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THE LEGAL AND PRACTICAL ISSUES OF INCLUSIVE EDUCATION FOR PEOPLE WITH DISSABILITIES IN KAZAKHSTAN AND ABROAD: FROM THE HUMAN RIGHTS PERSPECTIVE

Түйін. Қазіргі уақытта әлемнің көптеген елдерінде балаларды арнайы (түзету) білім беру мекемелеріне жіберу барлық басқа мүмкіндіктер қолданылып болғанда және қажетті нәтиже бермеген кезде шұғыл шара болып саналады. Осыған байланысты Қазақстан Республикасы да ерекшелік емес. Мүгедектердің құқықтары туралы конвенцияны ратификациялағаннан кейін біздің мемлекет осы саладағы заңнаманы және оның орындалуын халықаралық стандарттарға сәйкестендіруге тырысуда. Бұл мақалада халықаралық және жергілікті деңгейлердегі инклюзивті білім беру мәселелерін шешудің соңғы тенденцияларын байқауға тырысады.

Түйінді сөздер: мүгедектер, адам құқықтары, заңнама, конвенция, шешім, білім беру, инклюзивті қоғам.

Резюме. В настоящее время во многих странах мира отправка детей в специальные (коррекционные) учебные заведения рассматривается как экстренная мера, когда все другие возможности уже использованы, и не дали желаемого результата. В этом плане Республика Казахстан не исключение. После ратификации Конвенции о правах инвалидов наше государство предпринимает попытки привести законодательство в этой сфере и его исполнение в соответствие с международными стандартами. В данной статье делается попытка проследить последние тенденции на международном и местном уровнях в решении проблем инклюзивного образования.

Ключевые слова: люди с ограниченными возможностями, права человека, законодательство, конвенция, резолюция, образование, инклюзивное общество.

Summary. At present, in many countries of the world, sending children to special (correctional) educational institutions is considered as an emergency measure when all other opportunities have already been used, and did not give the desired result. In this regard, The Republic of Kazakhstan is not an exception. After the ratification of the Convention on the Rights of Persons with Disabilities, our state undertakes attempts to adjust legislation in this area and its fulfilment in compliance with international standards. The give article attempts to trace the latest tendencies in the international and local levels to cope with the inclusive education issues.

Key words: people with disabilities, human rights, legislation, convention, resolution, education inclusive society.

The problem of the human rights of the people with disabilities is still one of the most relevant issues all over the world. During the last two decades, numerous developed countries with clear socially oriented governments have undertaken tremendous affords in order to make life of such category of citizens more convenient. However, other states still have a lot gaps and lacks in legislation and practical actions for the solution of the present problem. The crucial moment here is, that in most countries a person with disabilities is isolated from conditionally healthy representatives of the society. For instance, disable children usually go to specialized schools, were they can see kids with similar problems, whereas “normal” children do not face disable children as well. As a result, in the adult age one group is not able to be self-sufficient in full extend, as well as cannot be accepted by the “healthy” people.

Case of Kazakhstan

In accordance to Resolution of the Government of the Republic of Kazakhstan dated May 28, 2019 No. 326 On approval of the National Plan to ensure the rights and improve the quality of life of persons with disabilities in the Republic of Kazakhstan, until 2025 the creation of an effective system of measures for social protection of persons with disabilities is one of the priority directions of the state's social policy. The goals of the Resolution are the implementation of obligations (assumed by the Republic of Kazakhstan) in connection with the ratification of the Convention on the Rights of Persons with Disabilities, and the formation of an inclusive society through the creation of a favorable environment for all vulnerable groups within the framework of social modernization of Kazakhstan until 2030. Moreover, article IV of the resolution states that Kazakhstan recognizes the right of people with disabilities to education on an equal basis with others [1,2].

At this stage, in accordance with the purposes of the convention and global trends, we have to pay special attention on the opportunities of the inclusive school, higher education institutions giving the legal side of the issue, as well as conduct an analysis of the some foreign experience cases.

In spite on the vast amount of the legal sources regulating educational issues and issues of people with disabilities (Constitution, Law of the Republic of Kazakhstan dated April 13, 2005 No. 39-III "On social protection of disabled people in the Republic of Kazakhstan", Law of the Republic of Kazakhstan dated July 27, 2007 No. 319-III "On Education", provisions of international Conventions ratified by Kazakhstan), the 72-page report by the international human rights organization Human Rights Watch on the topic of an access of children with disabilities to education indicates that the Kazakh education system divides and isolates children with disabilities with "specialized schools with thousands of children are often located far from home. The rest study at home; at best, teachers study with them for several hours a week" [5,6].

In 2015, Kazakhstan ratified the UN Convention on the Rights of Persons with Disabilities, and promised that by 2019 conditions for inclusion will be provided in 70 percent of schools. The report of the Human Rights Watch says that there has been no significant progress in this direction so far. Human Rights Watch researcher Mira Rittman believes that "children with disabilities, like other children, have the right to receive a quality inclusive education." [6]. The government must take into account the individual capacities of each child and provide the child with the support he/she needs to learn on an equal basis with others. For some, it might be a tutor; for others, these are books with large print; for others more time to complete assignments during lessons are required. Above all, children with disabilities need to have guaranteed access to high quality inclusive education on an equal basis with others, including through the provision of reasonable support.

Another important point is the reform of psychological, medical and pedagogical consultations (PMPC). PMPC is a group of doctors and educators who assess the child and issue an opinion with recommendations on the conditions of study. We recommend that the PMPC performs only the function of determining the individual reasonable accommodations necessary for a child to receive education in a general education school. According to the amendments made to the Kazakhstan law "On Education" in 2010, all schools are required to accept children with special needs. De facto, due to the lack of equipment and specialists, this policy is not always implemented. According to the official data, three percent of minors in the country need inclusion, – that's 148 thousand children [6,8]. Special educational conditions have been created for only 40 percent of these children [ibid.].

Human rights paradigm has provided the inspiration and foundation for the trend to the inclusion of children with disabilities. Inclusion requires the recognition of all pupils as self-sufficient members of community and the respect of all of their rights, regardless of age, gender, ethnicity, language, poverty or impairment. Inclusion involves the removal of obstacles that might prevent the enjoyment of these rights, and requires the foundation of appropriate supportive and protective environment.

The UN Educational, Scientific and Cultural Organization (UNESCO) states that the integration of children who would otherwise be perceived as 'different' means "changing the attitudes and practices of individuals, organizations and associations, so that they can completely and equally participate in and contribute to the life of their community and culture. An inclusive society is one in which difference is respected and valued, and where discrimination and prejudice are actively combated in policies and practices." [7,8]. The World Conference on Special Needs Education, organized by UNESCO and held in Salamanca, Spain, in 1994, advised that inclusive education should be the norm. This has now been reaffirmed in the new Convention on the Rights of Persons with Disabilities. In scope of education, inclusion means the establishment of barrier-free and child-focused learning environments, including for the early years. It means providing appropriate supports to ensure that all children receive education in non-segregated local facilities and settings, whether

formal or informal. It is framed by article 29 of the Convention on the Rights of the Child, which requires that the child's education be directed to the development of their personality, talents and mental and physical abilities to their fullest potential; to the preparation of the child for responsible life in a free society, in the spirit of understanding and tolerance. Inclusion is a process that involves all children, not just some "special" children [5,7].

This gives children without health problems the opportunity to grow up in an environment where diversity is the norm, not the exception. If the education system cannot provide and embrace this diversity, such shortcomings occur, leading to marginalization and exclusion of certain groups. Inclusion is not the same as "integration", which involves putting children with disabilities into "normal" channels or helping them to adapt to "normal" standards. For example, in the context of school education, integration means placing children with disabilities into ordinary public schools with no changes in school organization or teaching methods. Inclusion, on the other hand, requires schools to adapt and provide the necessary support so that all children can work and learn together [2, 5, 7].

It is almost impossible to include all categories of the disable people to the classes for "normal" children. At this point, it will be quite useful to review the foreign experience of the states with a more long-term practice of the inclusive education.

Currently, in many countries of the world (USA, Great Britain, Germany, Italy, Scandinavian countries), sending children to special (correctional) educational institutions is considered an emergency measure when all other opportunities have already been used and did not give the desired result. Modern researchers note that today, among the countries with the most advanced legislation, one can mention Canada, Cyprus, Denmark, Iceland, India, Malta, the Netherlands, Norway, South Africa, Spain, Sweden, Uganda, the United States and the United Kingdom. The most radical and rapid changes are being observed in a number of developing countries: Uganda, Lesotho, Vietnam, Laos, Jordan, Palestine, Morocco, Egypt and Yemen. This dynamics is largely due to the effective implementation of UNESCO programs in the above-mentioned countries [6, 7].

Case of the USA

The United States currently have a law passed in 1990 called the "Persons with Disabilities Education Act". It guarantees free education that meets the needs of the child in the public education system. Parents have the right to demand from schools an opinion on the child's educational opportunities, which justifies the presence or absence of developmental disorders in an individual child. It is the responsibility of a school to identify children with such disabilities.

The law provides the right to receive not only special education, but also additional services (transport, speech therapy classes, psychologist's assistance, audiological examination, etc.). According to the law, a written opinion and an individual educational program are drawn up for each child, and compulsory education for children with special needs is prescribed. This is possible to conduct in public schools, and their inclusion into school environment happens with minimal restrictions [8].

Case of France

Special education in France focuses its efforts on integrating as many children with disabilities as possible into the mainstream schools. The inclusion into general educational process of children with developmental disabilities is carried out in four (4) options:

1. The child studies according to regular school curricula, but during his stay at school and outside of school he is provided with additional services: medical procedures, educational measures, etc. For example, a child with a musculoskeletal disorder studies in a regular classroom and attends an adaptation center opened at this school or located nearby.

2. The child learns according to the regular school curricula, receives additional care and is trained in additional special programs. For example, a child with visual impairment studies in a regular class and receives assistance in preparing lessons, additional classes with a teacher, attends classes in spatial orientation and other special correctional and developmental classes.

3. During the main school time, the child is trained in a special class according to a special program (usually children with mental retardation). The other part of the time he is engaged in a regular program with students of his own age.

4. The child attends only a special class and studies there according to a special program (usually children with intellectual disabilities). But at the same time he takes a direct part in the life of the school: joint breakfasts, joint visits to educational events and leisure activities, participation in sports competitions and other events.

Case of Sweden

In Sweden about 80% of children with disabilities attend regular schools, where they receive the necessary support (classroom assistance from a special teacher or assistant and the use of special aids) [7,8]. Almost all children with special educational needs attend regular kindergartens. However, for children who are unable to attend a regular school due to complete loss or severe loss of vision and hearing, speech impairment or mental retardation, there are special schools that are differentiated by types of impairments. The Ministry of Education of the country merely formulates general objectives of the training programs. The educational standard sets only the mandatory level of knowledge that must be achieved by the end of grades 5 and 9. Teaching methods, selection of material, working conditions and payment, organization of the educational process, – all this is in the competence of the teachers themselves and school principals. Thus, the freedom of choice by the parents of the school has expanded, taking into account the individual characteristics of their child. In most European countries, school teachers play a major role in working with integrated students with special educational needs. Additional educational support is provided by professionals, mainly social educators. In Sweden, only special teachers work with students in special classes. Parents and school-teachers are consulted by a special educator at the municipal Children's Rehabilitation Center, which operates under the District Council (commune) [7,8]. Based on the child's capabilities, they together create an individual curriculum, for the implementation of which the school teacher is responsible. If necessary, an assistant teacher is invited to the class.

Case of Italy

In 1971, the first law was passed in Italy on the right of children with special needs to study in the mainstream schools. In 1977, a more elaborate law was adopted, which already established certain standards:

- The maximum number of children in a class is 20;
- The maximum number of children with special needs in a class is 2;
- Special support activities for children with special needs are built into the classroom;
- Classes for special programs are being abolished;
- Special educators team up with regular school teachers;
- Both categories of educators interact with all students in the class.

Officially, the ratio of the number of special educators and students with special needs is 1:4, but in reality it turned out to be about 1:2 [8]. If there is a blind or deaf child in the class, the whole class is learning Braille or sign language. In 2003, the Ministry of Education is obliging all directors to participate in on-the-job training courses to improve the implementation of the national inclusion policy. All teachers are required to complete a 40-hour professional development course per year [ibid.].

Conclusions

In accordance with the provisions of the resolution, the goals of the National Plan are to ensure the rights and improve the quality of life of persons with disabilities in the Republic of Kazakhstan until 2025 (hereinafter – the National Plan). The implementation of the obligations assumed by the Republic of Kazakhstan in connection with the ratification of the Convention on the Rights of Persons with Disabilities and the formation of an inclusive society through the creation of an enabling environment for all vulnerable groups within the framework of social modernization of Kazakhstan until 2030 are to be performed in the nearest future.

At this stage, an attraction of people with disabilities is very important step on the way towards total unification and integration of all groups of the population for the future successful collaboration in social, cultural and political processes in our country. For this purpose, we have to apply approbated mechanisms that have been applied in other states to solve the issue.

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