¹³⁰ Information provided by Kazakhstan's national expert Liazzat Kaltayeva.

¹³¹ Council of Europe, Recommendation Rec(2006)5 of the Committee of Ministers to member states on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015.

¹³² Information provided by Kazakhstan's national expert Liazzat Kaltayeva.

Other potential donors in the region include:

- Aga Khan Foundation
- Eurasia Foundation
- European Commission
- German Development Cooperation
- Japan International Cooperation Agency (JICA)
- Open Society Institute (OSI)
- OSCE
- Swedish International Development Cooperation
- Swiss Development Cooperation
- UK Department for International Development (DFID)
- USAID
- The Disability Rights Fund (supports Disabled People's Organizations (DPOs) in efforts to implement the CRPD, see <http://www.disabilityrightsfund.org>)

BOX 7: Cross-sector cooperation to protect rights of the disabled in Kazakhstan

Cooperation implemented by ministries and agencies, international and non-governmental organizations has shown the need to develop relationships of all stakeholders to ensure maximum protection of the rights of the disabled. Kazakhstan has experience of working with international government organizations and civic society during various inspections, research and analysis. The Office of the Ombudsman under the trilateral agreement with the OSCE Centre in Astana and the Danish Institute for Human Rights held a seminar, which involved NGOs for protecting the rights of people with disabilities, interested governmental agencies, and international organizations. Also at the International Conference "Equal opportunities for all: Integration of women with disabilities into society" a resolution was adopted, which was sent by the Ombudsman to the committees of the Parliament and Government of the Republic of Kazakhstan. In the framework of the UNDP project "Enhancing social protection of persons with disabilities under the UN Convention on the Rights of Persons with Disabilities and the development of special social services," the Ministry of Labour and Social Security conducted research work to develop a system of social protection of persons with disabilities and the development and improvement of a development plan for the creation of conditions for the ratification and implementation of the Convention.

The Ministry of Labour and Social Security, in cooperation with the Children's Fund (UNICEF), the Ministries of Education, Health and Interior, as well as with akimats of Karaganda, Eastern Kazakhstan region and Astana are implementing the joint pilot project "Five steps for the implementation of the integrated model providing social services". This project aims to improve inter-agency cooperation in child protection and enhanced performance in the needs assessment and the preparation of individual plans for children and families in difficult situations, which should lead to improved outcomes for every vulnerable child. In the framework of a joint project of the National Commission for Women, Family and Demographic Policy under the President of the Republic of Kazakhstan and the United Nations Fund for Population Activities (UNFPA), with financial support from UNFPA, a number of sociological studies have been carried out on the socio-economic situation of Kazakhstan's persons who are visually impaired, hard-of-hearing, with impaired locomotor functioning and mental disabilities.

PART II

7 Strategic approach in addressing focal issues of access and inclusion of persons with disabilities

The aim of the following section is to capture and group the key steps to be undertaken in strengthening and implementing human rights of persons with disabilities. While the document attempts to identify general focal issues of access and inclusion of persons with disabilities, it has to be noted that the scope and applicability of each step will depend on the country-specific context. The success will depend on collaboration and merged efforts of all major players, bearing in mind, however, financial constraints as well.

Target areas are grouped under ten strategic goals, with indicators identified for each of them.

Goal 1: Non-discrimination, particularly change of attitudes

Non-discrimination of persons with disabilities is key in enabling equal opportunities:

- Increase awareness that the group of persons in need of special protection against all kinds of discrimination, violence, abuse and exploitation include women, children and elderly people with disabilities.
- Increase awareness that migrants with disabilities often become the victims of exploitation and forced begging.
- Promote efforts for persons with hearing impairment who use sign language to develop full use of sign language in education.
- Support the use of new information technologies and provision with more complete service of sign language should be supported.
- Health and social care homes and places of detention and punishment should be a focus as the lack of public control over the observance of the rights of the persons in these facilities increases the likelihood of discrimination.

- Women and girls come across multiple types of discrimination in their lives. Insulation in conjunction with the dependence on others makes them extremely vulnerable to many forms of exploitation, abuse and violence. Girls and women with disabilities and accessibility measures need to be included in programs to promote gender equality.
- It is important to ensure access for women with disabilities to programs and services on reproductive health as well as the protection of women with disabilities from all forms of violence and abuse.
- Information related to sexual and reproductive health, health services has to be made available in the appropriate format and language.
- Persons with disabilities, couples where one or both spouses are disabled, are confronted with cases of bias or negative approach when trying to adopt children, awareness-raising needs to be instigated.
- Health insurance has to provide persons with disabilities with equal services, to overcome prejudices, awareness-raising has to take place and be complemented with policy and possibly legal changes.
- In the banking sector the obtaining loans has to be adjusted so that persons with disabilities are not placed among the “risk group”¹³³.

Indicators:

- The existence legislation of such definitions as “discrimination on grounds of disability”, “universal design” and “reasonable accommodation”.
- The level of awareness of persons with disabilities on civil, political, social, economic and cultural rights.
- Participation of persons with disabilities in policy and legislative consultations.
- Access and frequency of social control in medical and social facilities for people with disabilities (nursing homes, mental health organizations).
- The share of social infrastructure, including public transport accessible to disabled persons in different categories.
- The proportion of television programs, followed by sign language, subtitling for people with hearing impairments.
- Public awareness-raising campaign about persons with disabilities as human beings with equal rights.

Additional indicators:

- The inclusion of disabled people’s interests in government programs to reduce the risk in natural and man-made emergencies.
- The inclusion in national development plans on behalf of people with disabilities.
- The share of insurance companies providing medical and other insurance for the disabled.
- The existence of special loan programs for people with disabilities as well as the share of banks and micro-credit institutions providing loans for people with disabilities.
- Comparative level of layoffs of persons with disabilities for non-economic reasons.

¹³³ For example, in Kazakhstan this “risk group” includes elderly people and disabled people of group I and II (KAZ, 23)

- Dominance of jobs for people with disabilities with low pay.
- The proportion of girls and women with disabilities who receive government services in the areas of sexual and reproductive health, HIV/AIDS prevention, treatment and care.
- The existence of government programs aimed at reducing the level of violence, including sexual violence and exploitation perpetrated against girls and women with disabilities.
- Access to social assistance and social services for people with disabilities, held in places of detention.

Goal 2: The cross-cutting nature of the CRPD

The CRPD aims to ensure all human rights for all persons with disabilities, it thus has to be applied cross-cuttingly. Efforts have to support the fact that “disability” is historically and “issue” administered by the governmental agency responsible for social welfare issues. To enable a more holistic approach that reflects the social aspects of disability, the responsibilities have to be expanded and all line ministries have to implement the principles of accessibility and inclusion:

- The **definition of disability** should reflect an understanding of disability as a social phenomenon. It is necessary to abandon the definitions based on the medical evidence and formulated depending on the types of health problems, or from definitions emanating from the concept of daily life, in which the failure of such activities is linked to health problems. Legislation shall equally protect all persons with disabilities, including whether with mental and intellectual disabilities;
- Elimination in legislation of any signs of discrimination on grounds of disability: from the general guarantee of non-discrimination on the basis of disability and guarantee to ensuring the provision of reasonable accommodation in services, including the educational process, employment, health and participation in political and public life and other areas. It is also necessary to identify factors to evaluate the provision of reasonable accommodation;
- Support the establishment of legal measures to ensure the personal independence of persons with disabilities, the right to live independently and participate fully in all spheres of life. Development of minimum standards and guidelines for the accessibility of services and facilities open to the public in all line ministries and regional administrations;
- Responsibilities of the state bodies and municipal authorities should be identified and specified along with the formal recognition of the rights of persons with disabilities;
- Measures to redress a possible violation of rights should be enshrined;
- Revision of civil, criminal and civil procedural Law to determine the partial or full incapacitation of persons with mental impairment and develop opportunities for decision-making with external support to enable persons with disabilities to make decisions on personal and legal issues by themselves and to be informed. Removal of barriers for the thus far incapacitated persons to choose a lawyer and to generally be involved in the process on issues affecting his or her rights;
- Measures to implement the right of persons with disabilities to inclusive education, the removal of legal barriers to the inclusion of persons with disabilities in the general ed-

ucation system, development of educational standards to ensure that persons with disabilities could be educated along with others;

- Measures to ensure inclusive open labour market for persons with disabilities and the promotion of opportunities for employment and self-employment;
- Adoption of legal measures to create the institutional conditions for the implementation and monitoring of the rights recognized by the Convention: a coordination mechanism within government and independent body for the promotion, protection and monitoring of the rights of the disabled, by creating a new structure or by building on and enriching the existing one with the relevant functions.

Indicators:

- The legislation meets the standards set out in the CRPD, the changes and the additions made to the legislation, have a cross-cutting, inter agency nature.
- A comprehensive non-discrimination clause is put into law.
- Legal remedies for violations of the rights of persons with disabilities are in place.
- The definition of “disability” is in line with the CRPD.
- Government policies, programs and strategies, strategic plans of the ministries and regulations contain measures to ensure the rights and equality of opportunity as well as the sufficient funding for persons with disabilities.
- Strategic plans for the development at the local level include actions to ensure the practical implementation of public policies concerning the interests of people with disabilities and their sufficient funding.
- The share of approved changes and additions to the legislation, proposed by persons with disabilities and their organizations.

Goal 3: Reform of assessment of impairment based on social model, multi-disciplinary approach

The purely medical assessment of impairment is not compatible with the CRPD. The social aspects – particularly the impact of attitudinal, physical and communication barriers – have to be factored into the evaluation:

- Reform of assessment of impairment based on social model, establishing multi-disciplinary approach.¹³⁴
- The method of assessment has to be fundamentally revised and be based on the CRPD and the ICF.
- The composition of experts involved in the assessment has to be readjusted
- Multi-disciplinary teams have to be compiled who are familiar with the ICF – the International Classification of Functioning of the WHO.
- Terminology and definitions have to be updated to conform to the social model of impairment and disability, respectively.

¹³⁴ Information provided by the Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2012.

Indicators

- The definition of the “disabled” and “disability”, “attitudinal and environmental barriers”, “universal design”, “reasonable accommodation” in national legislation.
- Implementation of the International Classification of Functioning, Disability and Health in medical and social expertise.
- Training for a multi-disciplinary approach to disability based on the social model is mandatory and available.
- Number of medical staff trained on the ICF
- Number of Commissions with multi-professional teams
- Training for Commission members on the CRPD & ICF
- Update of training material for Commission members
- Meetings between Commission Members and persons with disabilities and their representative organizations

Goal 4: Promote de-institutionalization

Official statistics show that each year the number of persons with disabilities in boarding houses grows, particularly in boarding houses for children. This trend has two negative features. It limits the human right to a family environment, and requires additional costs on the part of the State. Government expenditure on maintenance of a human being in a boarding house is several times greater than the social support of a person within the family or the community, respectively.ⁱ

- Establish community-based social services enabling independent living, particularly Personal Assistance schemes.
- Establish multi-year plans to gradually transfer persons with disabilities from institutions to community-based set-ups based on independent living principles.
- Support establishment of Personal Assistance programs, including job-description, qualifications and training by persons with disabilities.
- Assess the scope of social services with a view to supporting independent living principles and link social services with Personal Assistants and related schemes.
- Increase the accessibility of public spaces and public transportation.
- Provide training and re-training for health personnel to provide support at community-level.
- Foster a public image of persons with disabilities as individuals living in the community on an equal basis with others.
- Create awareness on the roles and responsibilities of Personal Assistants.

Indicators:

- The number of children with disabilities in foster care.
- The proportion of people with disabilities receiving social services.
- The number of rehabilitation centres for the provision of social services for persons with disabilities.
- The number of persons with disabilities who have access to Community Based Rehabilitation.
- The number of persons with disabilities who are covered by personal assistance scheme.

- The number of large- and small-scale medical-social institutions,
- The number and types of social services,
- The number of persons with disabilities who receive social services in medical-social institutions,
- The number of persons with disabilities living independently,
- The number of Personal Assistants.
- The number of recipients of special state benefits for families, guardians and adoptive parents to care for a child with disabilities,
- The number of day centres for persons with disabilities who receive social services.

Additional indicators:

- The ratio of persons with disabilities who received social support to the number waiting to receive it,
- Transportation services, including accessible public transport and specialized taxicabs available to different categories of persons with disabilities,
- Measures taken to ensure access to the residential area by people with disabilities and their families,
- The mixed character of the social, sporting and cultural activities (events which bring together people with and without disabilities).

Goal 5: Participation, including representation in political fora

The exclusion of persons with disabilities manifests itself in various ways, their very low presence in political processes – both passively and actively – exemplifies their social marginalization.ⁱⁱ

- Ensure that all persons with disabilities have the right to vote, including persons with mental and psycho-social impairments.
- Ensure that all voting stations are made physically accessible.
- Ensure that those persons who may so wish can have assistance in the voting process by a person of their choice.
- Support efforts to ensure that persons with disabilities are candidates for elected office.
- Support efforts to assist processes that select persons with disabilities for political office.
- Support the employment of persons with disabilities in the public sector.
- Initiate the discussion on support to found organizations of persons with disabilities (rather than organizations for persons with disabilities) that aim at promoting independent living and self-representation.
- Support trainings that empower persons with disabilities as self-advocates.

Indicators:

- Number of persons with disabilities in public and municipal services.
- Number of persons with disabilities in the Parliament of the Kyrgyz Republic and local councils.
- Number of persons with disabilities working in the judicial branch.
- The proportion of seats in the Parliament and in local representative bodies occupied by disabled persons,

- The number of disabled people employed in the public service,
- The number of seats held by disabled people in the judicial system, including as judges,
- The share of political parties whose purpose in their programs is to promote the interests of people with disabilities, and to include in their election lists of candidates with disabilities,
- Standards in the legislation concerning the voting rights of persons with disabilities.
- Number of organizations representing persons with disabilities.
- Number of independent living advocates.
- Funding of independent living movement.
- Number of service organizations for personal assistance.

Additional indicators:

- The percentage of representatives of persons with speech disorders, with particularly severe disabilities or multiple disabilities, women with disabilities and young people with disabilities in national mechanisms on disability (Coordinating Council for the Disabled, Disability Advisor, etc.),
- The proportion of women with disabilities who represent the interests of their group in the national and local mechanisms to promote gender equality and support for women,
- The share of polling stations providing access for people with disabilities of various categories, as well as privacy for voters with disabilities.

Goal 6: Services in support of independent living at community level

Independent living requires a set of policy changes, particularly in social services:ⁱⁱⁱ

- Develop an Action Plan for the federal and community level on the enjoyment of economic, social and cultural rights of persons with disabilities.
- Develop a comprehensive policy on Personal Assistance, which allows all persons with disabilities – regardless of impairment – to be eligible to have a Personal Assistant, including persons with intellectual impairments.
- Provision of communication accessibility – subtitling and sign-language-services – on television, particularly public stations.
- Review housing plans to provide for accessible housing at community-level.
- Measures to gradually increase the accessibility of public transportation, particularly by revising the public procurement rules to include the principle of accessibility.

Indicators:

- The share of the social infrastructure and transportation links with physical access to persons with disabilities.
- The share of government agencies and organizations to provide public services to the public, organizations, health, culture, education, sports, which have a barrier-free environment for persons with disabilities.
- The volume of the broadcast on television involving subtitling and sign language of the total transmission.
- The amount of funding for social services that maintain independent living of persons with disabilities,

- The list of social services and their compliance with the needs of different categories of persons with disabilities,
- Public measures for adaptation of premises in which persons with disabilities live,
- The share of people with disabilities receiving social assistance and social services,
- The share of public transport accessible to people with disabilities, including airports, road and rail stations accessible to disabled persons,
- The share of buildings and government agencies providing services to the public accessible to disabled persons of different categories,
- The ratio of people with disabilities who have received housing from public housing to the number of people with disabilities who are in waiting list to receive this accommodation,
- The proportion of people with hearing disabilities provided with the services of a professional sign language interpreters, and persons with walking disabilities provided with the services of a personal assistant,
- The share of public web sites accessible by disabled persons with visual disabilities,
- The proportion of television programs, followed by sign language and subtitling for the hard-of-hearing.

Goal 7: Increase of supported decision making

Civil Codes partially or fully deny the legal capacity of persons with disabilities. they assume that persons with disabilities are in part or completely unable to make decisions about certain or all aspects of their life. The CRPD calls for fully ensuring that persons with disabilities can make decisions, provided that they receive adequate support. Rather than relying on a single guardian – who officially makes all decisions and thus limits the capacity to act – the concept of supported decision making provides for a network of people who will assist.

The transition to supported decision-making models requires substantial changes to legislation, practice as well as attitudes vis-à-vis persons with disabilities.

- Undertake a review of existing regulations on guardianship, including Civil Code, Family Code and Criminal Code as well as election legislation.
- Hold broad discussions, including persons with disabilities, legal associations and social workers to discuss alternative models of decision-making, particularly supported decisions-making.
- Elaboration of a phasing-out of guardianship and provision of supported decision-making.
- Review the recommendations of the Council of Europe Commissioner on “Who gets to decide”¹³⁵
- Provide training to judges and court staff on supported-decision making.
- Introduce supported decision-making to education of lawyers, medical doctors, nurses, and others.

¹³⁵ Council of Europe, Commissioner for Human Rights, Issues Paper (2012)2, Who gets to decide?, Right to Legal Capacity for persons with intellectual and psychosocial disabilities, 5.

Indicators:

- Collection of data on guardianship cases.
- Seminars held on supported decision-making model.
- Trainings for judges on supported decision-making.
- Trainings for social-workers on supported decision-making.
- Roadmap for phasing-in of supported decision-making.
- Roadmap for phasing-out of guardianship.

Goal 8: Social protection based on social model

The transition from the charity-based approach to the rights-based approach in social protection can prove to be challenging, there are a number of initiatives that can be helpful:^{iv}

- Encourage the founding of self-advocate organizations – organizations of persons with disabilities – and help bridging to organizations for persons with disabilities.
- Encourage policies and programs that involve organizations of persons with disabilities.
- Encourage social-policy research based on social model.
- Encourage “disability studies” as a research field.
- Initiate discussions on micro-financing schemes for persons with disabilities.

Indicators:

- Joint projects, programs between government agencies, international organizations, non-governmental organizations for decision-making in the field of human rights of people with disabilities,
- Research conducted in the field of disability, with the involvement of international expertise, as well as expertise on the part of organizations for persons with disabilities.

Goal 9: Access to education

Millennium Development Goal # 2 calls for the fulfillment of primary education for all by 2015. Many countries, including in the region, are on track to fulfill this goal for most children. However, children with disabilities are frequently left out due to physically inaccessible schools, inaccessible transportation, lack of qualified teachers and many other factors.

Ensuring good quality education for all children is paramount. Good quality education also means that all children can access and attend any school they wish to. There should be no “special” or “specialized” school, as all schools should be in a position to offer a curriculum that addresses the talents and needs of every child.

- Support the review of education legislation with a view to enable the inclusion of all children with disabilities in mainstream schools, as a matter of priority in the primary education sector.
- Review legislation to ensure that discrimination based on disability is prohibited in the education sector and that reasonable accommodation is made available.

- Support the revision of assessments of support needs in education with a focus on the actual assistance needs – rather than the shortcomings – based on the impression of experts from various fields, including in particular psychologists, social workers, experts in personal assistance, ergo therapists and others.
- Review the education curriculum to support a non-discriminatory approach to all children, particularly children with disabilities.
- Revise the curriculum of teachers' education to ensure adequate skills for all teachers in supporting all children, particularly children with disabilities.
- Support discussion on flexible support systems to provide additional assistance to children when necessary.
- Support development of access to education at secondary and tertiary level with corresponding amendments to teachers' education and curriculum.
- Revise building structures of education facilities, particularly for new buildings to be accessible and for renovation of old buildings to include accessibility standards.
- Introduce supported communication and other forms of alternative communication in teachers' curricula.

Indicators:

- The number of children with disabilities with a primary general education.
- The proportion of children with disabilities who received primary general education.
- Number of children with disabilities with secondary general education.
- Number of children with disabilities enrolled in the home-based education.
- The percentage of schools accessible to children with disabilities.
- The number of inclusive educational institutions.
- The share of educational organizations, which are accessible
- The number of special schools for children with disabilities.
- Availability of training programs for school teachers to work with students with disabilities.
- The use of new information and communication technologies for teaching children at schools.

Goal 10: Access to employment

Gainful employment is crucial for sustaining oneself and being included in the community. This principle is embedded in the Millennium Development Goal # 1 on poverty reduction, and is also highlighted in the CRPD (compare Article 28 Para 2 (b)).^v

- Support review of employment legislation to remove legal barriers to employment of persons with disabilities.
- Encourage initiation of an awareness-raising campaign targeting employers to create a modern image of persons with disabilities.
- Support efforts to provide trainings on inclusion of persons with disabilities in the labour force in chambers of commerce and other interest organizations.
- Changes to the assessment of assistance and support needs in the workplace based on the social model and by a multi-disciplinary team.

- Initiation or strengthening of services that link education and employment/vocational training.
- Encourage training of employment services to raise awareness about the possibilities of support available to persons with disabilities.
- Strengthen efforts to provide incentives for employers to hire persons with disabilities.

Indicators:

- The share of working-age people with disabilities employed in the labour market in relation to the total number of persons with disabilities of working age.
- The share of people with disabilities employed in the public sector.
- Persons with disabilities who have received public service training and retraining.
- Introduction of the mechanism to encourage employers to hire the disabled.
- Extended list of specialties for professional training of persons with disabilities.
- The availability of special micro-credit programs for entrepreneurs with disabilities.
- The Percentage of employed persons with disabilities of the total number of those who applied
- The number of jobs created for persons with disabilities (number of jobs).

Additional Indicators:

- The share of employed women with disabilities in relation to the employment of men with disabilities.
- Persons with disabilities employed in the open labour market after participating in the state program “Employment 2020” of Kazakhstan.
- The number of jobs that are adapted for the disabled.
- The number of jobs with low pay.

Understanding of future collaboration



he inclusion of persons with disabilities is a global and a regional effort; there are many common challenges in dismantling barriers that have built up physically, communicatively but most of all socially. Much can be gained from tackling these challenges together.

The National Human Rights Institutions of the Central Asian region appreciate the commonality of efforts to implement the Convention on the Rights of Persons with disabilities.

Appreciating the common endeavour and the joint challenges, each country has its unique social and cultural approach in implementing human rights and in advancing the rights of persons with disabilities.

All National Human Rights Institutions will strive to share their experiences in applying the Convention on the Rights of Persons with Disabilities, seeking to strengthen and improve the application in the region by sharing best-practices, challenges and – as appropriate – the insights gained from ongoing discussions. In particular, National Human Rights Institutions will utilize the opportunity to collaborate with institutions in the region to reflect on their role and contribution in increasing the inclusion of persons with disabilities. They will also seek to discuss and reflect on inclusion of persons with disabilities in their own institutions. Regional exchange will allow for better application of the Convention on the Rights of Persons with Disabilities and an overall strengthening of human rights implementation in the region.

Conclusion

The Convention on the Rights of Persons with Disabilities focuses on making human rights accessible for and inclusive of persons with disabilities. As one of the most marginalized groups in society, the rights of persons with disabilities are an obvious focus of the work of National Human Rights Institutions.

Improving the implementation of the rights of persons with disabilities holds vast potential for the application of human rights standards more generally: the principles of accessibility and inclusion particularly benefit other marginalized groups and therewith help to strengthen human rights overall.

The CRPD stipulates a role for National Human Rights Institutions by explicitly designating responsibilities for national monitoring, including in the protection against violence. Utilizing these first-ever provisions further strengthens the role and capacity of National Human Rights Institutions more broadly. In embarking on implementing the additional features provided in the Convention, National Human Rights Institutions benefit from exchanging their common concerns and unique challenges as the independent living and self-determination of persons with disabilities is strengthened to ensure access to education, employment, political and other fora, the right to family and to overall empower persons with disabilities.

Acronyms

| | |
|---------|--|
| CBR | Community Based Rehabilitation |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| CESCR | Covenant on Economic, Social & Cultural Rights |
| CRPD | Convention on the Rights of Persons with Disabilities |
| DPO | Disabled People's Organization |
| FAO | Food and Agriculture Organization of the United Nations |
| ICF | International Classification of Functioning, Disability & Health (WHO) |
| KAZ | Feedback from Kazakhstan |
| KYR | Feedback from Kyrgyzstan |
| NGO | Non-governmental Organization |
| NHRI | National Human Rights Institution |
| OHCHR | Office of the High Commissioner for Human Rights |
| TAJ | Feedback from Tajikistan |
| UNCR | UN Country Representatives |
| UNEP | United Nations Environment Programme |
| UNESCAP | UN Economic and Social Commission for Asia and the Pacific |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNFPA | United Nations Population Fund |
| UNIFEM | United Nations Development Fund for Women, now UN Women |
| UNICEF | United Nations Children's Fund |
| UNODC | United Nations Office on Drugs and Crime |
| UPR | Universal Periodic Review |
| WHO | World Health Organization |

Endnotes

- i See Box 1, “Healthcare System in Kazakhstan”, p. 23.
- ii See Box 5, “Political Participation of persons with disabilities in Kyrgyzstan and Kazakhstan”, p. 41.
- iii See Box 2, “Access to social services for persons with disabilities in Kyrgyzstan and Kazakhstan”, p. 25.
- iv See Box 7, “Cross-sector cooperation to protect rights of the disabled in Kazakhstan”, p. 58.
- v See Box 4, “Employment opportunities for people with disabilities in Kyrgyzstan and Kazakhstan”, p. 33.

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