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ISSUES OF IMPLEMENTATION OF RATIFIED INTERNATIONAL CONVENTIONS ON THE PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITIES IN THE REPUBLIC OF KAZAKHSTAN

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Abstract. *This article discusses issues related to the implementation of the norms of the Convention on the Protection of the Rights of Persons with Disabilities ratified by the Republic of Kazakhstan. The author analyzes the situation in Kazakhstan and reveals the problematic issues related to the protection of the rights of persons with disabilities.*

The United Nations Convention on the Rights of Persons with Disabilities (CRPD), as well as other international instruments, is an instrument to promote, protect and ensure the rights of persons with disabilities so that they can fully participate in society and enjoy the same freedoms and opportunities like others. The Republic of Kazakhstan has ratified almost all major human rights agreements, including the CRPD. However, the process of implementing international standards set out in the provisions of the conventions, is still far from perfect. As a result, numerous disabled people in our country still face certain obstacles in the way of exercising their rights.

In our research we will rely on local and international legal basis such Law on “On social protection of persons with disabilities in the Republic of Kazakhstan”, National plan to ensure the rights and improve the quality of life of persons with disabilities in the Republic of Kazakhstan until 2025, Convention on the Rights of Persons with Disabilities 2006, Declaration of human rights 1948, International Covenant on Economic, Social and Cultural Rights etc.

In conclusion, the author puts forward his proposals for improving the situation in the country. It is recommended to improve the monitoring of the implementation of standards at the national and local levels of government, as well as to introduce educational programs that explain to potential employers the rights and obligations of persons with disabilities in the field of work. In addition, it is proposed to expand the influence and participation of such international organizations as Amnesty International, Human Rights Watch, and the UN in protecting the rights of people with disabilities in our country.

Keywords: *Convention on the Rights of Persons with Disabilities, persons with disabilities, inclusion, Conventions, Human Rights, Local Legislation.*

ҚАЗАҚСТАН РЕСПУБЛИКАСЫНДА МҮГЕДЕКТІЛЕРДІҢ ҚҰҚЫҚТАРЫН ҚОРҒАУ ЖӨНІНДЕГІ РАТИФИЦИЯЛЫҚ ХАЛЫҚАРАЛЫҚ КОНВЕНЦИЯЛАРДЫ ЖҮЗЕГЕ АСЫРУ МӘСЕЛЕЛЕРІ

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Аннотация. *Бұл мақалада Қазақстан Республикасы ратификациялаған Мүгедектердің құқықтарын қорғау туралы конвенцияның нормаларын іске асыруға қатысты мәселелер талқыланады. Автор Қазақстандағы жағдайды талдап, мүгедектердің құқықтарын қорғауға қатысты түйткілді мәселелерді ашып көрсетеді.*

Біріккен Ұлттар Ұйымының Мүгедектердің құқықтары туралы конвенциясы (МҰҚК), сондай-ақ басқа да халықаралық құжаттар мүгедектердің қоғам өміріне толық қатысуы және бірдей бостандықтарды пайдалана алуы үшін құқықтарын ілгерілету, қорғау және қамтамасыз ету құралы болып табылады және басқалар сияқты мүмкіндіктер. Қазақстан Республикасы адам құқықтары жөніндегі негізгі келісімдердің барлығын дерлік ратификациялады, соның ішінде CRPD. Дегенмен, конвенциялардың ережелерінде белгіленген халықаралық стандарттарды енгізу процесі әлі де жетілдірілмеген. Соның салдарынан еліміздегі көптеген мүгедектер өз құқықтарын жүзеге асыруда әлі де белгілі бір кедергілерге тап болуда.

Сөз соңында автор елдегі жағдайды жақсарту бойынша өз ұсыныстарын ортаға салады. Мемлекеттік басқарудың республикалық және жергілікті деңгейлерінде стандарттарды енгізу мониторингін жетілдіру, сондай-ақ әлеуетті жұмыс берушілерге еңбек саласындағы мүгедектердің құқықтары мен міндеттерін түсіндіретін білім беру бағдарламаларын енгізу ұсынылады. Сонымен қатар, Amnesty International, Human Rights Watch, БҰҰ сияқты халықаралық ұйымдардың еліміздегі мүгедектердің құқықтарын қорғауға ықпалы мен қатысуын кеңейту ұсынылып отыр.

Түйінді сөздер: мүгедектердің құқықтары туралы конвенция, мүгедектер, қосу, Конвенциялар, адам құқықтары, жергілікті заңнама.

ВОПРОСЫ РЕАЛИЗАЦИИ РАТИФИЦИРОВАННЫХ МЕЖДУНАРОДНЫХ КОНВЕНЦИЙ ПО ЗАЩИТЕ ПРАВ ЛИЦ С ИНВАЛИДНОСТЬЮ В РЕСПУБЛИКЕ КАЗАХСТАН

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Аннотация. В данной статье рассматриваются вопросы, связанные с реализацией норм, ратифицированных Республикой Казахстан Конвенции по защите прав лиц с ограниченными возможностями. Автор анализирует ситуацию в Казахстане и раскрывает проблемные вопросы, связанные с защитой прав лиц с ограниченными возможностями.

Конвенция Организации Объединенных Наций о правах инвалидов (КПИ), а также другие международные договоры являются инструментом, направленным на поощрение, защиту и обеспечение прав инвалидов, чтобы они могли в полной мере участвовать в жизни общества и пользоваться теми же свободами, и возможностями, как и другие. Республика Казахстан ратифицировала почти все основные соглашения по правам человека, включая КПИ. Однако процесс имплементации международных стандартов, изложенных в положениях конвенций, еще далек от совершенства. В результате многочисленные инвалиды в нашем государстве до сих пор сталкиваются с определенными препятствиями на пути реализации своих прав.

В заключении автор выдвигает свои предложения по улучшению ситуации в стране. Рекомендуются улучшить мониторинг внедрения стандартов на правительственных уровнях национального и местного уровнях, а также ввести образовательные программы, разъясняющие потенциальным работодателям права и обязанности лиц с ограниченными возможностями в сфере трудовой деятельности. Кроме того, предлагается расширить влияние и участие таких международных организаций, как Amnesty International, Human Rights Watch, ООН в защите прав людей с инвалидностью в нашей стране.

Ключевые слова: Конвенция о правах инвалидов, лица с ограниченными возможностями, включение, конвенции, права человека, местное законодательство.

Introduction

The rights of people with disabilities represent one of the most important developments in the field of human rights around the globe. Numerous international conventions offer ways of facilitating of Human Rights for disabled individuals on the legal basis. Kazakhstan, as an active participant in international relations at various levels, tries to keep up with global trends.

In 2018, the third phase of the long-term National Action Plan (2012-2018) aimed at protecting the rights and enhancing the quality of life for people with disabilities was completed. In May 2019, Kazakhstan adopted a new National Plan that ensured the rights and improved the quality of life of the handicapped, extending until 2025. [1].

The current global paradigm has shifted from a traditional view of disabilities to the position corresponding to universal rights, concerning quality of life. The national plan focuses on implementing international standards, coinciding with global trends in the development of social protection systems for persons with disabilities¹.

It is impossible to consider the problem of Human Rights of Individuals with Disabilities out of context of International Law in general. In this regard we should understand that international human rights standards set out the obligations that states must comply with. By becoming a party to international treaties, states assume the responsibility to safeguard human rights on all levels [1]. All three are vitally important in their implementation and further state policies development. The obligation to respect human rights implies that states must refrain from infringing upon them or from attempting to infringe on human rights. The duty to protect human rights places responsibility on states to safeguard individuals and groups from threats to their rights. The obligation to respect human rights requires states to refrain from violating or attempting to violate those rights. Lastly, the burden to ensure respect for human rights mandates that states take appropriate actions to promote the observance of fundamental human rights [2].

The result of treaty ratification is the amendment of own legislation in agreement with provisions of this very treaty, what makes the protection of human rights reliable on international and local levels². At this stage, it is crucial to recognize that ratifying international conventions often necessitates changes to local legislation to align it with the requirements of those conventions [3].

Methods and materials

This article applies the content analysis of the international and domestic legal documents (conventions, constitution, state strategies), as well as the scholarly articles devoted to the problematics. Within these secondary sources, relevant information from the interviews was also analyzed. They are especially valid in case taken from the focus groups (policy-makers, disabled representatives), as clearly depicting the situation in Kazakhstan with the disabled groups and categories.

Discussion and results

1.1. General overview of the Human Rights Conventions

As was mentioned above Human Rights of disabled people always follows to the general concept of Human Rights in full extend. That's why it is vital to perceive the nature and aims of this segment of international law as well as mark main international conventions in this area [4].

The formation of the Human Rights in its contemporary shape started in 1940s of 20th century, in unison with formation of UN³. In this context, it is important to highlight the UN Charter as the foundational document of the United Nations, which many scholars regard as the principal convention in the field of international law.

The article 76 says that prime 3 says that one of the objectives of the international trusteeship system, in accordance with the Purposes of the United Nations, is encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, religion, and encourage recognition of the interdependence of the peoples of the world [5].

¹ Постановление Правительства РК «Об утверждении Национального плана по обеспечению прав и улучшению качества жизни лиц с инвалидностью в Республике Казахстан до 2025 года» №326 от 28 мая 2019. – URL: <https://adilet.zan.kz/rus/docs/P1900000326> (дата обращения: 20.03.2024).

² United Nations. Basis for international human rights standards. URL - <https://www.un.org/ru/about-us/udhr/foundation-of-international-human-rights-law> (date of reference: 24.03.2024).

³ UNESCO. Human rights: a view from the past, relevant today <https://ru.unesco.org/courier/2018-4/prava-cheloveka-vzglyad-iz-proshlogo-aktualnyy-i-segodnya> (date of reference: 02.04.2024).

When examining human rights, it is essential to also take into account three additional documents, including:

1) The rights of persons with disabilities are grounded in core international human rights instruments that establish equal rights, non-discrimination, and social inclusion as fundamental principles. Several foundational documents have laid the groundwork for these rights, starting with the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948. Article 1 of the UDHR asserts that “all human beings are born free and equal in dignity and rights,” while Article 2 guarantees the right to equality and non-discrimination regardless of personal status, such as disability (United Nations, “Universal Declaration of Human Rights”⁴).

2) The 1966 International Covenant on Economic, Social, and Cultural Rights, which outlines everyone's right to fair and favorable working conditions, access to social security, an adequate standard of living, and the highest attainable level of physical and mental health. It also guarantees the right to education, participation in cultural life, and the enjoyment of the benefits of scientific advancements⁵.

3) The 1966 International Covenant on Civil and Political Rights affirms various fundamental rights, including the right to free movement, equality before the law, a fair and public trial, freedom of thought, conscience, and religion, freedom of opinion and expression, peaceful assembly, association with others, participation in public affairs, and the rights of minorities. It prohibits arbitrary deprivation of life, torture, cruel or inhuman treatment, slavery and forced labor, arbitrary arrest and detention, unjust interference with privacy, war propaganda, discrimination, and incitement to racial or religious hatred⁶.

Together, these foundational documents provide a strong framework for promoting equality, access, and dignity for persons with disabilities, setting the stage for more specialized conventions that address their unique needs.

1.2. Conventions on Human Rights of people with disabilities

Before examining documents specifically addressing the human rights of people with disabilities, it is important to understand the evolution of approaches to the issue of disability.

Up until the 1970s, the dominated position was so called “medical treatment” that declared pity attitude to the disabled individuals and limited only medical preferences for them⁷.

In 1960s, starting in the United States, the “Social Model” shifted the attitude to PWD towards emphasizing the removal of barriers, the promotion of positive attitudes, and ensuring that laws and policies facilitate full participation and prevent discrimination. Since that moment disability issue became more human rights problem rather medical one [6].

Beginning in the 1970s, a series of international agreements aimed at protecting the rights of individuals with disabilities have been established. These include the 1971 Declaration on the Rights of Mentally Retarded Persons, the 1975 Declaration on the Rights of Disabled Persons, the 1982 World Program of Action on Disabled Persons, the International Decade of Disabled Persons from 1983 to 1992, the 1993 United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities, and the 1993 Vienna Declaration on Human Rights⁸.

The Convention on the Rights of Persons with Disabilities (CRPD), adopted by the UN General Assembly in 2006, is the most comprehensive international legal document focused specifically on the rights of people with disabilities. Ratified by Kazakhstan in 2015, the CRPD represents a significant step toward ensuring that individuals with disabilities are recognized as holders of full civil rights under international law. Its primary objectives include protecting the inherent dignity, autonomy, and social inclusion of persons with disabilities, ensuring they enjoy all fundamental freedoms equally.

The CRPD covers a broad spectrum of rights aimed at guaranteeing equal participation in society. Some of the key articles of the

⁴ Всеобщая декларация прав человека 1948 | Организация Объединенных Наций. URL - https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml (дата обращения: 05.04.2024).

⁵ Международный пакт об экономических, социальных и культурных правах 1966 | Организация Объединенных Наций. URL - https://www.un.org/ru/documents/decl_conv/conventions/pactecon.shtml (дата обращения: 16.04.2024).

⁶ Международный пакт о гражданских и политических правах 1966 | Организация Объединенных Наций. URL - https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml

⁷ Handbook for Parliamentarians. From Exclusion to Equality Realizing the rights of persons with disabilities, UN and Inter-Parliamentary Union. No.14, 2007. URL - www.un.org/disabilities/default.asp?id=212 (date of reference: 21.04.2023)

⁸ Disability and Disablism. Manual for Human Rights Education with Young people. URL - <https://www.coe.int/en/web/compass/disability-and-disablism> (date of reference: 01.05.2024)

convention include:

- Article 24, which guarantees the right to inclusive education, requiring states to make educational institutions accessible and to provide necessary accommodations for persons with disabilities.

- Article 27, which supports the right to work and employment under equal conditions, pushing for measures to prevent discrimination in recruitment, hiring, and continued employment.

- Article 25, which affirms the right to accessible healthcare services, advocating for early diagnosis and necessary intervention while ensuring these services are free from discrimination.

- Article 9, which mandates that public facilities and services be made accessible to promote the independence and inclusion of persons with disabilities.

The CRPD also emphasizes the importance of involving persons with disabilities and their representative organizations in policy and legislative decisions, fostering an environment where their voices contribute directly to the policies that impact their lives⁹.

Through the CRPD, countries are obligated to harmonize their national laws with these international standards, undertaking legislative and administrative measures to support the full realization of rights for individuals with disabilities. Kazakhstan, as a signatory, has aligned parts of its national framework with CRPD standards, incorporating rights to education, healthcare, employment, and social services for people with disabilities into local legislation. The CRPD's comprehensive approach demonstrates an understanding that disability rights must be addressed at multiple levels - personal, social, and systemic - reflecting its goal of fostering genuine equality and societal integration for all persons with disabilities.

1.3. The Conventions on Human Rights ratified by Kazakhstan and positive changes in Disabled Persons Human Rights Area

As previously noted, the examination of any form of human rights is incomplete without referencing agreements such as the International

Covenant on Economic, Social and Cultural Rights of 1966 and the International Covenant on Civil and Political Rights of 1966, both ratified by Kazakhstan in 2006¹⁰. When investigating the human rights of individuals with disabilities, it is crucial to highlight that the Republic of Kazakhstan ratified the Convention on the Rights of Persons with Disabilities in February 2015.

According to its Constitution, the Republic of Kazakhstan is a democratic, secular, legal, and social state, where the highest values are individuals, human life, rights, and freedoms (Article 1 of the Constitution). The legal status of a person, as defined in the Constitution, is grounded in the concept of human and civil rights and is derived from the core principles of international legal documents. The Constitution of the Republic of Kazakhstan has incorporated the main ideas and provisions of international human rights documents, adapting them to the state's specific conditions¹¹.

Article 4 of the Constitution states that international treaties ratified by the Republic of Kazakhstan have priority over laws. A number of provisions of the Constitution are incorporation. Thus, Article 15 of the Constitution almost verbatim reproduces Article 6 of the International Covenant on Civil and Political Rights of December 16, 1966, Article 24 - Article 7 of the International Covenant on Economic, Social and Cultural Rights of December 16, 1966¹².

The goal of the state policy in the field of social protection of disabled people in the Republic of Kazakhstan corresponds to the goal of the Convention, proclaimed in Article 1. In the Republic of Kazakhstan, the state guarantees all citizens of the country, including disabled people, regardless of circumstances, equality of human and civil rights and freedoms. No one may be subjected to any discrimination based on origin, social, official and property status, gender, race, nationality, language, attitude to religion, beliefs, place of residence or any other circumstances (paragraph 2 of Article 14 of the Constitution of the Republic of Kazakhstan). The dignity of a person is inviolable (paragraph 1 of Article 17 of the Constitution of the Republic of Kazakhstan).

⁹ Конвенция о правах инвалидов 2006. | Организация Объединенных Наций. URL - <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> (дата обращения: 10.11.2024)

¹⁰ United Nations. Multilateral Treaties Deposited with the Secretary-General. URL - <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en> (date of reference: 28.04.2024)

¹¹ Конституция Республики Казахстан. 30 августа 1995. URL - https://adilet.zan.kz/rus/docs/K950001000_ (дата обращения: 26.04.2024).

¹² Ibid.

In 2015, in order to bring the legislation of the Republic of Kazakhstan in line with the principles of the UN Convention on the Rights of Persons with Disabilities adopted the Law of the Republic of Kazakhstan dated December 3, 2015 No. 433-V "On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the protection of the rights of persons with disabilities". Changes and additions touched on twenty-four legislative acts, including those relating to social security, health care, reproductive rights and access to reproductive services health and prevention of gender-based violence [6]:

1. The Code of the Republic of Kazakhstan dated September 18, 2009, 'On the Health of the People and the Healthcare System' (which became invalid by the Code of the Republic of Kazakhstan dated July 7, 2020, No. 360-VI), addressed, for instance, the right to receive information about one's rights and responsibilities, the services provided, the cost of paid services, and the procedure for their provision, considering accessibility for individuals with visual and/or hearing impairments; measures for the prevention, diagnosis, and treatment of diseases that pose a threat to others, as well as occupational diseases; and sanatorium treatment—a type of rehabilitation treatment and/or medical rehabilitation conducted under conditions of temporary stay in a sanatorium-resort organization, among other aspects.

2. Code of the Republic of Kazakhstan dated December 26, 2011 "On marriage (matrimony) and family" in parts of Ensuring Equal Opportunity When Applying for Marriage (matrimony) of both persons entering into marriage (matrimony) in the event of a severe diseases, disabilities associated with difficulties in movement, etc.¹³.

3. The Criminal Executive Code of the Republic of Kazakhstan dated July 5, 2014, includes provisions to ensure the right to provide technical (compensatory) aids and special transportation means for convicts with disabilities, both those serving sentences in institutions and those in custody, among other aspects¹⁴.

4. The Law of the Republic of Kazakhstan dated September 21, 1994, 'On Transport in the

Republic of Kazakhstan,' addresses ensuring the right to use new technologies, including information and communication technologies, and mobility aids and technologies adapted for persons with disabilities in passenger transportation. It also covers the training of transport workers in communication skills and service provision for persons with disabilities, including sign language instruction, among other aspects¹⁵, and other legislative acts.

Two significant facts regarding Hunman Rights of people with disabilities took place in 2023. First is ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities and enforcement of Social Code of the Republic of Kazakhstan.

Through the ratification of the Optional Protocol, the parties consent to acknowledge the authority of the UN Committee on the Rights of Persons with Disabilities to review complaints from individuals or groups claiming violations of their rights as outlined in the Convention. The Committee can request information from the state party and provide recommendations. Additionally, the parties may permit the Committee to investigate, report, and offer recommendations on 'serious or systematic violations' of the rights protected by the Convention¹⁶.

Social Code of the Republic of Kazakhstan: Supporting People with Disabilities The Social Code of the Republic of Kazakhstan, enacted to streamline and modernize social policies, includes important provisions that aim to protect and support the rights and needs of persons with disabilities. It, adopted to consolidate Kazakhstan's social welfare framework, combines existing laws and policies into a single, comprehensive legal document. This code is structured to ensure that all citizens, especially vulnerable groups such as persons with disabilities, have access to necessary social protection, healthcare, and equal opportunities. The main areas of the Social Code include:

- Social protection and financial assistance: state benefits and pensions to support persons with disabilities, ensuring a minimum level of income and coverage of medical expenses.

- Access to health care: free or discounted medical services and rehabilitation for persons with disabilities.

¹³ Кодекс РК «О браке (супружестве) и семье» №518-IV от 26 декабря 2006. URL - <https://adilet.zan.kz/eng/docs/K1100000518> (дата обращения: 04.05.2024).

¹⁴ Уголовно-Исполнительный Кодекс Республики Казахстан от 5 июля 2014. URL - https://online.zakon.kz/document/?doc_id=31577723 (дата обращения: 04.05.2024).

¹⁵ Закон РК "О транспорте в Республике Казахстан" № 156 от 21 сентября 1994. URL - <https://adilet.zan.kz/rus/docs/Z940007000> (дата обращения: 06.05.2024).

¹⁶ Закон РК "О ратификации Факультативного протокола к Конвенции о правах инвалидов" № 8-VIII ЗРК от 7 июня 2023 <https://adilet.zan.kz/rus/docs/Z23000000008> (дата обращения: 11.11.2024).

- Employment and employment support: employment promotion programs that encourage employers to provide jobs for persons with disabilities.

- Inclusive education: ensuring equal access to educational resources and adapting schools to support students with special needs.

- Creating a barrier-free environment: ensuring accessibility of public buildings and transport for the free movement of all citizens¹⁷.

The Code also regulates measures to raise public awareness and combat the stigmatization of disabilities, creating an inclusive society where everyone receives equal opportunities and support.

It is also necessary to mention, such document as Kazakhstani National Plan that dedicated to improving the rights and quality of life for people with disabilities, set to continue through 2025. The National Plan's core objectives include creating barrier-free environments, promoting inclusive education, and expanding access to social services and healthcare. The Ministry of Labor and Social Protection of Kazakhstan, which oversees this initiative, has underscored the importance of integrating people with disabilities into social and economic life through several key policies:

- Barrier-Free Environments: Enhancing accessibility across public spaces, buildings, and transport infrastructure, ensuring that cities and workplaces are adaptable to the needs of people with disabilities.

- Inclusive Education: Aiming to increase accessibility for children with disabilities in mainstream educational settings, the government has promoted inclusive learning programs to better integrate students with various physical and mental disabilities.

- Social Services and Health Access: Expanding social services such as specialized healthcare and rehabilitation facilities, and supporting training programs to empower people with disabilities in the labor market¹⁸.

2. Challenges and Areas of Concern

Despite the positive advancements in the area of human rights for people with

disabilities, Kazakhstan still faces numerous gaps and deficiencies in its legislation and the implementation of laws related to individuals with disabilities.

Thus, if to follow reports of various International Organizations dealing with human rights situation over the world such as UN, Human Rights Watch, Amnesty International as well as observations of US Embassy in Kazakhstan we can find out number of critical statements about disabled persons' Human Rights condition in our state.

In 2021, Amnesty International highlighted that people with mental disabilities in Kazakhstan were still being stripped of their legal rights by the courts, leading to the loss of fundamental rights such as education, privacy, voting, and running for public office¹⁹. In July of that year, the OSCE suggested that all barriers preventing these individuals from voting or standing for office should be removed. They also urged Kazakhstan to create laws that help people with disabilities receive the support they need to make their own legal decisions, rather than taking away their legal rights²⁰. This situation stands against Article 5 of the CRPD, which states that everyone should be treated equally under the law, without discrimination. It also contradicts Article 12, which provides that people with disabilities should have the same legal rights as others and should be given the necessary assistance to exercise these rights²⁹. According to the information of 2023, on the website of Amnesty International there are no any significant changes in this area [7].

In 2022, Human Rights Watch released a report on the human rights situation in Kazakhstan, focusing on the challenges of inclusive education for children with disabilities. The report noted that in June 2021, Kazakhstan passed a new inclusive education law. This law removed the requirement for a medical and educational exam before a child could enroll into a regular school, and placed the responsibility on the state to provide children with disabilities the necessary support and accommodations. However, many children with disabilities still cannot access inclusive education and remain in separate

¹⁷ Социальный Кодекс Республики Казахстан от 20 апреля 2023 <https://adilet.zan.kz/rus/docs/K2300000224> (дата обращения: 11.11.2024).

¹⁸ Kazakhstan implements National Plan for Ensuring Rights and Improving Quality of Life of Persons with Disabilities until 2025 <https://primeminister.kz/en/news/kazakstanda-mugedek-zhandardyn-kukyryn-kamtamasyz-etu-zhane-omir-suru-sapasy-zhaksartu-zhonindegi-2025-zhylga-deyingi-ultyk-zhospar-iske-asyryluda-b-nurymbetov-2114836> (date of reference: 13.11.2024).

¹⁹ OSCE Human Rights report. 2022. URL - [https://www.osce.org/humanrights#:~:text=UEA%2FMichael%20Hamilton\),Respect%20for%20human%20rights%20and%20fundamental%20freedoms%20are%20key%20to,inalienable%20and%20](https://www.osce.org/humanrights#:~:text=UEA%2FMichael%20Hamilton),Respect%20for%20human%20rights%20and%20fundamental%20freedoms%20are%20key%20to,inalienable%20and%20) (date of reference: 15.05.2024).

²⁰ Human Rights Watch. World Report on Kazakhstan. 2021. URL - <https://www.hrw.org/world-report/2022/country-chapters/kazakhstan> (date of reference: 21.05.2024).

special schools or residential institutions, where they are at risk of violence, neglect, physical restraint, and overmedication. Additionally, Kazakhstan has no national plan to shut down these institutions. The report of the US embassy in 2023 declared that 82% of schools are listed as equipped for inclusive education, but many still lack necessary resources. Only 20% of children with disabilities attend mainstream schools, while many others are either homeschooled, or attend special education centers with limited capacity [8]. Around 10,000 children with disabilities are educated at home, and 71% of registered children with disabilities are not covered by social security²¹.

The report on the activities of the human rights commissioner in the Republic of Kazakhstan for 2023, says that Kazakhstani law requires companies to set aside 3 percent of their workforce for people with disabilities; however, civil society reported that persons with disabilities faced difficulties integrating into society and finding work, in part because some employers were reluctant to renovate buildings to make them accessible. Civil society representatives reported that fraud and corruption in the public sector undermined the government's efforts to provide funding to support persons with disabilities. Despite a legal requirement to set aside jobs for persons with disabilities, employers often failed to accommodate them. In 2023, less than 20% of able-bodied people with disabilities had stable employment²². The report also raises the issues of difficulties of medicine service for individuals with disabilities as well as realization of inclusive education issues [9]. The information presented in the reports contradicts the principles outlined in Article 24 of the CRPD, which emphasizes the importance of inclusive education for children with disabilities. Furthermore, Article 9 highlights the responsibilities of participating countries to provide accessible and accommodating work environments for individuals with disabilities. Thus, one can see that reports of International Human Rights Organizations demonstrate some shortcomings in realization of Labour Rights of

disabled individuals what is extremely relevant for adult part. Most of them want to work, but it is often difficult to find a job with the conditions appropriate for people with disabilities.

It would be reasonable to consider the evaluation of Human Rights situation given by some Kazakhstani mass media. For instance, a number of articles in various online editions state on discrepancy between disability benefits and rising prices for essential goods in Kazakhstan.

The online edition named Kursiv.kz states that according to data of 2022, food prices in Kazakhstan increased by 19.7% in annual terms, non-food products rose in price by 14.2%, while paid services increased by 9.2%²³. In this regard, we can mention, that one of the basic problems for disabled individuals in Kazakhstan is the amount of allowance. Considering that today the benefits are 77 889 tenge for the 1st group of disability, 62 068 tenge for the 2nd group, and 42 190 for the 3rd one. In some cases, these disabled people cannot work according to their profession and forced to perform less qualified work²⁴. In the same time, official statistic demonstrates that the average monthly salary in Kazakhstan in the first quarter of 2022 was 285,433 tenge [7]. Thus, we can conclude that the real situation with the growth of prices on basic commodities does not correspond to the indexation of allowance for people with disabilities, as the gap is vivid.

Furthermore, the interviews of disabled persons in various editions, conducted during the period of 2020 - 2022, indicated that most of them are not able to buy the necessary commodities, pay the apartment rent, let alone buy own flat or house [8]. Majority of the interviewers were solidary in their indications of the low living standards of the disabled, and difficulties to engage onto workplaces if needed. The latest data, represented in Kazakhstani media shows that the ratio of prices to disability benefits has not changed much in favor of people with disabilities²⁵.

Meanwhile, the provisions of key international treaties ratified by Kazakhstan ensure adequate material support for all individuals reliant on state

²¹ Доклад о ситуации с правами человека за 2023 год: Казахстан <https://kz.usembassy.gov/ru/2023-country-reports-on-human-rights-practices-kazakhstan/> (дата обращения: 15.11.2024).

²² Report on the activities of the human rights commissioner in the republic of Kazakhstan for 2023 file:///C:/Users/user/Downloads/9f2d80419722ec695a98f06c10e1650b_original.7826166.pdf (date of reference: 15.11.2024).

²³ На сколько вырастут пособия в 2022 году в Казахстане. Sputnik Казахстан. 27 ноября 2021. URL - <https://ru.sputnik.kz/20211127/Na-skolko-vyrastut-posobiya-v-2022-godu-v-Kazakhstane-18766650.html> (дата обращения: 20.05.2024).

²⁴ Средняя зарплата выросла в Казахстане. Tengri News. 9 августа 2022. URL - https://tengrinews.kz/kazakhstan_news/srednyaya-zarplata-vyroslo-v-kazakhstane-475010/ (дата обращения: 23.05.2024).

²⁵ Конвенция о правах инвалидов 2006. | Организация Объединенных Наций. URL - <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> (дата обращения: 24.05.2024).

care. For instance, the International Covenant on Economic, Social and Cultural Rights²⁶ is a significant human rights treaty. Articles 9 and 11 affirm that State Parties acknowledge everyone's right to social security, including social insurance. Furthermore, member states are required to guarantee an adequate standard of living for individuals and their families, which includes sufficient food, clothing, housing, and continuous improvement in living conditions. Participating nations must take appropriate steps to uphold these rights, recognizing the crucial role of international cooperation based on mutual consent. Almost the same provisions are included into the Convention on the Rights of Persons with Disabilities, the treaty that specifies rights of handicaps. Specifically, the States Parties to this Pact acknowledge the right of individuals with disabilities to an adequate standard of living for themselves and their families, which includes sufficient food, clothing, and housing, as well as ongoing improvements in living conditions. They are required to take the necessary steps to ensure and advance the fulfillment of this right without any discrimination based on disability³⁸. Furthermore, the participants of the convention recognize the right of individuals with disabilities to social protection and to enjoy this right without discrimination based on disability, committing to take appropriate measures to ensure its fulfillment [9]. Additionally, Article 25 of the Declaration of Human Rights (implicitly regarded as binding for all nations) complements this by affirming that every individual has the right to support in cases of unemployment, illness, disability, widowhood, old age, or any other loss of livelihood due to factors beyond their control⁸.

3. Interview analysis

From our perspective one of the most significant indicators is first hand opinion of representatives of people with disabilities. In the summer 2023, we conducted interview with Kenzhegul Seitzhan, a deputy of the Mazhilis (lower chamber of the Kazakhstan Parliament), member of the People's Party of Kazakhstan, participant of the Paralympic Games, who is a visually disabled person.

During the interview, the interviewee has mentioned that the term "a person with disabilities" is not entirely correct. Sharing his life story, K. Seitzhan as a person with a visual

impairment managed to study abroad, speaks seven languages, participated in bike rides from Astana to Paris and became a deputy in the Parliament. He believes that despite health problems people with disabilities may succeed.

As a policy-maker and a person with disabilities, having access to ratification of the Convention on the Rights of Persons with Disabilities in 2006, he reports that changes for the disabled people do not come immediately. Based on his experience in Japan he points that even the most developed countries do not have an ideal system for protecting the rights of people with disabilities. However, he admits that still some improvements in the area are happening in Kazakhstan. For example, within the last years people with disabilities have seats in the Kazakhstan's legislature, and international standards in the field of social protection of persons with disabilities have been actively applied. Kazakhstan joined the optional protocol of the 2006 international convention, facilitating direct application to the authorized UN bodies in case of violation of the human rights of persons with disabilities in the country. Though, he points that the state's executive power is bureaucratic, and often fails to keep up with the initiatives of the legislature. He hopes that the new parliamentary convocation will succeed in solving the above-mentioned issues. One may note here that such an opinion is typical for states with a high degree of personalized power, where any positive changes are associated not with the well-established work of political institutions called to promote protection of human rights, but depend on people or a group of people who hold power positions.

4. International experience

As mentioned above, it is impossible identify a state with ideal conditions for people with disabilities. However, according to the UN information, Sweden, Australia, and Canada are performing as countries with the highest achievements in this area²⁷.

Sweden ratified the CRPD in 2008, committing to its principles of non-discrimination, accessibility, equality of opportunity, and full societal inclusion of PWD. The country submits periodic reports to the Committee on the Rights of Persons with Disabilities, reflecting on its progress.

²⁶ Новые размеры пособий в Казахстане: на сколько вырастут выплаты с 1 января 2025 года https://tengrinews.kz/kazakhstan_news/novyye-razmeryi-posobiy-kazahstane-skolko-vyirastut-548845/ (дата обращения: 14.11.2024).

²⁷ Human Development Report 2023/2024 <https://hdr.undp.org/system/files/documents/global-report-document/hdr2023-24overviewen.pdf> (date of reference: 15.11.2024).

Sweden requires all public spaces, transport systems and digital services to be accessible for people with disabilities. The Planning and Building Act obligates municipalities to ensure that buildings and infrastructure coincide to accessibility standards. The Education Act (2010) guarantees all children with disabilities, the right to free and fair education. Inclusive education is prioritized, with schools offering special support where needed. Sweden's use of Individualized Education Plans (IEPs) ensures that students with disabilities receive individual educational opportunities. The Swedish government actively supports the employment of PWD through initiatives like wage subsidies, workplace adaptations, and vocational training. The Swedish Public Employment Service (Arbetsförmedlingen) plays a basic role in connecting PWD with job opportunities²⁸.

The system of inclusive education in Sweden deserves special attention. As of the legal framework on international and local levels, except the CPRD, one can mention such sources as Education Act (Skollagen, 2010:800), that mandates the right for all children and young people, including those with disabilities, to get an education in a setting best suitable their needs. Chapter 3, Section 3 of the document emphasizes the obligation of schools to provide special support when a student's educational goals are at risk²⁹. Another legal source - Discrimination Act (Diskrimineringslagen, 2008:567) prohibits discrimination on various grounds, including disability, in all public and private educational settings. It reinforces the principle of equal treatment and the right to reasonable accommodations³⁰. Education in Sweden is compulsory for children aged 7 to 16. The educational process is organized in such a manner that accounts the individual needs of students, and education is free. Swedish schools are obliged to create conditions for the successful learning of all students. If an educational institution cannot provide the necessary level of support, it must offer alternative options. For children with special educational needs, individual action plans are developed, which are agreed upon with parents,

teachers and specialists. In some cases, special schools are organized for children with hearing, vision or intellectual disabilities, which, despite their special needs, are equal to mainstream schools³¹.

Curricula are adapted to the individual abilities of students. This concerns educational content, teaching methods and methods of knowledge assessment. Most children with disabilities study in mainstream schools. The principles of inclusion imply maximum interaction between children with different needs. For children with special educational needs, early diagnosis and timely provision of support are important. Responsibility for the education of children with special needs has been transferred to local governments, which develop and implement relevant programs³².

Canada is internationally recognized for its strong commitment to human rights, including the rights of persons with disabilities (PWD). Its policies and practices are well performed in both international obligations and national legislation. Canada's ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2010 has further enhanced its legal and policy framework for PWD. The Accessible Canada Act (ACA) sets accessibility standards across all federally regulated sectors, as well as enforcement mechanisms to address non-compliance. Provinces like Ontario, British Columbia, and Manitoba have complementary accessibility legislation pointed local needs. Education for PWD is governed by provincial legislation, with each province and territory implementing inclusive education policies. For example:

- Ontario's Education Act requires schools to provide accommodations for students with disabilities.

- The federal government supports Indigenous PWD through specialized educational programs.

The Employment Equity Act (1995) promotes workplace diversity, requiring federally regulated employers to hire and accommodate PWD. Initiatives such as wage subsidies, training programs, and workplace

²⁸ Full participation in society is the top goal in Sweden's disability policy. <https://sweden.se/life/equality/disability-policy> (date of reference: 15.11.2024).

²⁹ Education Act (Skollagen, 2010:800) https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/skollag-2010800_sfs-2010-800/ (date of reference: 23.11.2024).

³⁰ Discrimination Act (Diskrimineringslagen, 2008:567) <https://www.do.se/choose-language/english/discrimination-act-2008567> (date of reference: 23.11.2024).

³¹ National Agency for Education <https://www.skolverket.se/> (дата обращения: 23.11.2024).

³² Country information for Sweden - Systems of support and specialist provision Developing inclusion <https://www.european-agency.org/country-information/sweden/systems-of-support-and-specialist-provision> (date of reference: 23.11.2024).

accessibility grants further support PWD in the workforce³³.

One of the outstanding achievements of Canada in the field of accessibility for disabled people is public transport. This area is regulated by Accessible Canada Act, 2019, which requires federal agencies and services, including transportation, to eliminate barriers for people with disabilities. It covers aviation, rail, marine and interprovincial bus services. Additionally, there are special codes for regulation of each type of transport, for instance the Air Transport Accessibility Code regulates accessibility standards for airlines, similar codes apply to railways and intercity buses. Thus, in Canada low-floor buses and trains with ramps, lifts and special seating, airlines are required to provide assistance with boarding and disembarking, special seating and the ability to carry assistive devices³⁴. Many cities have specialized taxi and paratransit services for people who cannot use regular transportation. Drivers, dispatchers and service personnel are required to take courses in assisting people with disabilities. The federal government provides grants and subsidies to upgrade transportation infrastructure to make it accessible to people with disabilities³⁵.

Canadian Transportation Agency is Canada's independent administrative tribunal and regulator that ensures the fairness, efficiency and accessibility of the nation's transportation system, considers PWD passengers' complaints in case of violation of their human rights, as well as establishes standards for accessibility for persons with disabilities in aviation, rail, and interprovincial bus transportation³⁶.

These measures not only improve the physical accessibility of transport, but also ensure that services are provided with respect for the dignity and needs of people with disabilities.

Australia ratified the CRPD in 2008 and its Optional Protocol in 2009, committing to principles such as non-discrimination, accessibility, and societal participation for PWD. It submits periodic reports to the UN on its progress in implementing these principles. Australia's Disability (Access to Premises – Buildings) Standards 2010 ensures that public buildings meet accessibility standards. Digital

accessibility is also addressed through the Web Accessibility National Transition Strategy. Australia promotes inclusive education under the Disability Standards for Education 2005, requiring schools to provide reasonable adjustments for students with disabilities. State and territory governments also implement tailored support programs to ensure equal access to education. The Job Access Program provides workplace modifications, wage subsidies, and other resources to support PWD in employment. Anti-discrimination protections in the Fair Work Act 2009 ensure equal opportunities for PWD in the workforce³⁷.

5. Recommendations

Relaying on information collected during work on this research we can say that most significant points for PWD are education, payments and employment. Thus, we can make following recommendations:

Amend Education Laws: Introduce specific provisions mandating the creation of individualized education programs (IEPs) for students with disabilities, ensuring tailored support for each child. Harmonize with Article 24 of CRPD: ensure full compliance with the UN Convention on the Rights of Persons with Disabilities by closing gaps in accessibility and resources in mainstream schools. Adopt legal requirements for regular mandatory training programs for teachers on inclusive teaching methods and assistive technologies. Establish mechanisms to monitor schools' compliance with inclusive education standards and impose fines for non-compliance.

- **Employment:** Revise existing laws to enforce the 3% employment quota for PWD, with penalties for non-compliance and incentives for adherence. Update labor laws to require employers to provide accessible workplaces, including transportation and communication tools, in line with Article 27 of the CRPD. Enact stronger anti-discrimination laws with provisions for legal recourse in cases of workplace discrimination. Offer tax deductions for companies that hire and support PWD, including adapting workplaces or providing flexible work arrangements.

- **Social Security and Financial Assistance**

³³ *Monitoring the Rights of People with Disabilities* <https://www.chrc-ccdp.gc.ca/en/monitoring-the-rights-of-people-with-disabilities> (date of reference: 15.11.2024).

³⁴ *Transportation for Persons with Disabilities Regulations* <https://gazette.gc.ca/rp-pr/p1/2019/2019-03-09/html/reg2-eng.html> (date of reference: 23.11.2024).

³⁵ *Accessible Canada Act* <https://laws-lois.justice.gc.ca/eng/acts/a-0.6/> (date of reference: 23.11.2024).

³⁶ *Canadian Transportation Agency's web-site* <https://otc-cta.gc.ca/eng> (date of reference: 23.11.2024).

³⁷ *About Disability Rights* <https://humanrights.gov.au/our-work/disability-rights/about-disability-rights> (date of reference: 16.11.2024).

- Regularly adjust disability benefits to match inflation and the rising cost of living, ensuring an adequate standard of living in compliance with Articles 9 and 11 of the International Covenant on Economic, Social and Cultural Rights. Expand the Social Code to address gaps in healthcare access, housing, and transport subsidies for PWD. Make it mandatory for all new legislation and policies to be assessed for their impact on PWD.

In addition, it will be useful to work with Public Awareness, Advocacy, Strengthen Monitoring, and Accountability for example:

- Launch nationwide campaigns to combat stigmatization and promote the societal value of inclusion;

- Foster partnerships between government, civil society, and international organizations to raise awareness of disability rights;

- Establish independent bodies or committees, including representatives of PWD, to oversee the implementation of disability rights policies;

- Encourage civil society and media to report on gaps and violations of PWD rights etc.;

- Develop and enforce stricter regulations for accessibility in public and private infrastructure, including digital services;

- Collaborate with leading disability-friendly countries such as Sweden, Canada, and Australia to exchange best practices;

- Engage international organizations like

the UN and Human Rights Watch for technical support and capacity building.

Conclusion

Kazakhstan has made significant progress in aligning its domestic policies with international standards, as evidenced by the ratification of the CRPD and the enactment of the Social Code. However, substantial gaps remain in the implementation, particularly in the areas such as inclusive education, employment opportunities, and accessibility for people with disabilities. Drawing on best practices from countries like Sweden, Canada, and Australia, Kazakhstan can enhance its efforts by focusing on building an inclusive legal framework, improving enforcement mechanisms, and addressing systemic barriers.

The journey toward full inclusion and equality for PWD in Kazakhstan requires a multi-stakeholder approach, blending government initiatives, community engagement, and international cooperation. With a strategic focus on these recommendations, Kazakhstan can advance the rights and quality of life for people with disabilities, fulfilling both its national and international commitments. These steps are not just an obligation under international conventions but also a moral imperative to build a society that values and empowers all its members equally.

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