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**THE RIGHTS OF PERSONS WITH DISABILITIES TO WORK:
CHALLENGES AND SOLUTIONS**



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THE RIGHTS OF PERSONS WITH DISABILITIES TO WORK: CHALLENGES AND SOLUTIONS

Doctor, Prof. Ts. Tsetsegmaa

National University of Commerce and Business

tsetsegmaa.ts@nucb.edu.mn

S. Ariunbileg, MA

NUM, SIRPA, Public Administration Department

ariunbilegs@num.edu.mn

ABSTRACT

The issue of the right of persons with disabilities (PWD) to work through working age is guaranteed by law. As a result, targeted measures, programs, and projects aimed at setting quotas for businesses, encouraging the self-employment of PWD, and rewarding employers have been implemented for some time in Mongolia. Implementation has been poor and this has led to violations of the rights of PWD to work. The main factors contributing to this are the lack of coordination, reconciliation, and management practices between line ministries ensure the implementation of the law and the public administration bodies that coordinate their activities. Therefore, there is an urgent need to establish a coherent system to ensure the rights of PWDs to work in Mongolia, to implement better management methods, and to improve the effectiveness of ongoing activity. One of the decisive actions to address this is to study the regulatory mechanisms of developed countries and to practice advanced methods and technologies suitable for the conditions of Mongolia through benchmarking. In this article, we aim to develop recommendations for policymakers and implementers on how to create effective and equitable employment and work opportunities for PWDs. This involves the use of primary and secondary sources to provide meaningful answers through an evidence-based study. Survey data has been collected from relevant public administration employees and representatives of PWDs who are currently employed or wish to work, questionnaires, and interviews. The organizational system is compared with other countries, and the logical sequence of activities is analyzed. According to the survey results, the provisions of the legal documents for PWDs are not specified, other related legal documents are unconsolidated. There is no integrated database, and insufficient access to employment and career counseling services. Social psychology is not ready. It is concluded that the coordination and organizational backwardness of state organizations have a negative impact on the employment of PWDs. Accordingly, their rights are being violated.

Keywords: *The Right of PWD to work, types of employment services for PWDs, PWDs and Mongolia*

BACKGROUND

The United Nations' (UN) Universal Declaration of Human Rights and other international human rights pacts have affirmed that everyone has the right to gain freedom, equality, and dignity without any discrimination. It calls on member states to ensure that all human rights and fundamental freedoms are universal, indivisible and independent, and that persons with disabilities enjoy them without discrimination. Mongolia has fulfilled its international obligations to ensure the rights of persons with disabilities, and approved implementing policies and programs to promote their participation, improve protection and increase access to services, in particular equal access to education, health, employment and social relations. In 2016, the Law on the Rights of Persons with Disabilities was adopted and policies and programs were launched. Therefore, the legal status of persons with disabilities is defined as a “cross-sectoral issue” that is broadly reflected in each sector of the society.

As of today, Mongolia has entered 16 international agreements on the development of persons with disabilities, about 76 laws, more than 25 resolutions of the Parliament and the Government, more than 10 orders of the Minister of Labor and Social Welfare, and others. Many health, education, employment, and welfare programs are being implemented. These include the National Program for the Rights, Participation and Development of Persons with Disabilities¹ (2017). In addition, the Ministry of Labor and Social Welfare, General Agency for Development of Persons with Disabilities, National Employment Council, Research Institute at the Ministry of Labor and Social Welfare, General Department of Labor and Welfare Services and its local branches and departments implement government policies and programs. Moreover, there are 48 non-governmental organizations (NGO) operating in the field of disability. Some 37 public and private unemployment offices support and assist the employment of persons with disabilities.

Today, 107,100 persons with disabilities are registered in Mongolia. It accounts for 3.3% of the total population. Of these, 94,800 are 15 years of age and older, and only 19,974 or 27.8% are employed. Although, legally authorized governmental and non-governmental organizations are implementing policies and programs in this area, employment of people with disabilities is still insufficient. To address this issue effectively, a focus group was established with senior and mid-level government officials in charge of the employment of persons with disabilities (Ministry of Labor and Social Welfare, district welfare departments) and Directors of unemployment offices. The purpose was to identify if there are deficiencies in management, administration, and law enforcement.

A total of 156 people participated in a survey. In addition, we used data from previous studies that we have undertaken² on the employment of people with disabilities. This provides a

¹ Compilation of legal documents related to the rights of persons with disabilities, Ulaanbaatar, 2019

² International Journal of Humanities and Social Science, Surveillance of the Current Situation of Self-Employed People with Disabilities (On The Example of Mongolia) Vol. 10 • No. 9 • September 2020 doi:10.30845/ijhss.v10n9p11

secondary source. The study concluded that the right to work of persons with disabilities is not respected equally. So, we need to identify some ways to improve the problem. Therefore, we chose the US government as a solid example to improve the current situation on employment policy and its implementation of people with disabilities.

The survey was divided into 3 groups of people. These include, first, government officials and civil servants (senior staff of the Ministry of Labor and Social Welfare, and district officials: total of 16 officers), second, employees of NGOs and Directors of unemployment offices (NGOs 6, unemployment offices 15, a total of 21), third, persons with disabilities and their caregivers (119 people). In the end, the study identifies some effective ways to improve government regulations and management mechanisms that affect the insufficient employment of people with disabilities and their inability to exercise their rights.

CURRENT STATUS OF EMPLOYMENT OF PEOPLE WITH DISABILITIES

Article 4.1.1 of the Mongolian Law on the Rights of Persons with Disabilities states that “a person with a disability is a person whose physical, mental, intellectual and sensory disabilities are combined with other environmental barriers and whose ability to participate fully and effectively in social life is limited”. In society, people with disabilities were perceived as dependent on medical care and caregivers, and their problems were only superficially understood in terms of their health or social protection needs. But today they are being promoted and understood as active members of society and competent people. Section 8 of Sustainable Development Goals of Mongolia 2030 promotes sustainable and inclusive economic growth, full and productive employment, and decent work. It has the aim that by 2030, all men and women, including people with disabilities will be able to work fully and productively and be provided decent work and equal pay for work of equal value³. These are reflected in the Constitution of Mongolia (1992), the Law on the Development of Persons with Disabilities (2016), the Labor Law (1999, 2021), the Law on Employment Promotion (2011), and the Employment Promotion Program for Persons with Disabilities (2017). All of them are in line with the concept of the “right to work”.

In the United States, employment of persons with disabilities is regulated by a number of legal instruments. These include: the Americans with Disabilities Act, amended in 1990 and renewed in 2008. Employment, transportation, public building settings, special means of communication for the deaf for instance., state and local government discrimination against persons with disabilities is prohibited in a number of areas, including access to land programs and services. This is enforced by government agencies. For example, the US Equal Employment Opportunity Commission, the US Department of Transportation, the Federal Communications Commission (FCC), and the US Department of Justice, US Department of Education (which prohibits

³ Sustainable Development Goals of Mongolia, Goal 8 - Promoting sustainable and inclusive economic growth, full productive employment and decent work, <http://sdg.gov.mn/Goal/?id=8>

discrimination in its programs or activities), US Department of Health and Human Services (for instance interpreter for HHS hospitals), USA Architectural and Transportation Barriers Compliance Board (ATBCB), US Department of Labor Civil Rights Center Rehabilitation Act, 1973. The US Department of Labor's Federal Contract Compliance Program Office (OFCCP) enforces Section 503 of the Rehabilitation Act concerning prohibition its employment discrimination. An inter-agency committee on persons with disabilities has been established within the federal government, consisting of members nominated by the US President or an official appointed by them. For instance, Chairman of the Employment Equal Opportunity Commission, Head of the Personnel Management Department, Secretary of Veterans Affairs, Secretary of Labor, Secretary of Education, and Secretary of Health and Human Services.

A Chairman of the Committee leads the Committee alone or co-chair the Committee for a specified period of time. Moreover, there is a Presidential Committee on the Employment of Persons with Disabilities and Mental Illness. Objectives and functions of the Committee include (i) to implement best practices for people with disabilities in each government agency and organization, and focus on meeting the special needs of these people; and (ii) to make recommendations periodically to the Commission on legislative and administrative changes which it deems necessary or appropriate. The Ticket to Work and Work Incentives Improvement Act of 1999 was enacted to increase the choice of persons with disabilities wishing to return to work. The Vietnam Era Veterans' Readjustment Assistance Act prohibits discrimination against veterans and requires employers to take positive steps to recruit and hire these veterans⁴.

The Workforce Innovation and Opportunity Act applies differently to each state. For example, the Governor-appointed Illinois Manpower Innovation Council includes state, business, industry, labor, education, and community-based leaders to assess and meet the labor needs of Illinois employers and workers. It is responsible for overseeing the development, implementation and modification of the Unified State Plan, meeting all relevant programs, necessary partners and stakeholders, overseeing the country's human resource development system, and providing strategic leadership.

The above laws describe in detail the rights of persons with disabilities, the types of discrimination, how to prohibit discrimination, which government agencies should comply with the law, and what standards should be followed. There is also a very clear integrated database from which anyone can easily find any information related to the exercise of a persons' rights. Figure 1 compares the key laws of Mongolia and the United States.

⁴ US Department of Labor, <https://www.dol.gov/general/topic/disability/ada>

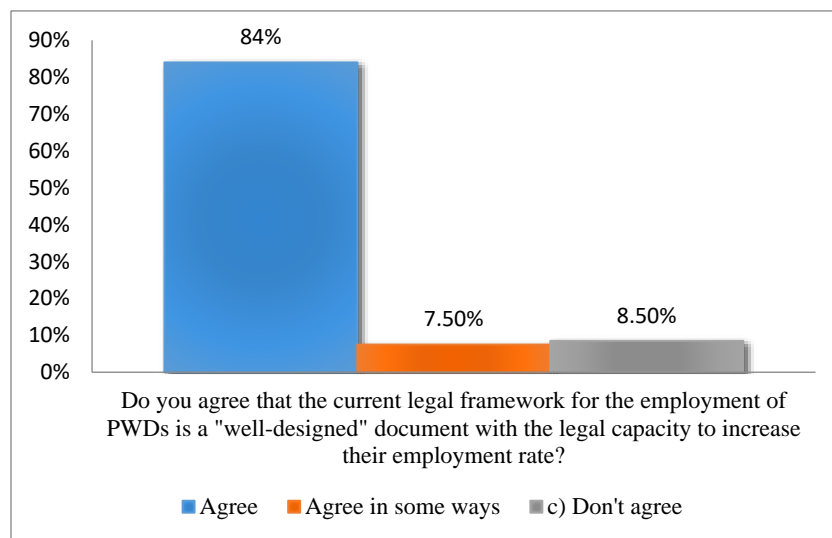
Figure 1. Major laws of Mongolia and the USA

Major laws of Mongolia	Law on the Rights of Persons with Disabilities, 2016
	Labor Law, 2021
	Employment Promotion Law, 2011
	National Program for the Rights, Participation and Development of PWDs, 2017
	More than 20 international conventions and protocols, Universal Declaration of Human Rights and a total of 35 laws and regulations internally.
Major laws of the USA	Americans with Disabilities Act, 2008
	Rehabilitation Act, 1973
	The Ticket to Work and Work Incentives Improvement Act, 1999
	Workforce Innovation and Opportunity Act (WIOA)
	Law on Education for Persons with Disabilities, 1990 (IDEA)

Source: Research team, 2021

In addition, the responses of government officials who participated in our study (16) confirm that the issue of PWDs' employment rights is legally guaranteed in Mongolia and the current employment promotion legislation are considered to be a “well designed” legal documents (84%) aimed at increasing the employment rate of these people. See Graph 1.

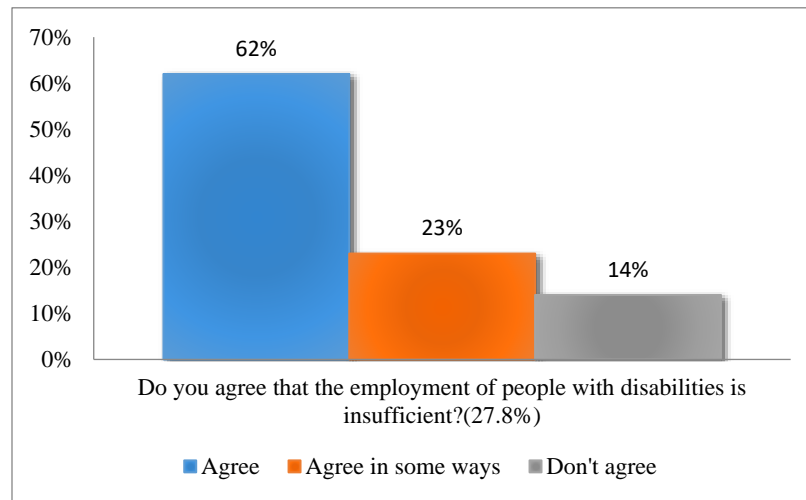
Graph 1. Competence of legal documents to support employment of PWDs (civil servants)



Although there seems to be sufficient legal support, in practice there are many violations of the right to work and insufficient enforcement. This is due to the fact that there are 94,800 with

disabilities of working age, of which only 19,974 or 27.8% are employed. Of those employed, 41.7% are self-employed, 35.7% are paid employees, 20.1% are unpaid participants in household production and services, 1.6% are employers, and 0.3% are members of partnerships and cooperatives⁵. Unpaid informal employment is more common than contract-based employment. 62% of the civil servants surveyed agreed that the employment rate for PWDs is low.

Graph 2. Low employment rate of PWDs (civil servants)



From the above, the following questions are raised:

Why is the employment of people with disabilities insufficient?

How can inadequate employment be improved?

What mechanisms is the government using to improve employment?

The reasons for the insufficient employment of PWDs are explained on several grounds: First, people with disabilities who are interested in employment do not know where to turn or who to contact. This means the lack of information. Second, unable to find stable employment due to lack of job placement or skills. Third, lack of workplace adjustment. Fourth, inability to work or unskilled. , Fifth, insufficient infrastructure. Sixth, improper communication and discrimination⁶.

⁵ Labor and Social Welfare Research Institute, Ministry of Labor and Social Welfare, SECIM, Employment Survey for People with Disabilities, Ulaanbaatar, 2019, pp.16-17

⁶ B. Delgerjargal, Ya. Tuguldur. Research on Infrastructure Services for People with Disabilities, Scientific Conference on Disability Studies as an Interdisciplinary Science, Ulaanbaatar, 2017, pp.22-23

And finally, people with disabilities do not work due to their lack of knowledge of the employment law⁷.

According to the focus interviews of government officials, there are three main issues facing PWD employment. These include, infrastructure (streets, public transport, job arrangements), education (primary, secondary, tertiary, employment after graduation, skills development), and social attitudes (people considered they are recipients, sick, incompetent).

Figure 2. The three main issues facing with PWD employment (Civil servants and PWDs)

The 3 main issues facing with PWD employment		
Indicator	Civil servants	People With Disabilities
Infrastructure	<ul style="list-style-type: none"> – The streets are difficult – Public transportation is difficult – Insufficient workplace adjustment 	<ul style="list-style-type: none"> – No workplace special settings – Insufficient infrastructure (streets, public transport)
Education	<ul style="list-style-type: none"> – It is difficult to get primary, secondary and higher education – It is difficult to get a job after graduation – It is difficult to improve one’s skills 	<ul style="list-style-type: none"> – Can't get a stable job because of the poor work skills
Social negative treat/attitudes	<ul style="list-style-type: none"> – Considered “recipients” – Considered “sick” – Considered “incompetent” 	<ul style="list-style-type: none"> – Employment is not possible due to high levels of discrimination

Source: Research team, 2021

Infrastructure: Civil servants believe that access to infrastructure is the most important factor in improving the employment of people with disabilities. Within the framework of measures taken by the state in this regard: (i) Law on Urban Development (2008, Prohibition of issuing permits for urban planning, construction solutions and designs that do not meet the requirements for

⁷ T.Gantsetseg, P. Enkh-Uchral, N. Baljmaa, A. Bayarmaa, D. Densmaa, Z. Khishigsuren, Attitudes of People with Disabilities and Work place, Scientific Conference on Disability Studies as an Interdisciplinary Science, Ulaanbaatar, 2017, p.25-28

PWDs), Law on Construction (2016), MNS 91.040.10: 2009 standard-required space for PWDs, roads for pedestrians and people with disabilities MNS5682: 2006, Building rules-spatial planning and more than 10 norms and rules. (ii) Public transport-road parking MNS5879: 2012, wagon service MNS6312: 2021, SOS service-waiting room, toilet, (iii) Workplace adjustment: Employment promotion in the national action plan to promote the rights, participation, and development of persons with disabilities increase the number of jobs that can be adjusted to operational criteria⁸. However, there are currently a number of organizations that have not made job/work adjustments (i.e., Article 111 of the Labor Law has not been implemented). For example, in 2018, 40.7% of enterprises surveyed said that it was difficult to make job adjustments⁹.

The law on the rights of persons with disabilities in the United States is the Americans with Disabilities Act (ADA). The law covers all issues related to PWDs, including the Building Code. According to the code, the “Readily achievable” standard should be followed as part of the government's policy of Fair and Respect to protect the rights of PWDs. The Building Code applies to all states in the United States. These include the ADA Accessibility Guidelines (ADAAG) and the ANSI A117¹⁰. It is “Accessible and usable buildings: aimed at making the building accessible, meeting national requirements and accepting technical requirements” (entrance, exit, door, toilet, high and low adjustment, lighting, stairs, elevator and other works) all safety related to the building, such as employment and access to services).

The standard for public transportation services under the ADA is CFR 35.151¹¹. The Federal Transit Administration (FTA) is the social and economic life of all Americans. To fulfill its mission is to ensure non-discriminatory transportation to meet the mission of improving the social and economic quality of life of all Americans. The FTA Civil Rights Office is responsible for enforcing and monitoring civil rights to provide public transport services without discrimination. In addition, a Community, Health, Environment, Checklist public scrutiny (PWDs, professional governmental and non-governmental organizations), scores on the scope of the building and whether public transport service standards have been violated. For example, meeting the needs of people with hearing and visual impairment and wheelchairs. In other words, it treats the issue of human rights in terms of respecting human rights, rather than looking at them as receivers, sick, incompetent or non-problematic.

⁸ Joint Order of the Minister of Labor and Social Welfare, the Minister of Education, Culture, and Science, and the Minister of Health on the approval of the National Action Plan to Promote the Rights, Participation, and Development of Persons with Disabilities, May 21, 2018

⁹ Labor and Social Welfare Research Institute, Population Development Policy Research Sector, Disability Employment Survey Report, 2018, p.13

¹⁰ 2017 ICC A117.1 Accessible and Usable Buildings and Facilities, <https://codes.iccsafe.org/content/icca117-12017>

¹¹ Guidance on the 2010 ADA Standards for Accessible Design
<https://www.ada.gov/regs2010/2010ADAStandards/Guidance2010ADASTandards.htm>

In addition to the standards, the Principles of Universal Design is followed. It is a matter of creating and maintaining “publicly designed and accessible workplaces” to meet the needs of a wide range of workers, including people with disabilities. Workplace adjustments are necessary to recognize all employers, employees, and future employees who have different abilities and limited needs (workplace facility, environment, processes, policies, technologies, resources, management, employee productivity, safety, collaboration, communication), meaning treating any issue from a non-discriminatory, human rights perspective. Universal design not only addresses building-workplace infrastructure issues, but also information infrastructure¹².

Education: Access to education is the most important factor in improving the employment of people with disabilities, according to government officials/civil servants surveyed. The main issues facing the education needs of people with disabilities in Mongolia are a) school enrollment, b) curriculum, c) learning environment, d) teaching staff, and e) social attitudes¹³. There are special schools that classify people with disabilities as hearing, vision, and mental and specially trained teachers teach in special programs. Even though, Article 16.2 of the Law on the Rights of Persons with Disabilities adopted in 2016, states that teachers and social workers at all levels of education must have the knowledge and skills to work with students with disabilities. However, there is a significant gap between this law and the reality of school operations.

According to the Save the Children survey of 2018 found that 88% of regular school teachers were ill-prepared to work with children with disabilities¹⁴. Teachers often know that a child has a disability from a doctor's certificate or information provided by parents, but in Mongolia school teachers diagnose certain types of disabilities within their understanding, such as autism spectrum disorders, attention deficit hyperactivity disorder, and learning disabilities. This is due to the lack of a unified definition and classification system for children with disabilities in the education sector¹⁵. Today, there are six special schools in Ulaanbaatar and one in Darkhan-Uul province. Thus, there are a total of seven special schools operating currently. These schools are different in terms of hearing, visual, and mental disability. In the 2017–2018 school year, 1,637 children attended these schools. This system itself “unconsciously” creates the notion of isolating people with disabilities from society, of living separately, and of being special citizens, are therefore, making it impossible to create an environment in which negative attitudes such as social discrimination reduced or eliminated.

Unlike Mongolian educational policy for people with disabilities, the Individuals with Disabilities Education Act (1990 IDEA) ensure that education for people with disabilities is an

¹² Ibid

¹³ Ts. Tsevegmid, Institute of Education, Problems of Children with Disabilities, Scientific Conference on Disability Studies as an Interdisciplinary Science, Ulaanbaatar, 2017, p.7-11

¹⁴ Supporting equal education in Mongolia, November, 2020, ADB East Asia Technical Series Report, <https://www.adb.org/sites/default/files/publication/720336/eawp-28-inclusive-education-mongolia-mn.pdf>

¹⁵ Ibid

integral part of the education system and recognize the principle of equal access to primary, secondary and tertiary education for children, youth, and adults with disabilities in the United States. It is believed that planning and curriculum development should be an integral part of school organization. However, the government requires all levels of education to provide translators and other appropriate “support services” so that adequate services are available to meet the needs of people with various disabilities. This right is especially open to girls and boys with all types and levels of disability, including the most severely disabled. To do this, schools may have special classes (depending on the specific communication needs of the deaf or blind) and focus on culturally sensitive instruction and effective communication skills in the early stages to maximize their independence. The quality of education should reflect the same standards and ambitions as those without disabilities and should be closely linked to them as allocating educational resources¹⁶. Also, have a clear and accepted policy at the school level and in the community to provide integrated learning services; provide flexibility, complementarity and adaptability to the curriculum. It is important to provide quality materials, sustain continuous teacher training, and support teachers¹⁷. After graduation, PWD are employed and work like everyone else.

The record said that the employment status of people with disabilities in the United States by state is a minimum of 30% and a maximum of 60%¹⁸. After graduation, 25.7% of employees have a bachelor's degree, 21.7% are college graduates, and 13.8% have completed secondary education¹⁹. In contrast, with the exception of some sample surveys involving only people with disabilities who are employed, there is a lack of comprehensive data on the education of all people with disabilities in Mongolia. For example, according to one of the latest sample surveys which were taken in 2019 by the Research Institute of the Ministry of Labor and Social Welfare said that 73.5% of people with disabilities have a diploma or bachelor's degree, 33.3% have a technical degree, 61.5% have vocational education, and 43.1% have completed secondary education out of all employed people with disabilities²⁰.

Social negative attitudes: Civil servants who participated in the survey believe that changing social attitudes is the most important factor in improving the employment of people with disabilities. People with disabilities who participated in the survey also agreed (see Table 2). As they answered, negative social attitudes will be reduced if the most important issues that are accessible infrastructure, appropriate workplace arrangements, and the modernization of the education system be solved accordingly. For example, if the infrastructure is improved, people

¹⁶ Special Education Law, California, USA, <https://www.californiaspecialedlaw.com/your-special-needs-childs-legal-rights/>

¹⁷ UN The Standard Rules on the Equalization of Opportunities for Persons with Disabilities

<https://www.un.org/esa/socdev/enable/dissre00.htm>

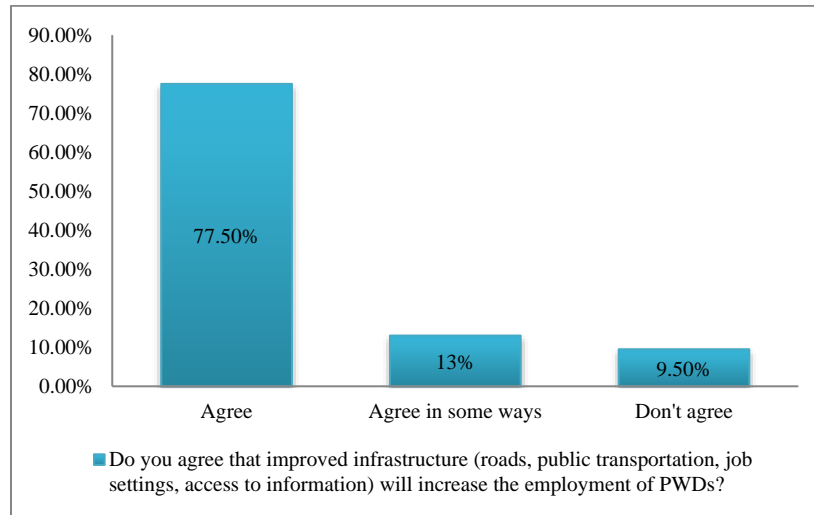
¹⁸ <https://www.brookings.edu/blog/the-avenue/2018/07/25/only-four-out-of-ten-working-age-adults-with-disabilities-are-employed/>

¹⁹ <https://www.statista.com/statistics/1219132/us-employment-rate-disabled-persons-education/>

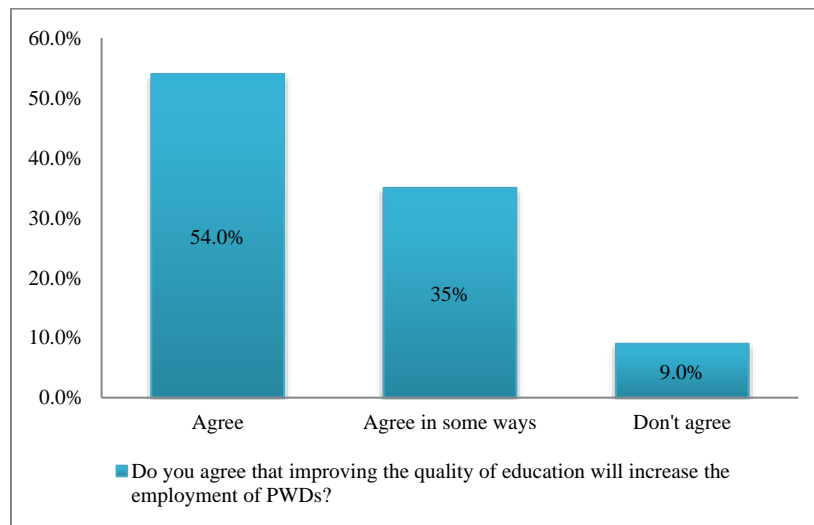
²⁰ Ministry of Labor and Social Welfare, Employment of Persons with Disabilities, Research Report, Ulaanbaatar, 2019, pp.56-60

with disabilities are able to participate in community activities and to get employed or to work in areas of choice. There is a high probability that negative attitudes will be reduced by eliminating the “special” education system. The position of the survey participants was the same (77.5%). This questionnaire was taken from all participants (civil servants and people with disabilities, a total of 156). See Graph 3 and 4.

Graph 3. Improved infrastructure will increase the employment of PWDs



Graph 4. Improved education system will increase the employment of PWDs



The government's mechanism for improving employment of people with disabilities goes through the development of legal documents and the implementation of specific policies and programs through central and local authorities in Mongolia. The National Program “Rights, Participation and Development of PWDs 2018-2022” states “to implement legislation on the rights of people with disabilities, to increase opportunities of their full participation in all aspects

of social relations and a comfortable living and development, and to raise public awareness of their rights, and to build a community-friendly environment”²¹. The results of this national program are expected to increase the employment of PWDs. However, the implementation was insufficient as our observation during the study because, in addition to legal documents, study, job placement, information and publicity, and training play an important role in improving the employment of PWDs. The insufficiencies are according to a report of Ministry of Labor and Social Welfare in 2019: public and private unemployment offices or labor brokerage organizations (total of 37) are currently operating; the recruitment and monitoring of the employment of PWDs is poor; the registration and information is not transparent; the level of education of PWDs seems decent (50% of job seekers have complete secondary education, 12.2% have higher education, 6.4% have vocational education, 7.8% have specialized technical education, and only 5.5% uneducated²²) but there are many job seekers remaining unemployed in the labor market (2449²³); and although employers are trained in labor law, many enterprises do not enforce the law²⁴. It can be argued that the “Rights, Participation and Development of PWDs 2018-2022” does not address issues systematically, or does not fully define what the primary needs are. However, the first of the three key indicators affecting the employment of PWDs in our study is infrastructure. This is because the experience of developed countries, such as the United States, defines that the right to employment and education consists when the infrastructure meets fundamental human needs. Our study addresses that this is a primary barrier.

NGOs and unemployment offices or labor brokerage organizations play an important role in the employment of people with disabilities. They are responsible for organizing training, distributing manuals and materials in an accessible manner, and participating in monitoring implementation. However, in our survey, 68.5% of NGO representatives were not involved in monitoring the implementation of the law, while 12% participated in the survey of PWDs only 1 or 2 times, and 15% did not respond.

As our result of the focus group discussions of NGOs and labor brokerage organizations (NGO-9, labor brokerage organizations -12, total 21), NGOs provide training both to employers and PWDs (70.7% once a year, 24.5% quarterly²⁵). However, there is very little information on how many people have been provided with jobs as a result of the training and how long it takes to adapt if a job is provided. Also, representative of the labor brokerage organizations answered that the recruitment of PWDs is very low, In fact, almost none, and they do not pay attention to

²¹ Joint Order of the Minister of Labor and Social Welfare, the Minister of Education, Culture and Science, and the Minister of Health on the approval of the National Action Plan to Promote the Rights, Participation and Development of People with Disabilities, May 21, 2018

²² Labor and Social Welfare Research Institute, Ministry of Labor and Social Welfare, SECIM, Employment Survey for People with Disabilities, Ulaanbaatar, 2019, pp.16-17

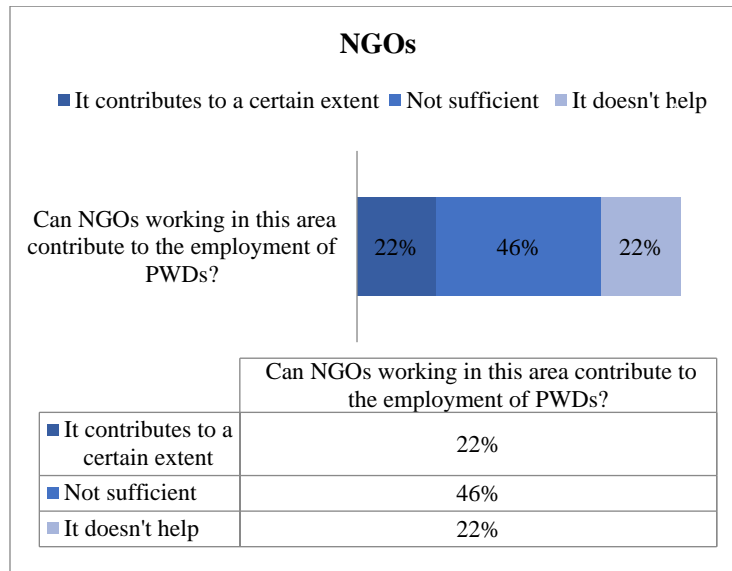
²³ Ibid

²⁴ Ibid

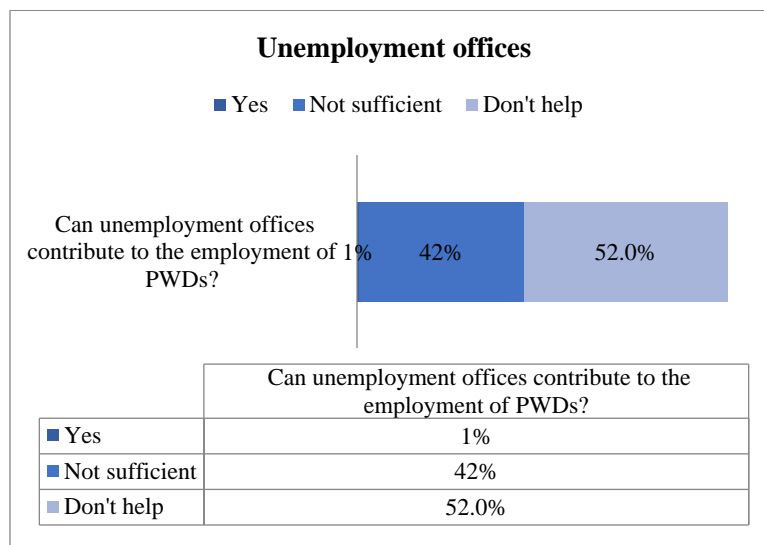
²⁵ Previous study, September-October 2021.

whether they were employed or in stable employment. This response was also clarified by the government officials surveyed: NGOs and labor brokerage organizations have made little contribution to the employment of people with disabilities. See Figures 5 and 6.

Graph 5. NGO contribution to the employment of PWDs (civil servants)



Graph 6. Unemployment office contribution to the employment of PWDs (civil servants)



What are the employment opportunities and conditions for unemployed people of working age with disabilities? The 2019 Survey on Employment of Persons with Disabilities reflects the

views of employers on PWDs²⁶. This can be considered as an initiative to increase the employment of PWDs. Their initiatives includes, firstly to create a system to motivate employers, for example, to reward enterprises that employ more than quotas²⁷, provide adequate information, make information transparent, and to provide discounts on social insurance and health insurance to organizations. Secondly, set quotas work differently for each economic sector, and thirdly, improve the employment mediation system such as labor brokerage organizations and unemployment offices and creating a database for PWDs' employment, fourthly, establish an employment center that only works in this area, and work effectively with the Labor and Welfare Service organization and reduce bureaucracy. According to NGOs and labor exchanges surveyed, employers' bonuses and benefits take a lot of time to process, benefits are not provided in a timely manner, there is no feedback, and we have to demand²⁸. The database is insufficient, the infrastructure is not accessible, the law enforcement is inadequate, the incentive mechanism for employers is not established properly, the public-private partnership is underdeveloped, and the bureaucracy of the government is a burden rather than a job creation option. The question is how can these issues be overcome and the situation improved?

WAYS TO IMPROVE THE EMPLOYMENT OF PEOPLE WITH DISABILITIES - BENCHMARKING

It is possible to learn from the US experience and introduce good practice. Today, 26% of all adults in the United States have a disability. In 2020, there were 61 million adults with a disability²⁹. Implementing the issue of PWDs, the government's policy urging is "*The state has a duty to protect, ensure equal opportunities and the equal rights of people with disabilities who are valuable contributors to the country's development, and public participation and cooperation*". This calls on the public and directs all activities related to the protection of their rights in accordance with this urging³⁰. The government policy include (i) Employment law that ensure human rights: Social Security Disability Insurance, Social Security Income, and the Americans with Disabilities Act (ADA), (ii) In terms of job search and employment, although it is possible to work in the private sector, "The government is the best employer", the key role is taken by Civil Service Council. The federal government employs 2.5 million civil servants, 5% of whom are PWDs (2010). This is considered insufficient, for example, the Clinton

²⁶ Labor and Social Welfare Research Institute, Ministry of Labor and Social Welfare, SECIM, Employment Survey for People with Disabilities, Ulaanbaatar, 2019, pp.16-17

²⁷ Labor Law of Mongolia, 2021

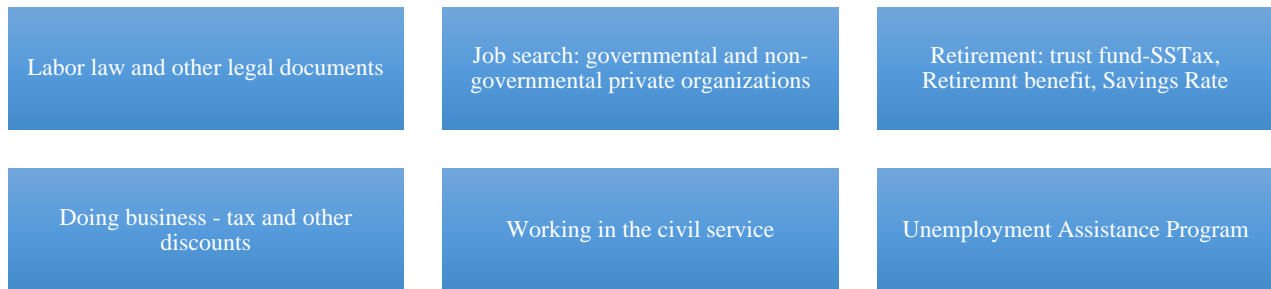
²⁸ Study on Employment of People with Disabilities, Ulaanbaatar, 2019

²⁹ Centers for Disease Control and Prevention <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

³⁰ Presidential Documents, Executive Order 15348, Increasing federal employment of individuals with disabilities, Federal Register/Vol.75, No.146, July 2010

administration planned to create an additional 100,000 jobs³¹. (iii) Social security pensions - Trust Fund: tax refunds, pension fund profits and returns (one of the features of the United States is the return of war veterans and the resulting disability issues compared to Mongolia), (iv) providing business opportunities, (v) experience of cooperation and interaction between educational institutions (especially vocational training) and labor brokerage organizations.

Figure 3. US Government Policy on the Employment of People with Disabilities



Source: <https://www.usa.gov/jobs-and-unemployment>

In general, the following indicators show that the common provisions of Mongolian laws and programs are more or less reflected in the US government policy and program. These include the following.

³¹ Ibid

Figure 4 Common provisions in Mongolian and US legislation and programs

№	Mongolia and USA
1	<p>Protection of the rights of PWDs:</p> <ul style="list-style-type: none"> – The rights of PWDs are guaranteed on a legal basis – Included in legal documents on prevention of PWDs (illness, pregnancy, accident; insurance) – Support for self-sufficiency - business opportunities and financial support
2	<p>Differentiate, evaluate and rehabilitate PWDs forms:</p> <ul style="list-style-type: none"> – “Certificate” of disability – Physical rehabilitation-professional health consulting services – Educational rehabilitation-providing vocational education – Economic rehabilitation - to have a humane reputation and position in society
3	<p>Children with disabilities (vulnerable groups with special needs)</p> <ul style="list-style-type: none"> – The role of the state: proper care, protection, health and safety - care, protection, security – The right to development with human dignity and equality - to ensure universal participation – Access to education, health and vocational training
4	<p>Trouble-free environment:</p> <ul style="list-style-type: none"> – Equipment / settings for safe movement and participation – Provide access to daily activities without assistance
5	<p>Social protection:</p> <ul style="list-style-type: none"> – Allowances / support for PWDs and their guardians-family members – Equipment related to daily life, public transportation, health and disabilities

	<ul style="list-style-type: none"> – Tax credit – Unemployment benefits – Disability pension
6	<p>NGOs participation and support</p> <ul style="list-style-type: none"> – Collaborate with professional associations and NGOs - policy development, planning, implementation, monitoring, professional advice and assistance, etc.
7	<p>Sports and culture:</p> <ul style="list-style-type: none"> – Support them in all aspects of their participation in cultural and sports activities-socialize, contribute to society-be proud-set an example-create a positive attitude towards society
8	<p>Research and study</p> <ul style="list-style-type: none"> – Regular surveys of socio-economic conditions (culture-education-development-participation-position-personal development) -Data, information, analysis, joint research, etc.

Source: Research team, 2021

In our view, the specifics of US public policy programs that differ from Mongolia can be summarized as follows, and as these are considered advantages, they can be benchmarked and incorporated into the Mongolian government's PWD policies and programs. These include:

1. To address the issue of disability from a human rights perspective - Respect Human Rights

To guarantee human rights and the right to work, it is necessary to address human rights issues, such as right to work, rather than classifying citizens as people with disabilities and without disabilities. As infrastructure, compared to the United States, both of these countries follow building standards, for instance, but implementation is insufficient in Mongolia. For example, let us consider construction. Once a new building is completed, it is inspected by a professional construction commission and deemed eligible for use. The commission includes representatives of people with disabilities. However, the main reason is that the commission inspects the new building after it is completed, and does not pay attention to the construction process and the initial design. Once completed, the building can be used by people but is not accessible to people with disabilities. This can be seen from the results of surveys of government officials and people with disabilities, as well as the need to adjust infrastructure, including streets, buildings and public transport.

The United States adheres to The Principles of Universal Design, which seeks to create and maintain a “publicly designed and accessible workplace” to meet the diversity of workers, including those with disabilities. This type of improvement needs to be introduced in Mongolia. Work place adjustments must be made to recognize that all employers, employees, or prospective employees have unique abilities and limited needs. This requirement is important not only for integrating employees, facilitating work, managing the environment, processes, policies, technologies, resources and tools, optimizing employee productivity, safety, collaboration and communication, but also for increasing the efficiency of the organization. In short, infrastructure issues need to be addressed first. If infrastructure is accessible, people with disabilities will have better access to education and employment.

2. People with disabilities are contributors to society - Human capital

A person is an effective citizen by contributing to society, whether he or she has a disability or not. This entails a self-developing individual who works, creates, and strives. People with disabilities, on the other hand, cannot be “care-receivers, sick and poor” once they meet their special needs. They can create their own lives without relying on anyone like everyone else. In the future, there is a need to study how they contribute to the society and the economy.

3. Leading the way and contributing to society - The state is the best employer

Citizens are contributors and active members of society, regardless of their disability or non-disability. Therefore, it is important to respect the right to work without discrimination and to cultivate the concept of Human Capital in society. The US experience is that "the state is the best employer." The Government agencies play an important role in providing employment for PWDs, especially the federal government where the advice that this action should be a role model. The US Office of Personnel Management plays an important role. In this way, it is possible for the civil service and public organizations to be role models in society and to be the best employers.

4. Public-private partnerships - Labor Exchange and Incentive Mechanisms

How many people have been employed? How many people have been permanently employed? How many people have been able to live a happy life after retirement? According to survey results, the performance of labor brokerage organizations is insufficient. The main reason for this is that government support for these organizations is weak and there is no incentive mechanism in place. In the United States, unemployment offices are the bridge between job seekers and employers. The operation of offices has a differentiated reward system which is based on: how many people are registered - employed - has worked steadily for more than 6 months. This creates a Win-Win advantage. To have well-functioning labor brokerage organizations, it is necessary to develop an incentive mechanism in Mongolia. In this way, PWD make a “visible” contribution to society.

5. Integrated database of socio-economic status of PWDs (culture-education-development-participation-position-personal development),

There are clear statistic indicators that compare the employment of people with and without disabilities. International conventions, to which Mongolia and the United States have acceded, as well as official documents on human rights and labor law, provide regular surveys on the implementation of the employment of PWDs. In the United States, the employment status of people with and without disabilities has become more consistent and transparent (we can see the statistics in the government website, at least). However, such studies are rare in Mongolia., Since disability is an interdisciplinary issue, it is important to include this type of study and it should be undertaken in any national survey, and have a database to address this will be helpful in any decision-making.

6. Encourage people with disabilities to participate in cultural and sports activities

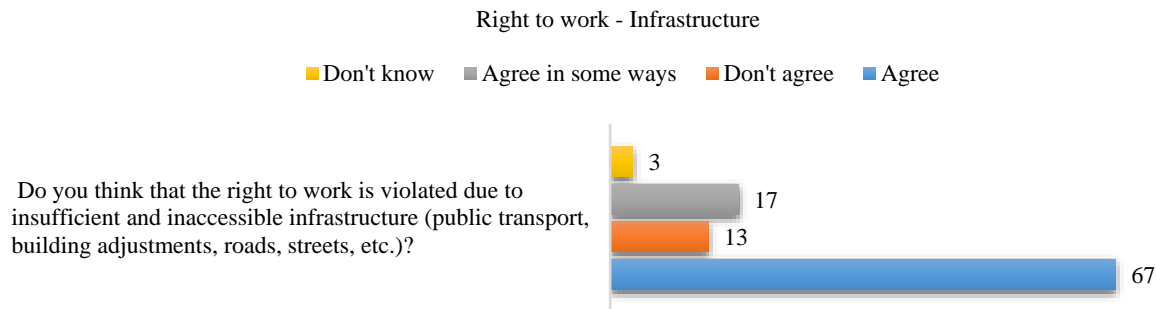
People with disabilities contribute to the development of a positive attitude in society. Through cultural and sports activities, they have established and promoted pride and role models in collaboration with educational, cultural, and other community organizations. Ordinary people know and understand the most basic forms of sign language. Cultural and sports activities are carried out in Mongolia. However, consistency is important. Consistency is scaled to the public through information, promotion, public presentation, and rewarding of successful citizens. It is important for people with disabilities to be positive, inspiring, and role models, as well as to reduce and eliminate discrimination against them. It is important to correct social perceptions. Therefore, the stabilization of activities can be considered as one of the important indicators to be reflected in the activities of public, private and voluntary organizations in Mongolia.

According to our research, the right to work of people with disabilities is being violated in Mongolia. This can be proved on several grounds. These include:

First, according to the Labor Law of Mongolia, enterprises and business entities pay for the positions to be filled by persons with disabilities. According to a study by the Labor and Social Welfare Research Institute (2019), 54.3% of organizations that pay without employing people with disabilities are paying for up to one year, 28.6% for 1-2 years, and 17.1% for more than 2 years. 31.4% of these organizations do not have a workplace for people with disabilities, 28.6% say that they do not meet their skills requirements, 14.3% do not have a job adjustment brief, and 8.6% say that they do not want to hire them. Article 6.4.5 of the Law on the Rights of People with Disabilities of Mongolia states that refusing to organize workplaces that are appropriate to the knowledge, skills, and characteristics of people with disabilities is discriminatory, and Article 6.4.6 states that not creating appropriate work materials that are specific to people with disabilities is discriminatory. However, the above responses show that there is a clear sense of discrimination in society and in the organization, and that this violates their right to work.

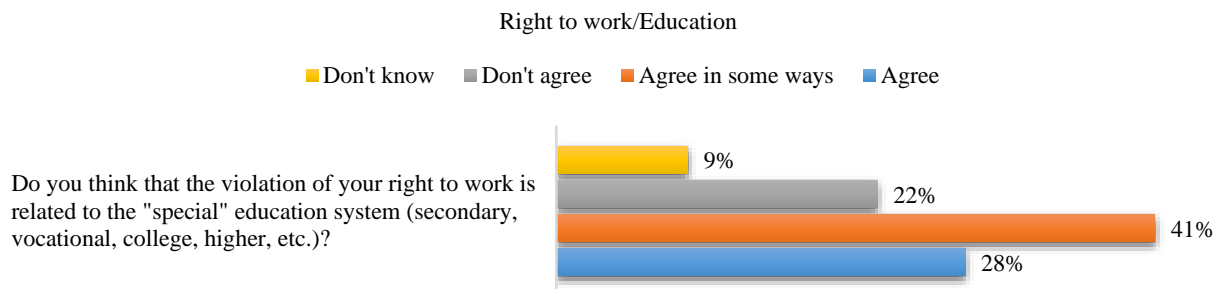
Second, if infrastructure issues are a basic need for people with disabilities. However, their rights have been violated due to incomplete infrastructure issues. Article 6.3.1 of the Law on the Rights of People with Disabilities states that the failure to provide access to public transportation, infrastructure, housing, and public facilities and free access to public transportation is discrimination against PWDs. This shows that there is a clear sense of discrimination in society and in the organization and that this violates their right to work. We summarize that infrastructure is a basic need for PWDs and their rights are violated, then the secondary right to employment and access to education is violated. See Graph 7.

Graph 7. Right to work - Infrastructure



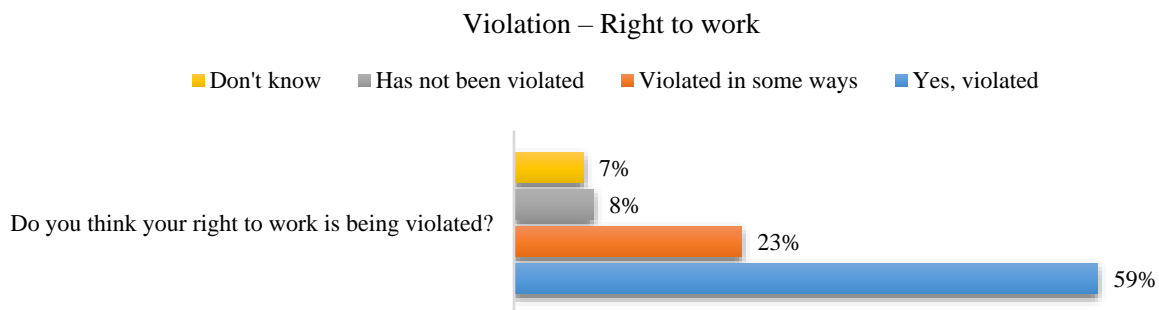
Third, Article 6.5.1 of the Law on the Rights of People with Disabilities states that “any information and advertisements that mislead the public about disability ... any advice that violates the rights of people with disabilities is discriminatory”. Today, there are special schools, special programs and special centers for children with disabilities in Mongolia. These “special” education systems create a social tendency to treat people with disabilities as special. The American experience is that they have special needs, not special education.

Graph 8. Right to work - Education



Fourth, the study of people with disabilities surveyed (119) said that their right to work is being violated. Of these, 67% said it is due to lack of access to infrastructure (17%), 28% answered it is due to the special education system (41%), and 53% said it is due to high social exclusion (27%) that agree with government officials (Figure 2).

Graph 9. Overall survey indication: Right to work violation



Thereby, the right to work of people with disabilities is being violated. This can be proved on several grounds that are merged as inadequate infrastructure, special education system, and social negative treats.

CONCLUSION

The employment of people with disabilities is one of the “wicked problems” facing Mongolia. However, this is not an issue that is unique to Mongolia, but is common to the rest of the world. To address this challenge, countries have successfully addressed this with appropriate policies and mechanisms that are suitable to their specific circumstances (such as the proportion of PWDs in the population, age, and the cause of the disability). The UN Convention on the Rights of People with Disabilities guarantees the equal right of people with disabilities to work including the right to choose freely or be recognized in the labor market, the right to work and participate in the social and economic development and the work environment to be open and accessible, based on the concept of the convention, including conditions, requirements and employment it prohibits discrimination on the basis of employment, continuing employment, career advancement, healthy and safe working conditions, and overall, all forms of employment. In this regard, the Law on the Rights of People with Disabilities was adopted by the Mongolian State Great Hural on February 5, 2016. The law provides for the protection and prohibition of all forms of discrimination on the basis of disability, and equal access to social relations, in particular employment opportunities.

Within the legal framework, Mongolia has guaranteed opportunities for social protection, health, education, independent living, and equal participation in social relations for people with

disabilities, established the responsibilities of many governmental and non-governmental organizations for its implementation, and settled branches in central and local areas. However, the lack of law enforcement is evident in the employment of people with disabilities, who make up 3.3% of the population. The main reasons for this are poor coordination between these governmental and non-governmental organizations, inadequate management methods, lack of information, lack of database, bureaucracy and lack of cooperation with the private sector, and negative social attitudes towards PWDs. The prevailing attitude and underdeveloped employment environment and infrastructure lead to the conclusion that the right to work of people with disabilities are being violated. The violation occurs due to insufficient infrastructure including transportation, access to any building, and workplace adjustment that is the primary need for PWDs. The violation also occurs due to “special” education which separates PWDs from society as special group. The violation occurs due to negative social attitudes. The lack of access to infrastructure upon people with disabilities are less likely to go out, participate in public events, and to use public services other than to get employed. The younger generation thinks they are special group because of their special education system. Thus, social participation is weak and opportunities to be an active member of society are poor. This makes many members of society seeing them as sick, inactive care-receivers, therefore, discrimination takes place. Consequently, we need to do benchmarking.

Our team highlights US employment policies for people with disabilities. The employment policy of PWDs in the United States is based on: the government's emphasis on self-employed employers; it is understood by other members of society that they are as contributors to society, and this can be seen in the education system. The win-win situation is that the government, NGOs, educational institutions, labor brokerage organizations, and private sectors are all able to operate profitably and effectively, creating the best complementary mechanisms for PWDs. We believe that Mongolia can use this system and better management practices to further improve to the existing situation.

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