

IMPLEMENTAION OF THE RIGHTS OF PERSONS WITH DISABILITIES

LIST OF ABBREVIATIONS

APDC	Association of Parents with Disabled Children
CRPD	Convention on the Rights of Persons with Disabilities
GoM	Government of Mongolia
HR NGO Forum	Human Rights NGO Forum
MoPDSP	Ministry of Population Development and Social Protection
MNFB	Mongolian National Federation of the Blind
NGO	Non-governmental organization
PWD	Persons with Disabilities
UPR	Universal Periodic Review

PREPARATION OF INFORMATION AND CONSULTATION PROCESS

1. The process of preparing information on the implementation of recommendations received during the first UPR cycle regarding the rights of Persons with Disabilities (PWD) involved the following organizations: the Association of Persons with Disabilities, the National Association of Mongolian Organizations of Persons with Disabilities, the Mongolian National Federation of Disabled People's Organizations, the Mongolian National Federation of the Blind (MNFB), the Mongolian National Association of Wheelchair Users, the “Universal Progress” Independent Living Center, the Business Incubator Center, the Association of Parents with Disabled Children (APDC) and the NGO “Aivuun.” The relevant information was discussed during two meetings held at the Human Rights NGO Forum (HR NGO Forum)¹, and additionally, contributions to the submission were received electronically.

POSITIVE DEVELOPMENTS

2. A notable development in the field of promoting the rights of PWD was the official acceptance by the Government of Mongolia (GoM) of the Incheon strategy to “Make the Right Real” for PWD in Asia and the Pacific region. This strategy calls for a 10-year implementation period to strengthen the rights of PWD, which consists of 2 stages lasting five years each. However, the plan for the initial 5 years has not been yet developed.
3. With the participation of PWD, the Law on the Social Protection of PWD is being coordinated with the CRPD. We believe that this law will come to reflect the real needs of PWD.

¹ The meetings of the Human Rights NGO Forum to discuss information to be submitted to the UN Human Rights Council were held on 22 August and 3 September 2014 respectively.

4. GoM, according to resolution No.281, has for the first time adopted a “Plan of Actions to Implement the CRPD in 2013-2016.” Although the benefits of the action plan haven’t been felt by PWD yet, we believe that it will produce results in the future.
5. A decision was made to set up a Development Center for Children with Disabilities.
6. The need to listen to and to discuss issues related to PWD, as well as the need to take necessary actions addressing PWD, began to be acknowledged at the decision-making level.

IMPLEMENTATION OF THE RECOMMENDATIONS

84.28 Russian Federation: Successfully implement its plan of action for the period 2008-2012, which was adopted by the Government with a view to the implementation of the Convention on the Rights of Persons with Disabilities.

The policy being implemented with regard to PWD

7. Following Mongolia’s acceptance of the CRPD in 2009, it became necessary to correlate national legislation with the CRPD. Since then, a number of laws related to PWD have been modified, but the new decrees, acts and regulations failed to conform to the principles and accords of the Convention. Due to extremely poor implementation, most of the regulations have not been actualized and continue to remain on paper. The legal provisions designed to hold those who breach the regulations accountable are weak and overly general.

Evidence 1: The Ministry of Population Development and Social Protection gave the following assessment of the National Program to Support Persons with Disabilities, which was implemented from 2006-2012: “...the implementation of the program was inadequate due to such reasons as poor policy coordination and monitoring mechanism, lack of a specified budget, poor understanding of the issue on the part of the management of local organizations responsible for developing and implementing policies related to PWD, scant information about the subject available to them, insufficient knowledge and skills of the personnel working in this field as well as high rate of the personnel turnover.”

8. Although conferences and seminars concerning PWD are being organized on a national level and recommendations are being issued, no measures are being taken to ensure that the recommendations are implemented or that the monitoring of the implementation is done. One-time exhibitions, events, temporary campaigns, and projects lasting several months are being reported as work completed for PWD, but this work does not conform to the principles of the Convention. These initiatives do not involve the participation of PWD, are not based on the real needs of the disabled and have a non-sustainable, temporary nature.

9. The Mongolian court uses the legal documents published in the “Government News” magazine as its legal basis. Despite Mongolia’s adoption of the CRPD in 2009, the Convention has yet to be published in the magazine, which precludes its usage in the court².
10. GoM has adopted a plan of action to implement the CRPD in 2013-2016. However, as is the case with the previous action plan, the issue of funding its implementation has not been resolved. Governors at all levels were instructed to budget for activities to implement the action plan, but due to the failure to specify penalties for non-compliance, no work is being done.

RECOMMENDATIONS:

- 11. Review all legal documents related to PWD with the purpose of bringing them into conformity with the CRPD principles and content.**
- 12. Ensure participation of PWD in policies, programs and projects relevant for PWD.**
- 13. Resolve both the issue of funding PWD-related programs and projects and the issue of their successful implementation.**
- 14. Publish the CRPD in the “Government News” magazine.**

84.37 Kazakhstan: For the protection of the rights of persons with disabilities, the participation of all relevant organizations is vital in order to promote their rights as well as the infrastructural and psychological environment are much needed.

15. In 2012, at the demand of PWD, a division in charge of PWD was established at the Population Development Policy Implementation Coordination Department of the Ministry of Population Development and Social Protection (MoPDSP). However, the division has insufficient authority to make inter-sector coordination and suffers from a shortage of funds.

Evidence 2: The regulations which should have been adopted in the wake of the passage of the Transportation Law in 2007 are still missing today due to the weak accountability mechanism and lack of inter-sector coordination.

16. An employment quota system is being used in the hiring of PWD³. The provincial and district Labor Divisions are in charge of implementing the quotas, while the authority to impose penalties for non-compliance is wielded by the Professional Inspection Department. Due to the lack of coordination between these organizations, employers violating the law are not being held accountable for the breaches.

RECOMMENDATIONS:

- 17. Establish a unit in charge of PWD issues at the Prime Minister’s Office to manage inter-sector coordination.**
- 18. Establish a Council in charge of PWD issues at Governors’ Offices at all levels.**

²“The Accessibility of Transportation” project report, Ulaanbaatar, 2014.

³ Article 111 of the Labor Law passed by the State Great Khural (Parliament) in 1999.

84.37 Kazakhstan - Infrastructure

19. Standards and other necessary documents aimed at ensuring accessibility for PWD to public transportation as well as to buildings and other facilities open to the public have been adopted, but due to the weak implementation mechanism and vaguely defined accountability measures, the implementation of these requirements is insufficient⁴. In certain buildings and facilities, standards were applied in name only, which makes their usage difficult even for fit persons.

Evidence3: The assessment of the accessibility of 26 buildings and facilities along one of the most modern streets of a centrally located district in Ulaanbaatar City has revealed that 50% of the buildings were absolutely inaccessible to PWD and 27% had wheelchair ramps which failed to meet the standards. 15% of the buildings had standard wheelchair ramps, but had too many stairs inside. The remaining 8% of buildings had usable wheelchair ramps, no stairs inside, but did not have toilets⁵.

20. Healthcare facilities are not sufficiently furnished to serve PWD. According to a one-time survey carried out in Ulaanbaatar, in 52.2% of all hospitals the road from the parking lot to the hospital building was not usable by PWD, 18.2% of the hospitals did not have wheelchair ramps, and 69.1% had wheelchair ramps which failed to meet the established standards⁶. The survey has also revealed that 71.9% of hospitals did not have elevators and 94.7% did not have toilets for PWD.

21. Despite the enactment of a legal provision in 2007 requiring the provision of the transportation service to accommodate PWD, as of present, not a single public transport vehicle in Mongolia accommodates PWD.

Evidence 4: The public transport stations remain inaccessible to PWD.⁷ Nevertheless, only in Ulaanbaatar a total of 5.5 billion MNT⁸ was spent on a provision of public transportation services for PWD in 2013 alone.⁹ Due to the inaccessibility of public transportation to PWD, their basic rights, such as the rights to education and to work continue to be violated.

22. With the exception of the “Tsagiin Khurd” news program on the Mongolian National Public Broadcasting TV channel, no other broadcasters provide sign language interpretation, which continues to preclude persons with hearing impairment to access information. The

⁴“Evaluation of the National Program to Support Persons with Disabilities and of the Sub-program to Support the Participation of Children with Disabilities” Brochure, page 10, Ulaanbaatar, 2013.

⁵“Accessible environment, let’s build for the people” Brochure, page 6, Ulaanbaatar, 2012.

⁶“Recreational help provided to persons with disabilities, challenges faced and ways to overcome them,” Compilation of reports delivered at the scientific conference on theory and practice, page 62, Ulaanbaatar, 2013.

⁷“The Accessibility of Transportation” Project report, Ulaanbaatar, 2014.

⁸ The equivalent of USD 3,033,000 according to Bank of Mongolia 7 September 2013 exchange rate.

⁹ Official letter No. 2/94 dated 17 January 2014 from the Public Transportation Department, an implementing agency under the City Governor.

possibility to access information is also limited for persons with vision impairments and those who face difficulty in using printed materials. The issue of using modern communication technologies to provide PWD with information has not been raised at all. Other than the audio books workshop affiliated with the National Federation of the Blind, no other initiatives are being implemented to make information accessible and compatible with the needs of PWD.

RECOMMENDATIONS:

- 23. Define penalties to be applied to persons failing to implement the relevant laws and regulations.**
- 24. Make educational and health facilities and buildings accessible to PWD.**
- 25. Use technology to accommodate persons with hearing as well as speech and language impairments to allow them equal access to information.**
- 26. Implement step-by-step measures to allow PWD to use public transport.**

84.38 Iran: Undertake special measures concerning employment, social welfare and protection of the rights of vulnerable groups, in particular women and persons with disabilities.

27. A national program to support employment opportunities for PWD is being implemented. The laws and budget spending appear to support the employment of PWD. However, effective policies, actions and methods aimed at preparing and training PWD for work, engaging with employers and providing the latter with compensation are missing.

Evidence 5: 19.9% of PWD of 15 years of age and above are employed. Out of these people, 41.7% run private businesses, 35.7% are workers with wages, and 20.1% work in family enterprises without receiving any pay.¹⁰ Only 7032 people receive salaries for the work they do.¹¹

28. Although the majority of PWD run private businesses, the assortment of goods they produce is limited. They have a weak competitive edge in the marketplace because the handmade goods they produce are labor-intensive, manufactured in small quantities, and of insufficient quality.
29. The instructors of vocational training organizations who work with disabled children do not know effective methods of engaging with the children, and the school premises and environment are inaccessible.

Evidence 6: The only professional educational center specializing in training paralyzed children and young people with disabilities rejected an applicant claiming, “We do not have an instructor to help you, and besides, we cannot accept you because it will be difficult for you to find employment after you graduate.”

¹⁰“Persons with Disabilities,” Thematic Survey 5, The Population and Housing Census 2010, page 43.

¹¹“Persons with Disabilities,” Thematic Survey 5, The Population and Housing Census 2010, page 41.

30. The shortage of learning environments, infrastructure and dormitories in higher education institutions make it difficult to receive tertiary education not only for young disabled people from rural areas, but also for those living in Ulaanbaatar City.

RECOMMENDATIONS:

31. Ensure participation of PWD in PWD-related employment activities.

32. Ensure that measures taken to prepare and train PWD for employment and fostering of their social skills that are required to work in a team with other people are undertaken in a systematic and coordinated manner.

33. Increase the assortment of goods produced by PWD who run private businesses, and introduce technologies to boost labor productivity.

84.38 Iran: Undertake special measures concerning social welfare and protection

34. No special measures in the area of social welfare have been undertaken. However, here one can note the measures that have been prepared for implementation in this sector, which were mentioned at the beginning of this report.

35. The comparison of social welfare services provided to PWD with international human rights treaties and international agreements and conventions approved by Mongolia reveals a stark difference between them. The services are based on the “hospital” model, which treats PWD as sick people who receive benefits and services offered by the state. There is a need to change this perception to ensure that social welfare services are based on human rights, are respectful of the human person, and serve the needs of PWD.

Evidence 7: In Mongolia, PWD are divided into categories depending on the degree to which a person has lost his/her ability to work. The three existing categories, according to the loss of ability to work, are: 0-50%, 50-69%, and 70-100%. People who have lost 0-50% of their working ability do not receive any services. Among people with various impairments classified in the same category in terms of the loss of their working ability, there are people who maintain the ability to work and those who cannot even attend to themselves. In other words, PWD who find themselves in drastically different conditions receive the same social welfare services.¹² Due to this discrepancy, PWD who suffer from severe conditions live in extremely difficult circumstances. Furthermore, establishing a disability range based on the “loss of the working ability” creates the social perception that PWD are incapable of working. There is a need to accurately delineate categories of PWD and to provide social welfare services which meet special requirements of a given category of PWD.

¹² “Policy Research and Analysis,” Research Center of the Parliament Secretariat, volume IV, page 23, Ulaanbaatar, 2010.

36. It is common that PWD suffering from severe conditions are not able to access social welfare services.¹³ It is necessary to create a service of providing a personal aide to assist PWD who want to live independently, and implement their right to participate and make their own choices in relation to the services they receive. Furthermore, the system of laying the responsibility for the care and protection of PWD on their families should be abolished, thereby providing family members caring for PWD with the possibility to find employment and participate in social life. However, no steps have been made so far to reform the system of social welfare delivery.

RECOMMENDATIONS:

37. **Develop and enact a legal framework for the introduction of a system to provide advisory services as well as a personal aide to PWD to assist them in learning to live independently.**

38. **Abolish the method of establishing disability according to the “loss of working ability.”**

39. **Devise a new list of categories of PWD and properly align social welfare services with individual conditions.**

84.61 Slovenia: Design and implement educational programs for the gradual inclusion of students with disabilities in the education system.

84.62 United States: Design and implement educational programs promoting greater inclusiveness in classrooms.

40. During a meeting held in April 2014, within the framework of implementing UPR recommendations, the Ministry of Education and Science said that they were developing an inclusive education curriculum. As of today, the curriculum is not yet ready.

Evidence 8: Providing education to children with disabilities in special schools is a predominant practice. The results of a study conducted in 2014 among 150 children with cerebral palsy in Ulaanbaatar City, which ranks highest in the educational level of the population, showed that 65% of the children do not attend any educational institution, 23% attend school, and 12% attend kindergarten¹⁴. According to the official statistics, one in two children with an inborn disability receive an education¹⁵.

Evidence 9: A team comprising representatives of PWD organizations and some NGOs implemented a monitoring project aimed at evaluating the transparency and accessibility of public services. The project covered one of six special schools attended by 526 students, only 4 of whom were officially diagnosed as suffering from a disability by a qualified doctor. The finding shows that even special schools do not admit children with disabilities. The monitoring has also revealed that in addition to the

¹³ “Recreational help provided to persons with disabilities, challenges faced and ways to overcome them,” Compilation of reports delivered at the scientific conference on theory and practice, page 72, Ulaanbaatar, 2013.

¹⁴ Information provided by the Association of Parents with Disabled Children.

¹⁵ “Persons with Disabilities,” The Population and Housing Census 2010, page 37, Ulaanbaatar, 2011.

absence of an elevator in the 3-storey building, the doors, a wheelchair ramp and toilets did not meet the established standards.

41. Article 13.3 of the Law on Primary and Secondary Education reads that, “Other general education schools have a responsibility to create conditions for providing primary, basic and secondary education to children with disabilities,” which seems to approve of the concept of inclusive education. According to school statistics from 2012-2013, 90% of children with disabilities study in regular schools.¹⁶ However, 47% of these children were registered as having a vision impairment, which led APDC to claim that children with eyeglasses were counted as children with vision impairment. In other words, the statistics showing a high level of inclusiveness, in reality, only indicates that many children counted as “children with disabilities” simply wore eyeglasses or had very minor forms of disabilities. The legal framework for determining disabilities in children has not been fully established.
42. Apart from the fact that very few children with disabilities have access to inclusive education, schoolbooks and methods used by teachers to educate these few children are highly inadequate. Despite steps being taken to entitle teachers to provide inclusive education in general education schools and provide teachers with compensation, no visible results have been so far achieved. Actions have not been taken to train teachers and create conditions in schools that would meet the needs of children with disabilities.

Evidence 10: A third grade student T normal in mental development, but with a mobility impairment, has not fully learned the letters, while his fellow students learned to read a year ago.

RECOMMENDATIONS:

43. **Develop and implement an inclusive education curriculum to ensure that young people and children with disabilities can enjoy their right to education.**
44. **Ensure the participation of PWD in developing an inclusive education curriculum.**
45. **Prepare and provide necessary training to teachers and mentors on methods of engaging with young people and children with disabilities.**

84.60 United States: Increase awareness regarding disability rights, and make all appropriate accommodations for disabled voters.

46. Measures taken to increase awareness about disability rights at all levels of society, including the family level, are not sufficient. The perception of PWD as receivers of benefits from the state and objects of healthcare and social welfare service delivery still persists among the general public and in legal documents.

Evidence 11: Judging PWD solely by the loss of the working ability fosters an attitude in society toward PWD as being incapable of working, making their own decisions and

¹⁶<http://www.meds.gov.mn/data/pdf/Secondary%20education20122013.pdf>, page 5

attending to themselves. This attitude is still strong among decision-makers and public servants.

47. This wrong perception of PWD is being further reinforced by the media. Articles and programs trying to encompass, at a single time, all aspects related to PWD, including employment, education and healthcare, as well as ones trying to make the audience feel pity about PWD predominate.

Evidence 12: In September 2012, MNFB and World Vision together conducted a 21-day training in Khuvsgul province for 10 children aged 8-14 with vision impairment who did not attend school. In the course of the training they found out that six of the parents of these children did not know about the existence of a school in Ulaanbaatar catering to the needs of children with impaired vision. Furthermore, the parents had no notion neither about the rights of their children to education nor about the capacity of their children to learn.

RECOMMENDATIONS:

48. **Implement a systematic policy aimed at fostering the right attitudes toward PWD through media.**
49. **Conduct regular trainings for public servants at all levels to raise their awareness of disability rights. Issue a right to public servants who have completed the necessary training to work in the social services sector.**

84.59 Cuba: Support the efforts to promote and protect the rights of vulnerable groups such as children, women, disabled persons and the elderly.

50. Up to 45.9% of PWD are women. However, there is no set precedent for giving special consideration to disabled women when implementing policies and decisions regarding PWD and when providing them with services. Men and women with disabilities are treated in the same manner. Therefore, those policies and services respecting the distinct needs of women with disabilities and that meet their capabilities and potential are missing. In particular, there are no policies, plans, actions and/or services which promote their female reproductive rights, the right to be free from violence, to work, receive education or to participate in decision-making, as there are no measures either planned or implemented to eliminate traditional attitudes of blaming PWD.

Evidence 13: When a wheelchair-bound woman G became pregnant, the doctor gave her the following recommendation: “You should have an abortion because you are in a wheelchair.” This example captures a widespread attitude toward disabled women.

51. Within the framework of implementing the Government Action Plan for 2012-2016, “A Good Mongolian Child” national program was launched in 2013. The program, however, does not cover issues related to children with disabilities and the rights of these children to receive an education at all levels, to express their views and opinions, to live in a healthy environment free from abuse and oppression are still being violated.

Evidence 14: There are four schools in Mongolia which accommodate the needs of children with intellectual disabilities. All four schools are located in Ulaanbaatar, and no children from rural areas are admitted. Not only children living in remote rural areas, but also children with severe disabilities are deprived of their right to receive education at all levels.

RECOMMENDATIONS:

- 52. Conduct a nationwide survey on the social needs of women with disabilities.**
- 53. Respect the distinct needs of women with disabilities, and take concrete measures to develop and implement policies which reflect their capacities, potential and special needs.**
- 54. Develop and implement a national plan and program to promote all rights of children with disabilities, encourage their participation and protect them.**

84.60 United States, 84.100 Slovakia, 84.101 Iran: The right to vote and be elected.

- 55. A new article in the Law on Parliamentary Elections states that "...each polling station should have at least one specially equipped polling booth for PWD to mark their ballot paper" (41.8). A new article was also added in the Law on Presidential Elections, which states that each polling station should have one folder with Braille ballot papers to be used by persons with impaired vision for casting their votes(47.6).**

Evidence 15: Following the amendments made in the above laws, during the parliamentary elections in 2012, wheelchair ramps and special voting booths were set up at the polling stations, but when the presidential elections took place a year later, persons in wheelchairs were already not able to cast their votes. On the other hand, conditions were created to allow persons with vision and hearing impairments to vote on an equal basis with others. In other words, the successes once achieved in this field are not being sustained until the next election.

- 56. There are no laws requiring that campaign materials and information about the candidates distributed during an election campaign be made accessible to PWD through use of sign language, Braille publications, audio books, and in the case of persons with intellectual disability, through the use of simplified print materials. The lack of such regulations has a negative impact on the right of PWD to cast their votes on the basis of their own beliefs.**
- 57. The implementation of the rights of PWD to be elected and to participate in decision-making is highly insufficient. Even today, there are no PWD elected to the Parliament and there are very few disabled people who work in government organizations, including local governments. There is a need for a policy supporting the employment of PWD in the government decision-making positions.**

RECOMMENDATIONS:

- 58. With a view to promoting the right of PWD to vote, further clarify the legal provisions aimed at increasing the accessibility of polling stations and election campaigns, and ensure their sustained implementation.**
- 59. Take special measures to protect the right of PWD to be elected in elections of all levels.**
- 60. Promote participation of PWD at all levels.**

NEW ISSUES FOR CONSIDERATION:

The right of PWD to remain safe from discrimination.

There are no special laws against discrimination in Mongolia. PWD do not realize that they are being subjected to discrimination. Although Article 14.2¹⁷ of the Constitution of Mongolia specifies grounds on which discrimination is prohibited, it does not forbid the discrimination on the basis of disability. Therefore, as of today, the legal framework for eliminating discrimination based on disability is lacking.

- 61. On the other hand, the practice of adopting legal documents discriminating against PWD continues to persist.**

Evidence 16: There are few laws which directly discriminate against PWD. However, Article 111.7 of the Labor Law proclaims that "...the list of jobs that can be done and professions acquired by persons with disabilities will be approved by the Cabinet Member in charge of labor issues." Also, standard 5.8 of the "General requirements for public transportation, classification and services" (MNS 5012:2011), which proclaims that "...persons with disabilities are only allowed when accompanied by a guardian" is a provision, which discriminates against disabled people.

- 62. The practice of indirect discrimination against PWD is widespread. For example, there are many instances when disabled children living in rural areas are not admitted to school because the school did not have a sign language teacher or when PWD were not able to receive healthcare because the hospital did not have a sign language interpreter. Furthermore, many buildings and facilities open to the public do not have wheelchair ramps or elevators.**

RECOMMENDATIONS:

- 63. Create effective legal framework to eliminate discrimination against PWD.**

¹⁷"No person may be discriminated on the basis of ethnic origin, language, race, age, sex, social origin or status, property, occupation or post, religion, opinion, or education. Everyone is a person before the law", Article 14.2, The Constitution of Mongolia, 1992.