

**Joint UPR Submission by NGO coalition  
Concerning Child Rights Situation  
in Georgia, July 2009**

NGO Charity Found “Caritas Georgia”, NGO Union “Children of Georgia”, NGO Union “Ia”, NGO Union “Child and Environment”, NGO Union “Saphari”, NGO Union “Support to Parents”, NGO Consulting Center for Women “Sakhli”, NGO The Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims, NGO Global Initiative on Psichiarty-Tbilisi, NGO Public Health and Medical Development Fund of Georgia – Child Support Center, NGO Association for helping children with hearing and speech problems, NGO National Network for protection from violence, NGO Association “Anika’ in cooperation with Child and Woman’s Rights Centre at the Public Defender (Ombudsman) office of Georgia

**1. Introduction**

This report was prepared based on the analysis of information and statistics provided by participant NGOs - in line with the *Information and Guidelines for relevant stakeholders on the Universal Periodic Review (as of July 2008)* issued by Office of the High Commissionaire for the Human Rights. The factual statements contained in report have been verified through continuous electronic communication with the stakeholders and member checking technique of validation. Joint workshops ensured incorporation of all significant comments on the document by stakeholders. UPR reporting period for Child Rights situation in Georgia covers the period of 2005-2009 years.

**2. Background**

Georgia ratified UN Convention on the Rights of the Child (hereinafter UN CRC) in 1994. Third periodic report of the Country in 2006 has provided set of recommendations directed at improving child rights situation in Georgia. Actions are undertaken to implement these recommendations.

Child welfare reform, initiated by Georgian government with the support of international and local NGOs started in 2004. For the effective implementation of the reform action plans were adopted in 2005-2007, 2008-2011, which served as the framework for implementing pilot programs of prevention, reintegration and alternative care services for children under state protection.

During reference period, many positive changes were made in terms of updating legislation and bringing it to compliance with the UN CRC and implementing new child care programs.

However, vulnerable groups of children in particular, children without parental care, street children, children with disabilities etc., are still exposed to problems such as poverty, lack of social integration, lack of accessibility of health and social services etc<sup>1</sup>.

One of the complex problems is the major tendency of perceiving a child as an object of care. This approach is visible in certain decisions and regulations of state agencies: e.g. children under age 10 are not asked about their opinion concerning adoption.

Principle of "the best interest of the child" does not always find its reflection in legislative acts, moreover voices of children are not heard during decision making process. All these issues underpin the concrete problematic areas of child rights reported below.

### **3. Legal Status of the child (definition of the child)**

According to the Civil Code of Georgia, child is defined as person from birth to the age of 18, the age of majority<sup>2</sup>.

State authorities in the third periodic report to the UN CRC refer to country's criminal code - defining minimum age of criminal responsibility at the age of 14. It should be emphasized, nevertheless, that the Parliament of Georgia on May 23, 2007, amended the Criminal Code of Georgia (article 33) and lowered the age of criminal responsibility from 14 to 12 for the commitment of utmost grave crimes<sup>3</sup>.

It should be noted that amendments introduced were not in compliance with the aims and principles of the UN CRC and other international standard setting acts concerning minimal age regulations. For this reason, with the active support and lobbying of international and national stakeholders sets of recommendations issued by the Public Defender of Georgia, government turned down this novelty which was important step in terms of fulfilling Child Rights in the country.

### **4. General measures of implementation**

#### **4.1. Legal framework**

It must be mentioned that there is no full compliance/harmonization of Georgian legislation with UN CRC<sup>4</sup>. Besides, a comprehensive legislative act concerning protection of rights of child is still lacking

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<sup>1</sup> Implementation of the convention on the rights of the child in Georgia: an alternative report, August 2007

<sup>2</sup> Civil Code of Georgia, Article 12

<sup>3</sup> Violence against children in Georgia, an alternative report to the UN Committee on the Rights of the child on the implementation of the Convention on the Rights of the Child, 47<sup>th</sup> session, January 2008.  
[http://www.omct.org/pdf/cc/2007/crc/Georgia\\_Alt\\_report\\_CRC\\_Sept07.pdf](http://www.omct.org/pdf/cc/2007/crc/Georgia_Alt_report_CRC_Sept07.pdf)

<sup>4</sup> Esadze, L. (2007). *Views about the Relevance of the Child Welfare Code*. "EU Support to Child Welfare Reform Project, Georgia."

in Georgian legislative framework. Along with other legislative acts child rights are regulated by the following laws and legal acts: Georgian constitution, Law of Georgia on the Elimination of Domestic Violence, Child Care Standards<sup>5</sup>, reform of juvenile justice system, Law of Georgia on Foster Care, Law of Georgia on Social Assistance, and Law of Georgia on State Pension - Children Welfare Action Plan for 2008-2011.

**Recommendation:** Harmonization of Georgian Legislation with the UN CRC - Appropriate integration of the general principles of the Convention, namely, articles 2, 3, 6 and 12, in all relevant legislation concerning children and creation of comprehensive legislation act concerning child rights protection - will significantly improve legal framework for the protection of child rights in Georgia.

## **4.2 National Child Action Plan**

Georgian government with the support of international organizations has adopted “Child Welfare Action Plan” for 2008-11 years which is directly linked with the previous action plan for 2003-2007. Governments undertakes significant measures for implementing activities planned within the action plans, however, it should be noted that there is no monitoring body established by the government, though, the Centre of Child and Woman’s Rights at the Public Defender’s office of Georgia within its mandate is undertaking this function.

**Recommendation:** Establishing of strong monitoring system of Child welfare reform will significantly improve full realization of Child Action plan in Georgia.

## **5. General Principles**

### **5.1 Equality and nondiscrimination**

Anti-discrimination provisions established in legislation of Georgia are not in full accordance with the article 2 of UN CRC. According to the UN Child Rights Committee<sup>6</sup> the legislation do not cover all vulnerable groups, such as: children with disabilities, minority and IDP children. These groups are still in isolation from the general society. Representatives of ethnic minority and IDPs accessibility to the basic health and educational services are often limited. For instance, Roma children do not receive general obligatory education and they mostly have to live in the poverty and face other social problems than ethnic Georgian children<sup>7</sup>.

### **5.2. Best interest of the child**

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<sup>5</sup> Order #281/n of the Minister of labor, health and Social Affairs referring “Adoption of the Child Care Standards”, August 26 2009.

<sup>6</sup> CRC third alternative report , coordinated by Every Child

<sup>7</sup> World Bank (2005). Millennium Development Goals: Progress and Prospects in Europe and Central Asia. World Bank: Washington, D.C.

Georgian legislation, national policy in terms of child rights protection is not in accordance with the article 3 of the UN CRC , which declares that significant consideration should be paid to ensuring a better protection of child interests and hearing child voices. An example of this might be regulations about child adoption.<sup>8</sup> Article 16 of the Law of Georgia on Adoption and Foster Care establishes some limitations to adoption. Namely, paragraph 1 of the article states, that “*adoption of children of 10 or over 10 years old without their consent is prohibited*”. Consequently, social worker who is responsible for drafting of conclusion on a child to be adopted does not take into consideration opinion of a child if (s)he is under 10 and what is most noteworthy, the child’s opinion or desire is not of decisive importance.

**Recommendation:** Ensuring non-discrimination and consideration of the best interest of the child of all groups of children through comprehensive legal and policy framework will significantly improve existing child rights situation in Georgia.

## **6. Family Environment and Alternative Care**

### **6.1 Children at child care institutions**

According to the research on child poverty in Georgia<sup>9</sup> - poverty is largely spread within the country. Consequently, children face higher risk of poverty than other parts of population. 12% of children compared to 9% of the general population live in extreme poverty, while 28% of children compared to 24% of the general population live under the total poverty line.<sup>10</sup>

This situation stimulates growth of the flow of children to state-operated child care institutions.

In general, the number of children in childcare institutions has been significantly decreased since 2004 due to implementation of child deinstitutionalisation process by Governments (from 5.200 to 1.276 children, including 112 children with development difficulties). The number of State social workers responsible for assisting families, reintegration and matters of entrusted upbringing increased from 51 (in 2006) to 200 (in 2010). State funds allocated to the Child Care Program increase yearly: in 2004, the funds allocated to that effect equalled 6.7 million GEL, while in 2009, it reached 15,743,436 GEL<sup>11</sup>.

However, monitoring of child care institutions<sup>12</sup>, conducted on regular bases by the Public Defender Office during 4 years has shown systematic problems regarding: lack of awareness among children concerning their rights, different forms of physical ill-treatment and psychological abuse from peers as well as from the personnel of the child care institutions, facts of child forced labour, living conditions below minimal standards, discrimination on the basis of ethnic background, gap in participation in

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<sup>8</sup> PDO report, State of Human Rights in Georgia, second part of 2009

<sup>9</sup> Child poverty in Georgia, UNICEF, 2008 [http://www.unicef.org/georgia/resources\\_6521.html](http://www.unicef.org/georgia/resources_6521.html)

<sup>10</sup> The differences in poverty rates between families with children and childless families are statistically significant at  $p < 0.001$ .

<sup>11</sup> PDO report, State of Human Rights in Georgia, second part of 2009

<sup>12</sup> PDO report, State of Human Rights in Georgia, second part of 2009

decision making process concerning child education and health, lack of consideration of and respect for interests and opinions of a child, problems with the protection of confidentiality at child care institutions, inadequate clothing and medical supplies, hygiene facilities.

It should be noted that in boarding schools, which are designed for children with special needs or disabilities, the placement of children, who are not in need of such needs is often observed.

According to the research done by Strategic Research Institute<sup>13</sup>, inclusion of children in local community schools in 2006/2007 is positively assessed, but often inclusion of institutionalized children are run painfully because of existing stigma in the society.

Concerning children placed in alternative care services many NGOs report about inappropriate treatment and living conditions at host families, which is mainly due to non-existing systematic monitoring from the state. As is noted, foster families living in poorest condition are often motivated to get monetary benefits for providing alternative care to child without parental support and often with severe disabilities. The limited amount of monetary benefit is neither enough for the child nor for the other foster family members which are often unemployed. Unfortunately, no other social-economic support or child care facilities are offered to these host families, which often puts them in unfavorable situation.

## **6.2 Young People due to leave child institution at the age of 18**

Findings of research<sup>14</sup> show that young people reaching age of 18 when they have to leave child institutions<sup>15</sup> – face many problems: that they do not possess basic skills needed for independent living and are at high risk of ending up living in the streets, engaging in prostitution or criminal activities.

It is important to note that care-leavers (children over 18 years under state protection) are eligible to receive education grants for financing their tuition fees at the accredited higher education institutions and professional education centers. Other than this, no after settings to independent living are provided.

With the exception of the NGO programmes (e.g. SOS Children's Village – SOS youth receive the comprehensive package of services and programmes till the age of 23, which helps them to be better prepared for independent living) existing living care services in Georgia do not foresee gradual transition of children from care services to independent living. These children have had literally two choices in 2006-2009 years period: to move to other state institutions which were for different target

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<sup>13</sup> Development of Principle directions for the support of state policy of child welfare and deinstitutionalization. Strategic Research Institute. 2006

<sup>14</sup> "Situation Analysis of Young People Ageing out of Care in Georgia" – SOS Children's Village Georgia, 2008

<sup>15</sup> Order #52/n of the Minister of Labor, health and Social Affairs of Georgia Concerning "adoption of the conditions regarding placement and transfer of a person in special institutions", February 26, 2010.

groups: e.g for elderly, for persons with mental problems or, to go to live in the street without any guarantees for survival.

**Recommendation:** Ensuring quality care of children at child institutions and alternative placements, as well as, more systematic approach to deinstitutionalization and transition of children from institutional to community settings will significantly improve condition of children under state protection.

## 7. Internally Displaced Children

Due to armed conflict in August 2008, at least 158,000 ethnic Georgians and Ossetians fled their homes in South Ossetia and Georgia, 128,000 of whom became IDPs. UNICEF estimated that as of 1 January 2009, 12,000 children were displaced in Georgia since August 2008.

In addition, some 300,000 people fled conflicts in or were expelled from Abkhazia and South Ossetia in the early 1990s. Since then, the number of IDPs has not decreased, as next generation of original IDPs are provided with the same status. In 2004-2005, the Ministry of internally Displaced persons from the Occupied Territories, Accommodation and Refugees with the support of UNHCR and Swiss government, updated a number of IDPs. More than 103,000 were identified as children<sup>16</sup>.

IDP children as well as children living in “buffer zone” face multiple problems in everyday living, education and health-care accessibility. Children living in “buffer zone” are not fully secure, which is clear from the facts of their kidnapping. Georgians residing in Gali – including children - have also been reported to be forced by armed men to gather hazel nuts during the summer harvest. It is not clear whether these armed men were linked to Abkhaz authorities, or were criminals<sup>17</sup>. There were very few reported cases of sexual violence and abuse, either because it rarely occurred or because it was not reported as this topic is considered a taboo. IDP children had to attend special IDP schools, however this practice has been changed positively through their integration in mainstream schools.

IDP children still experience severe stigmatization which often hinders their social and educational integration as well.

**Recommendations:** IDP children should be provided with better security and community integration measures. Provision of adequate living, educational and health care services should be a priority to implement in the nearest future.

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<sup>16</sup> Georgia: IDPs in Georgia still need attention, a profile of the internal displacement situation, 9 July, 2009, Internal displacement Monitoring Centre [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/4B92F2DAA0173529C12575EE004101F9/\\$file/Georgia+-+July+2009.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/4B92F2DAA0173529C12575EE004101F9/$file/Georgia+-+July+2009.pdf)

<sup>17</sup> Georgia: IDPs in Georgia still need attention, a profile of the internal displacement situation, 9 July, 2009, Internal displacement Monitoring Centre [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/4B92F2DAA0173529C12575EE004101F9/\\$file/Georgia+-+July+2009.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/4B92F2DAA0173529C12575EE004101F9/$file/Georgia+-+July+2009.pdf)

<sup>18</sup> Georgian New IDP strategy awaits implementation, internal displacement monitoring agency/NRC [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/F1D28E18F4A46E79C1257371002B73CC/\\$file/Georgia Overview Oct07.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/F1D28E18F4A46E79C1257371002B73CC/$file/Georgia%20Overview%20Oct07.pdf)

## 8. Accessibility of health care and social services

Major source of health care for vulnerable population including poor families with children is the small circle of state programs and state medical insurance under social benefit package for households beyond poverty line. By January 2009, the TSA (**means-tested targeted social assistance**) database included over 500,000 applicant households (1.65 million people), of whom over 140,000 households (395,000 people) were receiving cash social assistance. In addition, a larger group from the database—some 257,000 households (751,000 people)—receive vouchers providing them with medical insurance for a package of health care services<sup>19</sup>. Though as many NGOs report, poor families with children still find it difficult to get access to TSA and, subsequently are left without any significant monetary assistance and health care-package. Recently introduced (2010) advancements in assessment procedures of the households is expected to give positive turn-over to this situation – effectiveness of which will be evaluated after several months through the evidence testing new methodologies.

School children are least informed about reproductive health issues as well.

Children with disabilities encounter serious problems due to problems with identifying their disability status. Disability status determination is still strongly directed by medical approach. The latter means that mostly children with strong manifestation of symptoms of illness are eligible to get disability related health and social services. As parents of these children report, many conditions (e.g. autism) are not regarded as sufficient reason to identify need for special medical, social and educational interventions for the child. Subsequently, these children and their families are also deprived of health and social assistances.

NGOs underscore about lack of prevention measures against drug-addiction and public health campaigns for promoting healthy life-style. Prevention activities are conducted in a fragmented and un-systematized way by different non-governmental organizations without hard scientific evidence, which sometimes results in unintended harm to children.

**Recommendation:** Full access to comprehensive health care should be provided to all children, including vulnerable groups, including children with disabilities. Public health measures along with preventive measures are the objectives to tackle with children of all age-groups throughout Georgia.

## 9. Education

Inclusive education has significantly progressed in recent years. Since 2006, with the support of the Norwegian Government, inclusive Education reform represents one of the well-established priorities

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<sup>19</sup> UNICEF: Assessment of the Child Welfare Reform Process in Georgia, Final report, Clare O'Brien & Tata Chanturidze. [http://www.unicef.org/georgia/OPM\\_report\\_edited.pdf](http://www.unicef.org/georgia/OPM_report_edited.pdf)

for the country. Georgia has reached important progress in piloting inclusive education in the capital as well as in regions, however certain problems remain unsolved, such as lack of educational and rehabilitation professionals (e.g. special teachers, occupational therapists, speech and language therapists) to provide special training for children with educational needs; lack of adapted transportation for children with mobility problems; lack of adapted-technology devices for children with sensory problems; lack of adapted physical environment at schools (students with disabilities cannot reach different facilities at schools.)

Significant deficit of pre-school educational and care facilities for children with special needs is apparent. Tbilisi City Council has undertaken certain measures to introduce inclusive approach in some kindergartens, but the number of these facilities is less than ten. NGOs again provide significant efforts to fill this gap, but their work is very dependent on the financial support provided by international donors, which makes them fragile to changing environmental context.

Particular lack of accessibility for children with special education needs is observed in the regions of Georgia, where still most of the children with mobility problems are simply kept at home.

**Recommendation:** Obligation to provide accessible education should be ensured through multiple measures, such as training of professionals and providing adapted environment. Regions should be more engaged in introducing inclusive education including in pre-school institutions.

## 10. Juvenile Justice

Reform of the juvenile justice system has been declared as countries priority in 2008 and it guided multiple actions for improving conditions for children in the system. However, several problems remain unsolved in this field, among others: girl convicts remain in the same detention facilities as adults, since there is no separate institution for them; lack and inadequate medical assistance is still remarkably problematic in places of detention, particularly in regard to medication supplies. Living conditions for all children in conflict with law are still inadequate at juvenile justice facilities: 20-25 persons stay in one room, convicts do not possess personal boxes and private space. Bullying remains the hot issue which is connected with their age peculiarities<sup>20</sup>

Lack of space at juvenile justice settings hinders also educational and social activities of children; qualification of personal often does not meet international standard requirements<sup>21</sup>.

Positive changes in this area include initiative of the Ministry of Education and Science to introduce educational programs that enable all juvenile convicts to fulfill secondary education and get appropriate certificate.

One of the persisting problems is that juvenile convicts (boys) are transferred from juvenile justice settings to regular prisons as soon as they reach 18 that cause them to quite their education.

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<sup>20</sup> data from NGO Union "Safari"

<sup>21</sup> Implementation of the convention on the rights of the child in Georgia: an alternative report, August 2007



**Recommendation:** Juvenile justice reform should take into consideration existing problems in juvenile justice settings as well as issues related to provision of education for victims above 18 years.

## **11. Children in the street**

First significant in-depth study of the conditions of “children in the street” was conducted in 2008<sup>22</sup> It revealed around 1600 children staying in streets. Those children are mostly engaged in begging or other type of anti-social behavior. They face significantly higher risk for sexual exploitation and trafficking, are fully deprived of educational opportunities and health care.

Measures of the Ministry of Labor, Health and Social affairs for resolving these problems appear inadequate. - by the report of NGOs: Resolution No118/n of the Ministry of Labor, Health and Social Affairs on “Approval of the state program on Child Care for the year 2009”, adopted in March 23, 2009, presented amendments which factually restricted participation of these children in day-care center programs.

This resolution basically undermines NGOs’ work of several years, during which, with the assistance of foreign donors in Georgia, four day-care centers, oriented towards the needs of street children were established. During several years these NGOs were implementing their activities within the framework of the state program on child care, but in line with the abovementioned amendments of 2009, new conditions were set for getting these services: family of the child should be registered in the database of population below poverty level.

The majority of the families of street of children have not been assigned the status of “households under the poverty line” as these families do not possess housing (which is necessary condition for inclusion in database).

The only social service that street children can get presently is the twenty-four-hour shelter, designated for only 40 children throughout Georgia.

**Recommendations:** Special measures should be undertaken by the States to improve conditions of the street children urgently, including accessibility of educational, health and social services.

## **12. Violence against children**

First national study on violence against children was conducted in 2007-2008.<sup>23</sup> It identified significant trends of violence against children. Children in child care institutions considered they had suffered neglect since coming to live in the institutions with significantly more girls (38.6%) than boys

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<sup>22</sup> “Don’t call me a street child” Estimation and characteristics of urban street children in Georgia, UNICEF, Save the Children, USAID, ACT Marketing Research and Consulting  
[http://www.unicef.org/georgia/Street\\_children\\_survey\\_eng\(1\).pdf](http://www.unicef.org/georgia/Street_children_survey_eng(1).pdf)

<sup>23</sup> National Study on Violence against children in Georgia, UNICEF, PHMDF  
[http://www.unicef.org/georgia/Violence\\_Study\\_ENG\\_final\(1\).pdf](http://www.unicef.org/georgia/Violence_Study_ENG_final(1).pdf)

(26.3 %) reporting neglect in the last year. The neglect experiences most frequently reported were those relating to lack of support or feeling unimportant. Both boys and girls in the youngest age group studied (11-12 year old) seemed to be particularly vulnerable, with 85.6 % reporting physical violence, 68.8 % psychological violence and 37.6 % neglect. Sexual abuse by another child or adult within the institution was reported as having happened since coming to live in the institution by 17.3% of the children. For the last year 16.6% of the children reported sexual abuse.

Significant number of schoolchildren and their parents apply for assistance to different NGOs and to the public defender office <sup>24</sup>with the complains about emotional and psychological violence at school settings: applicants indicate facts of violence from school administration and teachers towards children. Namely: of psychological, verbal insult, degrading treatment, coercion of children into actions against their will.

The Law of Georgia on General Education indicates the importance of inadmissibility of violence towards children and ensuring their safety (article 20), although it is important to state, that the responsive measures, provided for in paragraph 1 of given article are limited to measures focused towards prevention of verbal and physical violence. Despite a three-stage mechanism of appealing, in majority of cases it is impossible to establish, that the facts of psychological and emotional violence had taken place, which is confirmed by the applications.

**Recommendation:** Systematic approach towards combating violence against children should be elaborated by the State authorities, with particular focus on identifying and responding to such cases of violence, rehabilitation of victims, promoting non-violent settings.

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<sup>24</sup> PDO report, State of Human Rights in Georgia, second part of 2009