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TITLE

**Ensuring Equal Opportunities for the Persons with Disabilities in Armenia
Whether the accessibility, full participation and inclusion of people with
disabilities in all aspects of life is duly ensured by the respective bodies in
Armenia.**

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Abstract

Currently, persons with disabilities face various barriers when exercising their rights in Armenia. Public stereotypes and legislative gaps as well as physical inaccessibility are three main directions that can hinder them to effectively exercise their rights as a full member of the society.

The Constitution and law are progressive and prohibit discrimination against persons with disabilities, the government has likewise not been effective in enforcing these protections. Persons with disabilities are also highly stigmatized, and many people with disabilities are kept at home with their families, where too often they do not learn how to live independently. Due to the lack of accommodated buildings and environment persons with disabilities are often unable to physically leave their homes and, thus, subjected to discrimination.

Key words: Persons with disabilities, Human Rights Defender Office, Convention on the Rights of Persons with Disabilities (CRPD), right to vote, accessibility, right to education, right to healthcare.

Table of Contents

LIST OF ABBREVIATIONS 4

INTRODUCTION 5

CHAPTER 1 Right to Vote and Become Candidate in Elections of Persons with Disabilities9

CHAPTER 2 Barriers and Challenges Facing Persons with Disabilities while Exercising their Social- Economic Rights.13

Challenges of Defining a Disability Status

CHAPTER 3 Accessibility 16

Accessibility of transportation for the persons with disabilities

Right to information

CHAPTER 4 Right to Education24

CHAPTER 5 Right to health

CONCLUSION31

BIBLIOGRAPHY33

LIST OF ABBREVIATIONS

CRPD - Convention on the Rights of Persons with Disabilities

RA – Republic of Armenia

HRDO – Human Rights Defender Office

MSE Committee - Medical-Social Expertise Committee

“The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped”.

*-Hubert Humphrey an American politician,
the 38th vice president of the United States*

INTRODUCTION

The Universal Declaration of Human Rights states that “All human beings are born free and equal in dignity and rights...”¹ The Declaration was admitted several years ago, but until nowadays these provisions of Declaration haven't lost its significance and seemed to be that these rights are not respected and, as a result, are violated.

The rights of persons with disabilities are human rights and they come from the major treaties but they are also expressed specifically in Convention on the Rights of Persons with

¹ The Universal Declaration of Human Rights, available at http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

Disabilities (CRPD) which presents itself as a human rights-centered approach, respects persons with disabilities as individuals whose equal rights must be protected while respecting their autonomy and personal agency, CPRD also requires a system that reaches out to persons with disability to ensure they are fully heard and fully participate on an equal basis with all others.

States assumes certain obligations when ratifying the international conventions. Ensuring the accessibility, inclusion and full and effective participation of people with disabilities in decision-making, employment issues, physical accessibility issues, inclusive education, political life and many others should be one of the key priorities for the Government. They should undertake the appropriate measures to try to eliminate the mental or physical barriers that people with disabilities may come across in Armenia and really need to make sure that they are trying to provide equal opportunity and respect the rights of people with disabilities.

In Armenian legislation number of legal acts was adopted aimed at the proper implementation of the rights of people with disabilities prescribed in the Convention. Particularly, RA law on Social Protection of People with Disability. Some provisions are regulated in the Civil Code of Republic of Armenia, RA law on Psychiatric Assistance, RA Law on Medical Assistance and Care of the Population, etc. To comply the law provisions with the CRPD, in 2013, draft law on the Protection of the Rights of Persons with Disabilities and their Social Inclusion in the Republic of Armenia² developed and still it is under discussion. This law will allow creating conditions for the persons with disability for the social inclusion and equal opportunity.

Although Armenia is party to many international instruments and treaties which guarantee a host of progressive rights, including for persons with disabilities, the promise of these international standards has not yet translated into rights protection for Armenian citizens. Ostensibly, Armenia's Constitution bans discrimination based on gender or "other personal or social circumstances" (mental or physical disabilities), yet even this language in the

² Draft law on the Protection of the Rights of Persons with Disabilities and their Social Inclusion in the Republic of Armenia, available at https://www.globaldisabilityrightsnow.org/sites/default/files/related-files/274/Disability_Law_English.pdf

Constitution fails to provide meaningful, *de facto* protections for Armenia's most vulnerable citizens.

Thus, in spite of having legal measures ensuring equal opportunities for persons with disabilities, but in practice these provisions are sometimes not guaranteed with practical safeguards. For example in Armenia, the environment is not sufficiently adapted for their needs, buildings are not properly accommodated, they do not have access to underground transportation, cultural buildings, places of entertainment are still poorly accommodated for people with disabilities, which is an unfair obstruction to the exercise of their cultural rights. The same issues exist pertaining to their political rights, or the **inaccessibility** of respective materials for the people with hearing or visual impairments. Moreover, there are not sufficient learning materials designed for them, educational or informative brochures, etc.

The limited accessibility to official websites for the persons with visual and hearing impairments, presented another wing of questions that still need a comprehensive response. And the most importantly, if the physical accessibility is not fully and adequately provided, it could be a major barrier to the fulfillment of the rest of their rights. All these abovementioned issues hinder them to fully exercise their rights on an equal basis with other human beings. The state or the government is to ensure full and effective participation and inclusion of persons with disabilities in society. They really need to make sure that they are trying to provide equal opportunity and respect the rights of persons with disabilities.

In addition, Human Rights Defender of Armenia has also repeatedly raised in the statements the need of undertaking measures to provide active participation of persons with disabilities in political, cultural and economic life. Resulting from this, it is worth to note that some reforms have already been made in this regard, e.g special ramps were built, some buildings were accommodated, however, in spite of the progress there are many gaps that should be taking into consideration by the respective bodies for ensuring equal opportunities including the exclusion of discrimination, ensuring accessibility towards these people. As Human Right Defender mentioned "*such conditions must be established so that persons with disabilities are able to independently realize their rights*"³.

³ Human Rights Defender statement, available at <http://www.ombuds.am/en/media/54636.html>

In the scope of this paper I am going to emphasize the basic rights of persons with disabilities, the barriers and the challenges that they encountered in Armenia while exercising their rights and freedoms.

The paper literature is based on a comprehensive study of the Armenian and international legal framework. I will also focus on the national and international statements, reports on the discrimination of the equal rights of persons with disabilities in Armenia, and the legal obligations that Armenia have undertaken but have failed to keep the provisions. At the end of each section I will give recommendations regarding each topic highlighting the real need for undertaking the appropriate measures to try to create special conditions aimed at eliminating the mental or physical barriers that people with disabilities may come across in Armenia. In the framework of this paper I will target both the supply and the demand sides of access to justice for the persons with disabilities: the “supply” side being the state bodies, human rights organizations and so on, these groups should receive the institutional strengthening, tools, and resources they need to better protect its citizens, especially the most vulnerable, from human rights abuses. On a parallel track of strengthening the “supply” side of access to justice, equal attention must be paid to the “demand” side: persons with disabilities, those most vulnerable, are in need of legal and personal empowerment, and they need to know about and have trust in those that can ensure equal opportunities for them to fully and adequately exercise their rights and obligations in equal basis with other people.

Section 1.

Right to Vote and Become Candidate in Elections of Persons with Disabilities

Full and effective participation and inclusion of persons with disabilities in public life is one of the underlining principles of the **Convention on the Rights of Persons with Disabilities**, adopted in 2006, ratified by Armenia in 2010 (*It's noteworthy also to mention that although Armenia ratified the Convention but it doesn't ratified the Optional Protocol to the Convention*). In this regard, several legal acts were adopted in Armenia which are aimed at establishing effective conditions for persons with disabilities to exercise their rights in an equal basis with other people.

The right to political participation of citizens has been recognized in lots of international documents. According to Article 21 of the Universal Declaration of Human Rights, **every person** has the right to take part in the governance of his country, directly or through freely chosen representatives⁴. Article 25 of International Covenant on Civil and Political Rights defines that **every citizen** has the right to vote and to be elected, as well as the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and to have access to public service. Nevertheless, based on the current practice that persons with disabilities face lots of obstacles in their daily life, we can conclude that still there is a need to improve our legislation.

Generally, elections are immediate means for exercising democracy in a country. In this way people expressed their wills which is very important in the formation of civil society. Besides, it gives an opportunity for people to directly participate in the public administration and decision making process. For this reason, the vote of each person is very crucial.

⁴ Article 21 of Universal Declaration of Human Rights, available at <http://www.un.org/en/universal-declaration-human-rights/>

Article 29 of the Convention on the Rights of Persons with Disabilities prescribes the right to political participation of persons with disabilities, which also requires states to ensure that persons with disabilities can effectively and fully participate in political life on an equal basis with others. The political rights involve both right to vote and the right to be elected. However, **obstacles that people with disabilities came across during the recent elections conducted in Armenia** proved again and again that there are lots of problems in providing physical and mental accessibility for the people with disabilities.

Thus, it is very important to emphasize the reasons why persons with disabilities often find it hard to participate in the elections as:

- The polling stations are inaccessible for them
- They are not adequately informed about their political right, voting procedure
- Electoral materials are not accessible for them
- Or other patriarchal stereotypes that are still engrained among our society, and so on.

According to Part 5 of the Article 17 of the RA Electoral Code local self-governing authorities shall take all reasonable measures to ensure that persons with restricted physical capacities are provided with facilities and conditions required for the enjoyment of their voting rights⁵.

In practice, while choosing the locations for the pooling stations, the respective bodies do not consider the accessibility and accommodation for the persons with disability. It is very often located on the second floor of a building or in a basement which is very difficult for the people with disabilities to reach. This constitutes a huge problem, which hindered them to participate in decision making process as other human beings.

Physical accessibility is the most important factor for the fulfilment of the rights of persons with disability, if it is not fully and adequately provided, it could be a major barrier to the exercise of the rest of their rights. After examining the statements of Human Rights Defender Office in Armenia and other non-governmental organizations operating in the field, we can conclude that the majority of polling stations were inaccessible for the persons with disabilities during the recent Elections in Armenia. Particularly, during one of meetings

⁵ Part 5 of the Article 17 of the RA Electoral Code available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2017\)023-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)023-e)

conducted after the elections, the representatives from Human Rights Defender Office, stated that the majority of calls they received related to the inaccessibility of polling stations both in Yerevan and the regions⁶. Moreover, according to the OSCE/ODIHR election observation report⁷ on the December 9 snap parliamentary elections, 71 percent of polling stations observed were not accessible to persons with physical disabilities or reduced mobility.

Another very important issue that we want to draw attention and which is also repeatedly raised by HRDO is the some unclear provisions of the RA Electoral Code. Particularly, Part 5 of the Article 17 of the RA Electoral Code prescribe that local self-governing authorities shall take all reasonable measures to ensure the enjoyment of electoral rights of persons with restricted physical capacities. And article 65, part 8 prescribes that the Central Electoral Commission shall be obliged to create additional opportunities for the purpose of providing electors, facing difficulties with participation in the voting process, with access to voting, ensuring the opportunity for the free expression of will of the voter and secrecy of voting⁸. However, the abovementioned provisions are not clearly regulated and do not prescribe the necessary steps that need to be undertaken. Moreover, based on the abovementioned articles we can conclude that there is only a need to provide support to the persons with disabilities only in the polling stations, while the support for reaching the polling stations should also be guaranteed.

The next challenge that persons with disabilities faced during the recent elections in Armenia is the lack of special information materials for the persons with visual and hearing impairments. Here it is also noteworthy to mention the statements made by Human Rights Defender of Armenia, which highlights the lack of ballot-papers in Braille system, and the absence of magnifying glasses for people with visual impairments⁹. Absence of such materials limited the accessibility of information during the election campaign, which can further constitute a real problem for them and can hinder the full and effective exercise of electoral rights.

⁶ Human Rights Defender media statement, available at <http://www.ombuds.am/en/media/25689.html>

⁷ OSCE/ODIHR election observation report, available at <https://www.osce.org/odihr/elections/armenia>

⁸ Article 65, part 8 of the RA Electoral Code

⁹ Human Rights Defender media statement, available at <http://www.ombuds.am/en/media/25689.html>

Having disability may not be a barrier for a person with disabilities to participate in political life both as a citizen who express a will and as a candidate. But in practice, there were little cases when persons with disabilities participate in the elections as a candidate in Armenia. This is the Governments responsibility to support them by creating environmental conditions for them, providing special technologies which can promote effective exercise of their political rights.

Therefore, we can conclude that the exercise of their electoral right is strongly linked to several preconditions that respective State bodies should undertake to ensure persons with disabilities to have an active participation in the political life by providing access to polling stations, unrestricted mobility in the stations, access to relevant information, etc. We think that the way of reaching it is the legislative changes.

As a first step the State should make voting procedure, facilities and materials more accessible for the person with disabilities, which requires reasonable accommodation of polling stations, information accessibility, etc. For example, it is very important before choosing polling stations make sure that the building is adequately furnished, meets all the necessary requirements for persons with disabilities. The assistance in voting procedure should be accessible to them. *Resulting from this we strongly recommend States should establish legal accessibility requirements for internet, radio and TV information providers.*

It is very important for political parties make their election campaigns included information brochures, leaflets, programs, etc accessible for the persons with disabilities. On the other hand it is required to increase the awareness of political rights of persons with disabilities for the members of political parties. These kind of awareness rising trainings can be organized by the state and the non-governmental organization operating in the human rights field.

Recommendations

- 1. Based on this, we recommend to prescribe by law the obligation of respective political parties to ensure their election campaigns which can include information brochures, TV programs accessible for the person with hearing or visual impairments, otherwise administrative sanctions should be imposed.*

2. *Take effective steps to ensure full participation of persons with disabilities to political life, by introducing specific regulations in Electoral Code concerning the obligation of respective bodies to ensure full and effective participation of voting procedure in the polling station as well as guarantee the support of reaching there.*

Chapter 2. Barriers and Challenges Facing Persons with Disabilities while Exercising their Social- Economic Rights.

Section 2. Challenges of Defining a Disability Status

In general, persons with disabilities frequently face lots of barriers while exercising their rights in all sectors, but in the scope of this master paper we would like to focus some of them, which we think is very important to address.

Thus, we would like to begin with a very important and wide-spread issue in Armenia, which is the defining the disability status. A person can be recognized as disabled only by the medical and social examination (MSEA) agencies, which functions within the system of Ministry of Labor and Social Affairs of Armenia. MSEA after examining the person is to decide whether that person entitles a disability status and defines the disability group. Hence, the first disability group is given for two years, the second and third groups for one year. If during the last 7 years the first or second group has been set up for a disabled person or more than 15 years then the third group has been identified, and a group with disabilities is given life.

The current disability-related system is very susceptible to abuse. The head of the MSE was arrested in December 2016, being suspected in taking a bribe,¹⁰ yet corruption continues. People pay bribes at local medical stations, hospitals and especially to the MSE to be classified as disabled. I had the chance to speak to some people with disabilities, according to them the bribes to be equivalent of between 5.000 and 50.000 (from approximately 10 to 100 USDs). Moreover, according to them, many persons with disabilities, unable to access their pension through the use of an ATM card, especially in rural areas, are forced to turn to post office employees, who require a bribe to assist them. In one example an interviewee provided, a post employee took 600 drams (or approximately 1USD) from a person with a disability without asking, but later returned the money upon demand. Another violation of the right to social security is non-provision of care service to an adult by the state in case of the absence of a guardian. People with disabilities who need care but have lost the guardian or have been left by the guardian, are deprived of the protection, because there are no adult care centers, especially in the regions. Some NGOs in Yerevan have limited opportunities to

¹⁰Media statement, available at http://asekose.am/hy_AM/news/11/239263-cerbakalvel-e-armen-soxoyane.html

provide care. Discrimination, violence and neglect by family members are other important issues.

It is worth to note that 780-N decree of the RA Government is very vague. Particularly the standards are not clearly established sometimes it can create a discretion for the MSE Committee members which can cause corruption. Besides, sometimes MSE Committee members are not professionally competent for their posts. Moreover, there are multiple cases which thoroughly describes the issue and we definitely would like to draw the attention. It is worth to note that Office of Human Rights Defender of the Republic of Armenia (HRDO) has repeatedly addressed to this issue in its statements and its annual communiqués.¹¹

Particularly, a person suffering from incurable mental disease, and who was registered in a psychiatric hospital for more than 10 years, had repeatedly applied to the regional office of Medical-Social Expertise Committee (hereinafter the Committee) to be given a disability status. Despite of having incurable disease, every time the Committee gave the status for only one year leading to the need to renew all the documentation and pass through complicated process every year. It has already been the 8th time the person applied and the Committee decided to extend the status for one year only. After reviewing the case, HRDO submits an application to the Ministry of Labor and Social Affairs (MLSA), substantiating, that in line with the Government Decree every person who has applied and has been given one-year disability status for seven times, must be given permanent disability status.

Another example is concerned to a woman who applied to the HRDO representatives and asked to help her to be examined in another regional office of Medical-Social Expertise (MSE). According to her she could hardly obtain disability status after several attempts, because the Committee members of that regional office of MSE had not adequately treated her, and she had no trust in them anymore.

Resulting from these cases we can conclude that one of the main issues in defining a disability status can be (especially in the regions) the non-professionalism and improper administration, lack of effective implementation procedures of expertise of the committee members of Medical-Social Expertise.

¹¹ HRDO Annual Communique 2018, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf>

Recommendations

- 1. Based on the previous examples we strongly believe that this problem belong to the kind of problems which requires special attention of Governmental bodies. Hence it requires several measures to be taken by the respective bodies. The respective bodies should be consistent in their activities of Corruption should be eradicated in this system; employees should be fired and be subjected to criminal responsibility who have abused their position.*
- 2. Besides, as we have already mentioned there is a need to review the 780-N decree of the RA Government as it is not clear and give discretion to the committee members which can cause corruption risks.*
- 3. We strongly recommend to adopt the new Draft Law “On Protection of the Rights and Social Inclusion of Persons with Disabilities in the Republic of Armenia”, as soon as possible, because it is based on CRPD standards and principles, was circulated in 2012, but currently it is on the stage of discussions and has not been adopted by the RA National Assembly.*

Chapter 2. Accessibility

Both Office of Human Rights Defender and different non-governmental organizations have repeatedly address to the issues connected with the physical and mental accessibility of persons with disabilities.

Ensuring accessible environment for persons with disabilities derives from the requirements of the Convention and the applicable law.

The issue of accessibility is prescribed both in the CRPD and the RA legislation Particularly, article 9, paragraph 1 of the CRPD establishes that state bodies should ensure access to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces¹². Moreover, General Comment No 2 of the UN

¹² The UN Convention “On the Rights of Persons with Disabilities”, Article 9, Para. 1 available at, <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

Committee on the Rights of Persons with Disabilities emphasizes the importance of accessibility as a precondition to equal participation in society and provides more detailed explanation of States parties' obligations to respect, protect and fulfill the right. In its discussion of "accessibility," the Committee includes "access to the physical environment, to transportation, to information and communication, including information and communications technologies and systems, and to other facilities and services open or provided to the public."¹³

Article 21 of the RA Law on "Social Protection of Persons with Disabilities" prescribes that "*bodies of state power and public administration of the Republic of Armenia, employers of all categories operating in the territory of the Republic of Armenia shall ensure the creation of conditions for persons with disabilities in respect of having access to the objects of social infrastructure, residential, public, production buildings and premises, benefiting from public transportation means and transport communication, means of communication and information, places of leisure and entertainment without hindrance*".¹⁴

Accommodation and accessibility are very crucial for persons with disabilities. In other words, with accessibility we want to make sure that persons with disabilities have access to buildings, to transportation, to places. In other words, especially people who cannot get around very easily, who use a wheel-chair, make sure that we have ramps and wide hallways and proper restroom facilities so that they can get toward they need to go.

But it also means accessibility to services and to programs. If you have a disability, it is often difficult to call people on the phone, to go down to an office to request services, and so, we need to accommodate those issues as well. But the State also have an obligation to make sure that persons with disabilities can communicate and interact with both government officials and with their friends and their family and others on equal basis. And the way they achieve accessibility is through accommodation. And via the accommodation means the reasonable

¹³ General Comment No 2 of the UN Committee on the Rights of Persons with Disabilities, available at <https://ijrcenter.org/2014/04/30/committee-on-the-rights-of-persons-with-disabilities-adopts-first-general-comments-on-legal-recognition-and-accessibility/>

¹⁴ RA Law on "Social Protection of Persons with Disabilities", article 21

steps that everyone must take to ensure persons with disabilities have access to all the benefits of life: work, play, public life, services, and of course, places.

Article 22 of the RA Law “On Social Protection of Persons with disabilities” prohibits design and construction of residential areas, formation of residential zones, elaboration of design solutions, construction and reconstruction of buildings, premises, including airports and railway stations, as well as development and production of transportation means, including personal, means of communication and information, shall not be permitted unless they are adjusted to the access and use of persons with disabilities¹⁵.

Absence of ramps constitutes a huge problem for persons with disabilities. It hinders them to enter into shops, or other buildings. The design of ramps should comply with the regulations of law, if there are stairs it's required to make the ramps of asphalt, but not of marble and other slippery materials. They should serve for its purpose.¹⁶

However, there are lots of buildings that do not consider the special requirements for constructing the ramps, they do it themselves which sometimes can be dangerous means of reaching the building for the person with disabilities.

According to the media news, number of actions were taken to ensure accessibility for the persons with disabilities, as a result, Yerevan Municipality is intended to build 175 new ramps and it is suggested that non-governmental organizations would be part of this program, so that the ramps are built in accordance with the respective standards¹⁷.

It is a good initiative to involve non-governmental organizations acting in the field into this kind of programs, they are specialized in protecting and promoting the rights of persons with disabilities, they have enough knowledge how to accommodate the environment for their needs.

In general this contact between non-governmental organizations and state bodies should be more frequent. As it will give an opportunity to civil society to use this platform for individual contact with state body representatives voicing individual and systemic human

¹⁵ Article 22 of the RA Law “On Social Protection of Persons with disabilities”

¹⁶ “Aravot” statement, available at <https://www.aravot.am/2019/02/06/1015971/>

¹⁷ Tert.am statement, available at <https://www.tert.am/am/news/2019/02/06/yerevan/2914282>

right issues and applied direct pressure on them for achieving required resolutions including using the given platform to come up with better informed and comprehensive picture of human rights situation in Armenia to promote legislative amendments, resolve individual issues, as well as make public statements – a trend that has been especially active recently. Moreover, the media outlets should show active engagement in form of media publications having their share of pressure for better accountability on the brought up violations.

Although, in general, activities aimed at building ramps or accommodated building to the needs of persons with disabilities, are mostly carried out in Yerevan, especially in Kentron district. We had the chance to be one of the buildings in Qanaqer- Zeytun district, where some offices are located. Though the building had the elevator but it did not work at that time, hence creating difficulties for the persons with disabilities. The situation even worse in the RA regions. Most public places, including leisure or cultural buildings, educational institutions are not accommodated for the needs of persons with disabilities.

In addition, I had the chance to visit Yerevan State University to find out the accessibility of the buildings. Interestingly, there were only two ramps, which were not properly constructed creating difficulties for the persons having disabilities.

Taking into account the above mentioned facts, we can state that the construction norms do not correspond to the needs of persons with disabilities. Even if there are implemented activities aimed at corresponding physical environment to the needs only persons using mobility devices, but they are not including the persons having visual or hearing impairments.

It is worth to note that the Code on Administrative Offences of the Republic of Armenia does not stipulate sanctions for breaches of accessibility norms and standards, and that there are no monitoring mechanisms in place at the State level to ensure the effective implementation of such norms and standards. Furthermore, Committee on the Rights of Persons with Disabilities addressed to this issue in its Concluding observations on the initial report of Armenia as well.¹⁸

¹⁸ *Concluding observations on the initial report of Armenia of Committee on the Rights of Persons with Disabilities*

Recommendations:

- 1. So, based on this we strongly recommend to review the accessibility norms and standards corresponding it with the needs of persons with hearing and visual impairments.*
- 2. To review the Code of Administrative Offences and to prescribe administrative sanctions for breaching the accessibility norms.*
- 3. And it is also very important to create monitoring mechanisms which will allow to ensure the proper implementation of these rules and standards.*
- 4. We strongly recommend to adopt the new Draft Law “On Protection of the Rights and Social Inclusion of Persons with Disabilities in the Republic of Armenia”, as soon as possible, because it is based on CRPD standards and principles, was circulated in 2012, but currently it is on the stage of discussions and has not been adopted by the RA National Assembly.*

Accessibility of transportation for the persons with disabilities.

Accessibility of transportation is one of fundamental issues, because its absence can lead to the restrictions of other rights.

Furthermore, there are several privileges prescribed for the persons with disabilities in Armenia, for example, they can enjoy free pass in the city transport, medical care should be free provided by State, **however, in general** these regulations are often violated. So, on one hand they can enjoy free pass of the public transport but on the other hand the public transport is not properly accommodated for them, moreover, they do not have access to underground transportation which is an unfair obstruction to the exercise of their rights. Inability to Move freely constitutes a huge problem for the persons with disabilities. Many persons with disabilities report that they are unable to access services due to inaccessible buildings and infrastructures such as educational and cultural institutions, administrative buildings, public service and public catering facilities; inaccessibility of public space (streets,

sidewalks, underpasses, and crossings) inaccessibility of public transport. *What does it mean? It means law exists but means do not.*

Eurasianet addressed to this issue as well in its "**After the revolution, Armenia's people with disabilities seek to make their mark**" article¹⁹. Particularly, according to the report in Armenia sidewalk ramps are still absent in many areas or the public transportations, including buses and underground transportation are not accommodated for the needs of persons with disabilities.

Recommendation

So, the best way reaching to a result is the legislative changes that we should make in this regard, which would oblige the State to fulfill its positive obligations towards the persons with disabilities. In more detail, we should prescribe by law to undertake measures to make accessible the transportation for the persons with disabilities, otherwise the administrative offences should be applied. Taking into consideration the above mentioned issue I recommend to prescribe by law administrative responsibility for the State bodies for not fulfilling their positive obligation.

¹⁹ "After the revolution, Armenia's people with disabilities seek to make their mark" article of Eurasianet, available at <https://eurasianet.org/after-the-revolution-armenias-people-with-disabilities-seek-to-make-their-mark>

Right to information

Article 21 of the Convention on the Rights of Persons with Disabilities states that States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention.²⁰ Moreover, Article 21 of RA Law “On Social Protection of Persons with Disabilities stipulates that governing bodies of the RA shall ensure the creation of conditions for persons with disabilities in respect of having access to means of communication and information.²¹ It means that any available information should be accessible for the persons with disabilities. It can be such activities as booklets with educational, healthcare information, TV, radio programs, etc.

Many persons with disabilities have minimal access to information, including legal information about rights and remedies. There is a lack of information available in accessible formats that would enable persons with disabilities to make informed decisions. This includes a lack of easy-to-read or plain language formats, as well as a failure to provide braille or sign language translation in cultural, social services, employment, and educational, recreational, governmental and other settings.

Social media constitutes the inseparable part of our daily life. People often get familiar with the recent developments in Armenia via different websites. But they are not accommodated for example for the needs of people with visual impairments. Or not all the TV programs have sur do translations designed for the people with hearing impairments.

Although, according to Article 5.1 of the RA law on “On Television and Radio” prescribes that the Public Television and Radio Company and other private TV companies operating in

²⁰ Article 21 of the Convention on the Rights of Persons with Disabilities, available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

²¹Article 21 of the RA Law “On Social Protection of Persons with Disabilities

the Republic of Armenia, which broadcast children's and (or) other television programs, are obliged to provide accessible information for persons with hearing impairments, as well as broadcast at least one children's and news program with a translation into a sign language or with Armenian captions.²² But in practice, that kind of sur do translations and captions are not properly provided by the TV companies.

Another wing of problems constitute the lack of special informational brochure or leaflets for the persons with visual or hearing impairments. Little efforts have been contributed so far by major organizations and state institutions to publish leaflets to increase public awareness often do not tailor the publications to special needs of persons with disabilities. Lack of awareness of their own rights among the people with disabilities is an important issue hindering the access of people with disabilities to justice.

These are challenges that persons with disabilities frequently faced in Armenia. If information is not made accessible, this results in persons with disabilities' inability to perform simple actions that everyone else is capable of, and in doing so limits their right to free movement.

Recommendation

Thus, taking into consideration the abovementioned facts, I suggest to make amendments and stipulate the administrative offence for the State for not creating effective mechanisms to ensure timely accessible information to the persons with disabilities.

²² Article 5.1 of the RA law on "On Television and Radio" available at <https://www.arlis.am/documentview.aspx?docid=73839>

Chapter 4. Right to Education

The Right to education is a fundamental right established in national and international legal acts. Article 15 of the RA Constitution prescribes that the State shall promote the development of culture, education and science²³ and the article 38 of the RA Constitution states that everyone shall have the right to education²⁴.

Armenia ratified also number of international treaties which prescribe the right to education. For example, UN Educational, Scientific and Cultural Organization (UNESCO) Convention “Against Discrimination in Education”, UN International Convention “On Elimination of All Forms of Racial Discrimination”, the UN International Covenant “On Economic, Social and Cultural Rights” etc. Particularly the article 24 of the Convention on the Rights of Persons with Disabilities states, that States Parties recognize the right of persons with disabilities to

²³ Article 15 of the RA Constitution, available at <https://www.president.am/en/constitution-2015/>

²⁴ Article 38 of the RA Constitution, available at <https://www.president.am/en/constitution-2015/>

education then elaborating on with a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning²⁵.

Moreover, in the Handbook for parliamentarians on CRPD prepared by The Office of the United Nations High Commissioner for Human Rights (OHCHR) there is mentioned key components of general educational system, according to which in order to be inclusive general educational system should provide:

- Provide suitable equipment and teaching materials for persons with disabilities;
- Adopt teaching methods and curricula
- Conducting trainings for teachers
- And provide support that meets the diverse needs of students,
- Facilitate the learning of Braille and sign language so that children who are blind, deaf or deaf-blind can have access to education and can communicate²⁶.

The RA Law on Social Protection of Persons with Disabilities in the Republic of Armenia also address to this issue. Article 12 of the abovementioned law prescribe that the State shall ensure the right to education and professional instruction for persons with disabilities, as well as shall prepare pedagogical personnel necessary for that purpose. Public administration bodies for education together with social security and health care bodies shall, in accordance with individual rehabilitation programme of a person with disability, ensure the pre-school upbringing of children with disabilities, creation of conditions necessary for persons with disabilities to receive secondary, secondary vocational and higher education ²⁷.

It seems we have sufficient legal measures for exercising the right to education of persons with disabilities, but in general this still remains a huge problem.

²⁵ article 24 of the Convention on the Rights of Persons with Disabilities, available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

²⁶ the Handbook for parliamentarians on CRPD prepared by The Office of the United Nations High Commissioner for Human Rights (OHCHR), available at <https://www.un.org/disabilities/documents/toolaction/ipuhb.pdf>

²⁷ Article 12 of the RA Law on Social Protection of Persons with Disabilities in the Republic of Armenia

According to the Annual communique of the Human Rights Defender of Armenia, lack of preschool educational facilities still constitutes a problem for the children with disabilities²⁸. Particularly the physical environment is not adapted for their need. The problem is very outstanding especially in the RA regions. Human Rights Defender in its annual communique mentioned that that 64 preschool facilities of Armavir Marz is not adapted in a way to ensure accessibility for the persons with disabilities²⁹.

These issue, of course, connected to the financial expenses that he State should allocate to resolve the problem, to make the environment accessible for the children with disabilities.

In 2014, the National Assembly of Armenia adopted the law on making amendments on the “RA Law on Education”, according to which it is prescribed to make a transition to universal inclusive education until 2025.

Inclusive education is designed to educate the children with special educational needs, it means that all children with this special needs should attend schools in regular classes and participate in all aspects of life of school.

According to the information given by the RA Ministry of Education and Science, in the academic year of 2017-2018, 201 inclusive schools have been recorded in Armenia. Moreover, the number of schools providing inclusive education increased with 81 as of March 1, 2017³⁰.

In spite of these developments, there are still lots of obstacles that children with special educational needs face.

It is worth here to note the Human Rights Watch Armenia report 2018, according to which there has been some progress in educational sector, however, children with disabilities continue to face segregation and stigma and sometimes the schools are not fully accommodated for their needs which give them opportunity to study on the equal basis with other children.³¹

²⁸ Annual communique of the Human Rights Defender of Armenia, p.290

²⁹ Annual communique of the Human Rights Defender of Armenia, 2018, p,290.

³⁰ Media statement

<http://yerkirmedia.am/social/nerarakan-dproc-krtutyun-hashmandamutyun/>

³¹ Human Rights Watch, available at <https://www.hrw.org/world-report/2019/country-chapters/armenia>

Apart from the inaccessibility of physical environment of the school or lack of special educational facilities, one of the most important problems which children with special needs often face is the quality of education. For example, the teachers are not sufficiently trained to teach them. Moreover, the Committee on the Rights of Persons with Disabilities in the Concluding observations on the initial report (2017) of Armenia mentioned that in spite of the inclusive education is developing in Armenia, however there are many children with special needs that do not receive the support they need to access inclusive education. They also emphasize both the inaccessibility of and not properly accommodation of schools for children with special educational needs and the lack of sufficient support and training for administrative and teaching staff with regard to inclusive education. The Committee also stated the concern about the absence of comprehensive strategy which would promote the inclusive education in urban and rural areas of Armenia.³²

We do agree that the situation is rather sensitive in the different regions of Armenia. The schools do not have basic conditions, they are not properly furnished with technical and other educational materials required for receiving education. Even, most of the schools do not have ramps for the children with disabilities which enable to enter into the building, moreover the toilets, are not sufficiently furnished for the children for disabilities.

Another very important problem we want to draw attention is the way of thinking and stereotypes of parents who have children with disabilities. They often separate their children from the society, or they often become a barrier which hinders their children to attend schools, to communicate with other students in equal basis.

The next issue is connected with furnishing the schools for the needs of children with disabilities. We would like to again highlight that it is the State's responsibility to ensure equal opportunities for the persons with disabilities they should allocate funds aimed at furnishing and improving the conditions of schools in Armenia. We think that it is a very sensitive issue, and requires special attention.

³² the Concluding observations on the initial report of Armenia of (2017) of the Committee on the Rights of Persons with Disabilities, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhspZQ2sppBOANJSxHHwrsEJbjcpUWkg%2BMkKIITZvw7JK%2BuYWfpBtdMIEVnF0fSZiwodb8OBMgU4q3E3dlH%2FYkMw%2Fe0juigiYWKOfVF6vzhs77>

The same issue concerns the universities providing higher education in Armenia. Most of the buildings were constructed during the Soviet Era, and they are not properly accommodated for the needs of persons with disabilities.

Recommendations

- 1. To resolve these issues we recommend the respective state bodies start taking actions aimed at improving the quality of inclusive education. It will be better if State bodies start collaborating with non- governmental or international organizations specialized in the field of protection of rights of persons with disabilities. And thanks to the knowledge and skills that these NGOs have obtained it would be possible to conduct special trainings for the tutors teaching in the schools to the children with disabilities.*
- 2. We suggest conducting awareness rising trainings for the parents, to publish public announcements which would be directed to educate them and break the stereotypes that that firmly engrained in them.*

Chapter 5. Right to health

According to the Convention on the Rights of Persons with Disabilities, States Parties shall “take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation” (Articles 25, 26). According to the Republic of Armenia Law on Social Protection of Persons with Disabilities, “activities of social protection of persons with disabilities shall be carried out in the time period and procedure stipulated by the Annual Plan. The Annual Plan shall also include measures for persons with disabled persons to access health and health care services” (Articles 41, 42).

So, Articles 4 and 25 of the Convention state that States undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities, including the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. Nevertheless, there are lots of challenges that persons with disabilities encounter while exercising the right to receive health services in Armenia.

According to the Annual Communique 2018³³ of Human Rights Defender of Armenia, the most important factor that hinder them to fully realize their rights in that field is the low level of awareness of the medical staff during working with persons with disabilities as well as the lack of facilities. The Committee on the Rights of Persons with Disabilities in its Concluding observations on the initial report of Armenia, 2017 is also concerned about the lack of

³³ HRDO Annual Communique 2018, available at <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf>

awareness among medical professionals of the rights of persons with disabilities and that health-care services and facilities, including emergency services.³⁴

While writing this paper we had the chance to speak one of the non-governmental organizations operating in the field called “Agate”. According to them they have met lot of cases when especially women with disabilities have been treated in a discriminatory manner by the personnel of the medical centers, furthermore they told about a case when a women with hearing impairments deprived of receiving proper medical care, because the personnel of the respective medical center did not understand the sign language and they had no specialist who would understand and would help the woman. They also mentioned that this problem is more evident in rural areas. Human Rights Defender of the Republic of Armenia also address to this issue. According to the Annual Communique 2018 of Human Rights Defender of Armenia, the most important factor that hinders them to fully realize their rights in that field is the low level of awareness of the medical staff during working with persons with disabilities.

The accessibility issue of the medical centers (especially in the regions) remains one of the most important issues that still requires a special attention. Both HRDO and other non-governmental organizations conducted visits to some medical clinics in the territory of RA, and found out that most clinics are lack of sidewalk ramps designed for the persons with disabilities.

Recommendations

Thus, we think that this problem is very crucial and requires special attention. Based on this we highly recommend to create special guidebooks of sign languages where the primary communication language will be incorporated for the staff of medical clinics or to hire a specialist who understands the sign language.

To make accessible the medical centers not only for the persons with locomotor disabilities but also for the persons with hearing and visual impairments. Moreover, special attention should be made to the medical centers outside Yerevan.

³⁴ Concluding observations on the initial report of Armenia, 2017 of The Committee on the Rights of Persons with Disabilities, par. 43

Thus, there are the main sectors of life when persons with disabilities often subjected to discrimination while realizing their rights and obligations. Resulting from this we strongly recommend to have a separate law which will regulate the discrimination issues. Although Article 14.1 of the Constitution of the Republic of Armenia, states. “Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, ideology, political or other views, membership to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited”. Moreover, the draft law "On the Protection of Rights of persons with disabilities and social inclusion" refers to the discrimination. Nevertheless there is still no comprehensive anti-discrimination legislation in the Republic of Armenia. Hence, we do not still have a law where it will be prescribed definitions of types of "discrimination" (direct discrimination, indirect discrimination, victimization, etc.) and therefore we do not have any mechanisms for effective legal protection against it, which significantly hinders discriminated persons with disabilities from full realization of their rights.

Although a draft Law on Equality has been initiated by the RA Ministry of Justice³⁵, the absence of a stand-alone law on discrimination that is comprehensive enough to cover freedom of movement, including transport services, is a vital issue.

³⁵RA draft Law on Equality, available at <https://www.e-draft.am/projects/770>

Conclusion

To sum up we can conclude that although a great number of legislative changes have taken place in Armenia improving the status of people with disabilities. In 2010, Armenia ratified **the UN Convention on the Rights of Persons with Disabilities** (*It's noteworthy also to mention that although Armenia ratified the Convention but it doesn't ratified the Optional Protocol to the Convention*), but the current national legislation regulating the respective field has not been brought in line with the concepts and definitions of the CRPD, and effective legal acts often restrict and do not effectively ensure rights of persons with disabilities.

However, Taking into consideration that the he Law “On Social Protection of Disabled People” do not include the principles prescribed in the CRPD, for that reason new Draft Law “On Protection of the Rights and Social Inclusion of Persons with Disabilities in the Republic of Armenia”, which is based on CRPD standards and principles, was circulated in 2012, but currently it is on the stage of discussions and has not been adopted by the RA National Assembly and which we strongly recommend to adopt as soon as possible. However, there are still lots of obstacles that persons with disabilities faced while realizing their rights in the different sectors.

In addition, although there are state initiatives on disability rights, almost 200,000 persons with disabilities in Armenia continue to face social, political and economic marginalization,

leading to poorer health and medical treatment, lower quality of education, limited employment prospects and restrictions on their movement. Another barrier is **accessibility of school buildings, public transport and public service**. Many buildings used for schools and surrounding premises are not physically accessible. For example, many children and young people with disabilities do not have access to full-fledged education because of the impassability of streets, sidewalks, crossings, entrances of educational institutions, stairs and unadjusted toilets, or they do not continue their studies in secondary vocational or higher educational institutions after leaving secondary school (attendance to educational institution is low, or they cease to receive education). Or doctors do not have enough knowledge to communicate with persons with disabilities.

These are the most important problems which should be in the center of attention of the respective bodies. Furthermore, it requires special activities aimed at eliminating the obstacles and ensuring the full and effective realization of their rights and freedoms, hence based on this we can conclude that there should be several legislative amendments in the respective above mentioned sectors including creating *monitoring mechanisms at the State level to ensure the effective implementation of the respective norms and rules on ensuring the equal opportunities for the persons with disabilities in Armenia*.

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