

Inclusion of the reproductive and sexual rights of persons with disabilities in the national laws, plans, policies and strategies of the Republic of Tajikistan

FINDINGS OF BASELINE ASSESSMENT

EXECUTIVE SUMMARY

1. Introduction

Non-Governmental Organization (NGO) League of Women with Disabilities Ishtirok in partnership with Västoliitto, the Family Federation of Finland, Kynnys, The Threshold Association, Finland, Marie Stopes International, (MSIA), Afghanistan, Family Planning Association of Nepal (FPAN) implements a project “Promotion of the Sexual Rights of Persons with Disabilities (PWD) in Afghanistan, Nepal and Tajikistan” with financial support from the Ministry of Foreign Affairs (MFA) of Finland. In the framework of this project, a baseline assessment was foreseen under the result of project 3 “Issues of Reproductive and Sexual Rights and Health (RSRH) of the PWD are included in national plans, policies and strategies”.

The purpose of the baseline assessment: to study the current situation of the inclusion of the RSHR of the PWD in national laws, plans, policies and strategies. To achieve this goal, the following objectives were set:

1. Mapping of national laws, plans, policies and strategies in the field of health care, women's rights.
2. Determine the number of current laws, plans, policies and strategies that include the issues of the RSHR of PWD.
3. Identify the types of included activities on RSHR of PWD.
4. Identify the resources allocated for implementation of activities on RSHR of PWD.
5. Upon implementation of objectives 1-4 outlined above, determine the baseline values for result 3 according to the selected indicators.

2. International standards on RSHR of PWD

Several international documents establish obligations of states to promote RSHR of the PWD. The Global Agenda for Sustainable Development until 2030, also called the Sustainable Development Goals (SDGs), establishes seven targets and eleven indicators that are directly related to PWD, including access to education and employment, availability of educational institutions accessible to PWD, inclusion and capacity building of PWD, accessible transportation, accessible public and green spaces and increased capacity of countries to collect disaggregated data. In addition, the Agenda is committed to “leaving no one behind,” including the PWD. It recognizes disability as a cross-cutting issue that needs to be considered when realizing all its goals. The Convention on the Rights of PWD is the first convention that directly establishes the need of PWD for reproductive and sexual health services in a number of articles. Other important international human rights treaties that highlight the rights of women and girls with disabilities to reproductive and sexual health are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

The World Health Organization (WHO) and the United Nations Population Fund (UNFPA) issued a guide in 2009 to promote sexual and reproductive health of PWD. The following rights should be included in the RSHR of PWD:

- The right to information that allows them to make responsible and informed choices about their sexual and reproductive health.
- The right to decide when and with whom to have sex.

- The right to be free from sexual abuse and violence, including unnecessary and unjustified abortion and sterilization.
- The right to freely and responsibly decide when to have children and how many children to have.
- The right to support and raise their children.

WHO and UNFPA recommend a series of actions to ensure full access of PWD to RSHR. In terms of policy, guidelines recommend two types of actions:

1. Ensure that all programs on RSHR cover PWD by mainstreaming of PWD to all such programs and development and implementation of a special program on RSHR of PWD.
2. Ensure that the policies and budgets on RSHR meet the needs of PWD by mainstreaming their needs into laws and policies and budgets.

3. Findings of baseline assessment

This chapter reviews national strategies, programs, and laws that are relevant to healthcare and the rights of PWD. These are the following strategies and laws:

- National Development Strategy of the Republic of Tajikistan until 2030;
- Medium-Term Development Program (MDP) for 2016-2020;
- National Strategy of Public Health of the Republic of Tatarstan for 2010-2020;
- National Program on Rehabilitation of Persons with Disabilities for 2017-2020;
- National Strategy for Advancement of the Role of Women in the Republic of Tajikistan for 2011-2020;
- State Program on the prevention of domestic violence for 2014-2023;
- State Reproductive Health Program for 2019-2022;
- Health Code of the Republic of Tajikistan;
- Law of the Republic of Tajikistan “On Social Protection of Persons with Disabilities”;
- Law of the Republic of Tajikistan “On state guarantees of equal rights for men and women and equal opportunities for their implementation”;
- Law of the RT “On Prevention of Domestic Violence”.

3.1. Policies, programs, strategies

The implementation of the SDGs in the Republic of Tajikistan is carried out through the *National Development Strategy until 2030* (NDS). This Strategy has identified a number of priority areas for the development of Tajikistan and includes PWD issues in its priorities and objectives. The NDS has provided the following results in this area:

- rehabilitation and social integration of people with disabilities are provided;
- at least 50 % of all children with disabilities received rehabilitation services in specialized institutions for children with disabilities by 2030.

NDS does not include issues of the RSHR of the PWD.

In the framework of the goal of development of human capital of the *Medium-Term Development Program (MDP) for 2016-2020* includes the objective of management of demographic processes. One of the priorities under this objective is to increase the culture

of reproductive behavior. This priority is aimed at expanding youth access to reproductive education and health, including for persons with disabilities through:

- monitoring the legal framework in the field of reproductive health, including for persons with disabilities;
- assessing practices and systems for monitoring of forced child marriage and early pregnancy, expanding public awareness campaigns on these issues;
- expanding outreach to introduce family planning principles;
- development and implementation of a human and technical resources management system to ensure access of the population, including for persons with disabilities to reproductive health, especially in rural and inaccessible areas, in extreme climate conditions;
- supporting innovative technologies and approaches to providing reproductive health services.

The Government of the Republic of Tajikistan, the Ministry of Health and Social Protection, the Ministry of Education and Science, the Ministry of Finance, the Committee on Women and Family Affairs, the Committee on Youth and Sports, the Committee of Emergency and Civil Defense are responsible for the implementation of these measures in collaboration with UNFPA. MDP envisages funding of 90 mln Tajik Somoni for the implementation of these measures.

The Republic of Tajikistan also has a *National Strategy for the Health of the Population of the Republic of Tajikistan for the period 2010-2020*. This Strategy envisaged long-term goals of healthcare development. It describes current problems and proposed solutions. The Strategy does not consider PWD as a separate group in relation to services to RSHR. This Strategy does not indicate specific funding for activities.

In 2016, the *National Program for the Rehabilitation of Persons with Disabilities for 2017-2020* was adopted. The program offers a comprehensive strategy to ensure effective implementation and sustainable results through a holistic approach to solving the problems of people with disabilities in the areas of healthcare, rehabilitation and social protection, including a rights-based approach, an intersectoral approach, personalized, person-centered services, a comprehensive approach, and empowerment and opportunities for people with disabilities and their families. Although the Program mentions provision to people with disabilities the same set, quality and level of free or low-cost health services and programs as to other people, including in the area of sexual and reproductive health and the public health programs offered to the population, it does not establish any indicators on RSHR. In the Action Plan for the implementation of the Program, the Ministry of Health and Social Protection is indicated as the main implementer. It is planned to fund activities of the program in the framework of the funds provided. Specific amounts for events are not established in the Program.

In 2019, a separate *State Reproductive Health Program for 2019-2022* was adopted. There are no references to PWD, their access to education on RSHR and services. The appendices to this Program have a number of indicators to track the implementation of the Program. However, none of the results and indicators include disaggregation of data by disability. One of the appendices also includes a detailed budget for the Program. It stipulates that for the

implementation of all the results and activities of the Program, 2'074'398.90 US dollars will be required.

The Republic of Tajikistan also has the *National Strategy for the Promotion of the Role of Women in the Republic of Tajikistan for 2011-2020* and the *State Program for the Prevention of Domestic Violence for 2014-2023*. They do not include the protection of women and girls with disabilities from violence.

3.2. Laws

In 2017, the Republic of Tajikistan adopted the *Health Code of the Republic of Tajikistan*. The Code contains a wide range of provisions related to healthcare management, provision of various types of medical care, guarantees of the rights of patients, the rights and obligations of medical institutions and workers, as well as certain types of assistance to people with HIV/AIDS, diabetes mellitus, tuberculosis; persons suffering from drug addiction; persons with mental problems and so on. It also establishes the concepts of **reproductive health; reproductive right; group at risk; vulnerable groups**. The Code establishes general provisions on reproductive rights and health for all categories of citizens without a special mentioning of the PWD.

In 2010, the *Law of the Republic of Tajikistan "On Social Protection of Persons with Disabilities"* was adopted in the Republic of Tajikistan. Under the social protection of persons with disabilities, this Law refers to a system of economic, social and legal measures guaranteed by the state, providing the disabled with conditions for eliminating, replacing (compensating) for life restrictions and creating equal opportunities like for other people to participate in society. This Law does not contain the concept of multiple discrimination of PWD and their protection in case of such discrimination. Also, this Law does not contain any guarantees of the RSHR of PWD, mechanisms to exercise their reproductive and sexual rights, and guarantees of the availability of reproductive and sexual health services.

With regard to the rights of girls and women, the Republic of Tajikistan has two laws: *the Law of the Republic of Tajikistan "On State Guarantees of Equal Rights of Men and Women and Equal Opportunities for Their Implementation"* and *the Law of the Republic of Tajikistan "On Prevention of Domestic Violence"*. Both Laws do not consider girls and women with disabilities as categories of citizens who need special guarantees of equality and protection from violence.

4. Conclusions

None of the 4 laws studied include issues of RSHR of the PWD. The Health Code of the RT addresses the issues of RSHR of all citizens. According to the opinion of drafters of the Code PWD are also covered. A review of policies, strategies and laws demonstrated that none of the documents reviewed fully reflects the full scope of the RSHR of the PWD as recommended by the international standards in this area. Sexual rights and sexual health are not defined in the national legislation in the same manner as reproductive rights and health are defined by the Health Code. The legislation of the Republic of Tajikistan on gender equality and protection against domestic violence does not address the issue of RSHR of girls and women with disabilities and, in particular, their protection from gender-based violence and multiple discrimination. The Law of the Republic of Tajikistan "On Social

Protection of Persons with Disabilities” does not include issues of RSHR of PWD. It does not include in the articles on education guarantees of education and awareness of PWD on their reproductive and sexual rights, taking into account accessibility requirements. The Health Code does not provide a guarantee for the inclusion of PWD in all types of medical care, taking into account accessibility requirements. State Reproductive Health Program for 2019-2022 does not separately include issues of access of PWD to RSHR. In terms of resources for the implementation of strategies, the MDP for the period 2016-2020 establishes the amounts required for the implementation of measures, but does not include information about real resources spent on their implementation. There is no publicly available information on the implementation of activities and the costs of their implementation. The Program on Rehabilitation of PWD also does not include any information about resources.