

Contribution to the Universal Periodic Review Mechanism

Joint Submission by NGO Coalition to the Universal Periodic Review Committee concerning the rights of People with Disabilities in Georgia, July 2009 (the report covers the period of 2007-2009).

Coalition for Independent Living (the coalition consists of the following organizations: NGO “League of Persons with Disabilities”, NGO “Para Olympic Committee of Georgia”, NGO “Union of Social Rehabilitation of Children with Disabilities”, NGO “Association Anika”, NGO “Association of Women with disabilities of Georgia”, NGO “Association for Support of Children with Hearing and Speech Impairments”, NGO “Deaf Union of Georgia”, NGO “Blinds Union of Georgia”, NGO “Hemophilia and Donors’ Association of Georgia”, NGO “Gori Club of Persons with Disabilities”, NGO “Association Child with Disabilities, Family, Community”, NGO “Children’s Home of Harmonic Development”, NGO “Union Bridge of Parents”, NGO “Association for People in Need of Special Care”, NGO “Union of Warriors and Veterans with Disabilities “Demetre Taviddebuli”, NGO “Library”, NGO “Cultural Center Support”, NGO “Union of Employment of Enterprisers with Disabilities”), NGO “Global Initiative in Psychiatry-Tbilisi (GIP)”, NGO “Children of Georgia”, NGO “First Step Georgia Foundation”, NGO “Portege Association of Georgia”, NGO “Association of Women with Disabilities and Mothers of Children with disabilities-DEA”, NGO “Every Child”, NGO “Association of Psychiatrists”, NGO “Support for Parents”, NGO “Karitasi”, NGO “Youth Center for Independent Living”;

In Cooperation with the Center of Disability Rights at the Office of Public Defender of Georgia.

Introduction:

1. In the context of Universal Periodic Review Mechanism we wish to pinpoint some crucial aspects about the situation of human rights of Persons with Disabilities in Georgia. The authors of this report are the NGO’s and national human rights institution, which work in the field of the Disability Rights.
2. The main activities of the authors of this report include promoting full respect of human rights and non-discrimination based on disability; advocating for the interests of persons with disabilities; protection of the equal civil rights and opportunities; developing the philosophy of independent living; introducing the universal design in the physical environment; monitoring, advocacy and civic education; leading to continuous improvements to the accessibility of services and conditions for all disabled.

I. The Ratification of the Convention on the Rights of Persons with Disabilities (CRPD)

3. Georgia signed the Convention on the Rights of Persons with Disabilities and its Additional Protocol on July 10, 2009. However it has not been ratified by the Parliament yet.
4. **Recommendation:** The authors of the report urge the government of Georgia to ratify the CRPD in the nearest future.

II. The Concept for the Social Integration of the Persons with Disabilities, Action Plan and the Coordination Council.

5. On December 2, 2008 the Parliament of Georgia enacted the decree about the concept for the social integration of the persons with disabilities (hereinafter PWDs) (the concept is based on the social model). This fact should be considered as the step forward. The Government started elaborating the action plan only 3 months earlier before the deadline. This point had a very negative influence on the working process. The measures prescribed by the action plan are not concrete, the indicators are not countable and these aspects cause serious doubts about the value of the document. The plan is not based on the research which describes the existing situation. Thus, the important measures of the action plan are based on the abstract processes and objects. This aspect will make it harder to evaluate the results of the action plan. Moreover, it should be noted that the plan is oriented on the quantitative indices and it cannot solve the substance of the problem. In the process of elaboration of the action plan the special necessities of the people with mental disabilities were not taken into consideration.
6. The proposals of the civil society were not considered and engagement of civil society was not guaranteed which can be considered as a serious shortcoming of the whole process.
7. In 2009 the Government of Georgia established the Coordination Council. The goal of the Council is to plan the state policy for the problems of the people with disability, to coordinate the elaboration of the state programs and supervise their execution. The council involves the representatives of the Government, the Parliament and the Non Governmental Organizations. According to the statute of the council it should meet at least once in 3 months. However, the members of the council have not met yet and the council is not able to carry out the responsibilities prescribed to it under the legislation.
8. **Recommendation:** The action plan should be revised with the participation and involvement of the civil society. The Coordination Council should carry out its responsibilities to plan and execute the state policy for the PWDs.

III. The Poverty and Disability

9. There is the state program in Georgia for the support of the social rehabilitation of the PWDs, elders and the children family care. Some changes occurred in this program in 2010. According to the amendments, in order to get the benefits of the program there is a need to be registered as a family unit with income below poverty line.
10. The authors of the report consider that a State has an obligation to act to provide PWD equal rights and enough protection notwithstanding whether they are below the poverty line or not.
11. It is noted, that addition of the new criteria will cause obstacles for the families who are close to the poverty line and they might appear below the line in the future as well. Even if they are not under poverty line, they are not able to pay for the service of the Disability Day Centers. Moreover, additional disadvantage in such a case is that a parent/guardian stops working in order

to take care of the PWD family member. Thus, material conditions of the PWD worsen and the number of the families below the poverty line will increase.

12. **Recommendation:** Providing the service to the PWDs should not be defined by the degree of the poverty, but by the specificity, degree of the disability and the actual necessities.

IV. Statistics and Data Gathering

13. The State does not have statistics regarding PWDs. The only data that the state holds is how many PWDs receive the pension. The lack of statistical information makes it more difficult to reform the system and protect the rights of the PWDs effectively.
14. **Recommendation:** State should conduct the research and elaborate statistical data on the PWDs and their necessities in the nearest future. Further changes in this sphere should be based on this data.

V. Legislation

15. In some cases the context used by the legislation is stigmatized and outdated. The Law of Georgia on Social Protection of Persons with Disabilities was enacted by the Parliament in 1995. There is a need to revise the Law in order to ensure that it reflects the reality. For example, Article 2 defines the term “the Person with Disability” and it stresses on the medical aspect of the PWDs, instead of the social one.
16. Code of Administrative Crimes of Georgia provides that each building in the country needs to be PWD accessible. It is an administrative crime to ignore these obligations during the construction. However, this provision of the law cannot be implemented in practice, since the Ministry of Labor, Health and Social Protection is entrusted with this function, however, this institution does not have the structural unit which would implement the function.
17. **Recommendation:**
 - The legislation of Georgia should be amended in accordance with the regulations of CRPD.
 - The stigmatized and degrading terms should be amended by the modern terms. The definition of “the Person with Disability” should be brought in accordance with the international standards.
 - The effective instruments should be defined to ensure the execution of the regulations of the Code of Administrative Crimes of Georgia.

VI. Status

18. On May 1, 2007, the administration and procedure of defining the status of PWDs was amended. These changes left thousand of PWDs without the state benefit – pension.
19. Currently each medical institution can define the status of the disability in Georgia. Doctors do not have the competence to define the social aspect of disability and besides, criteria are not valid. Consequently, the status of PWDs is defined nosologically, based on the medical aspects only.
20. There are hard social-economic conditions and the high rate of unemployment in Georgia. In the most cases the reason to apply for the status of the PWD is not rehabilitation, but the main motivation is to receive the pension. Sometimes the applicants artificially aggravate their conditions in order to satisfy the criteria for the PWDs.

21. The abovementioned system is characterized with the special difficulties for children. If the child does not have the status of the PWD, he/she will not be able to participate in the state program and receive a monetary assistance. There are almost 20 diagnostic groups prescribed in ICD 10 concerning the problems about the development of the child, which cannot be discovered until the age of 5 (in the case of special aggravated circumstances until the age of 3). Consequently, children who are characterized with the problems in the development (but do not have the final diagnose) are not able to receive the assistance from the state.
22. **Recommendation:** The status of the PWD should be defined in accordance with the social model. To achieve this goal, each case should be solved on its own basis; the procedures of the social and medical evaluation of PWDs should become easier; the criteria should be precise and unequivocal; the evaluation should be conducted by the qualified specialists; the monetary benefits should be minimized and it should be changed by the social services.

VII. Access to the Environment

23. In general the environment is not accessible for the PWDs in Georgia. This problem is typical in each field including the social infrastructure. The majority of the traffic lights, the pedestrian underpasses and footbridges are not designed in accordance to the individual necessities of the PWDs.
24. **Recommendation:** PWDs should be involved in the decision-making process concerning the planning and arranging the physical environment, in order to ensure their accessibility to the infrastructure.

VIII. Institutions

25. In the last time there were some important steps forward in the process of deinstitutionalization. The main recommendation of the authors of the report to the Government of Georgia is to continue this process and to accelerate the reforms in this field.

a. Infants' House (0-6 years old)

26. There are 2 Infants' Houses in Georgia for the children under the age of 6. They are in Tbilisi and in Kutaisi. The lack of the adaptive inventory is an acute problem. There are not enough wheel chairs, adaptive chairs and tables or they do not fit the physical size and the necessities of the children.
27. Children spend most of the time in beds. The number of the staff members is not enough and they get in touch with the children only during the feeding and the hygiene procedures. They do not have the time for the social interaction with the children.
28. Sometimes the Infants' Houses are not able to satisfy the medical necessities of the children as the insurance package provided by the state is not sufficient.
29. **Recommendation:** The state should support the development of the specialized day-care centers, which will provide the adequate care, rehabilitation for the children and consultative assistance for their parents. The staff at the Infants' Houses should be trained in accordance with the necessities of PWD children; the problem concerning the adaptive inventory should be solved; adequate medical and rehabilitation service should be provided for the children.

b. Disabled Children's Houses (6-18 years old)

30. There are two disabled children's houses in Georgia, in Senaki and in Kojori. They serve children from the age of 6 to 18; however, there are some cases that the children under the age 6 or over 18 are living at these houses too. There were some steps forward in this field by the Government of Georgia but there still are the serious problems.
31. The rehabilitation arrangements are not conducted at the Houses. There are no schools and the day-care centers where the children would be able to study. There is no teacher among the staff and there were only several cases when children were involved into the inclusive educational programs. Just two entertainment groups are formed at the Houses and they cannot answer the necessities and the interest of the different age groups. The Houses are not provided with the books and the toys for children.
32. **Recommendation:** The system of entering and leaving the disabled children's houses should be determined and strictly executed. The education should be provided to the children by establishing day-care centers or their involvement into the inclusive educational programs. At least the teachers should be added to the staff in order to give the informal education to the children. Diverse entertainment and professional groups should be established to achieve the children's involvement and their rehabilitation.

c. School-orphanage

33. There are 14 orphanages in Georgia; five of them are in Tbilisi. The main problem is the financing based on the voucher as it is not sufficient for the necessities of the school-orphanages. The system of entering to the orphanages should be improved as well. Sometimes healthy children because of the social and material problems are brought to the orphanages, which are arranged for the PWD children.
34. The physical environment is not universal and suitable for the children in some of the orphanages. The hygiene of the children is not properly protected. They are isolated and are not supported to involve into the society and rehabilitate.
35. The education provided in the orphanages is not adequate, the abilities of the children are not developed and their potential is not properly realized. There are no individual educational plans in the most cases. The classes are often cancelled. There are the students from the different age groups (sometimes 12 years old student is in the 1st class, the students over 18 are at schools). Sometimes children talk about the facts of corporal punishment and violence (they are beaten; they have to wash the clothes and dishes).
36. The lack of the qualification of the teachers is the important problem as well.
37. **Recommendation:** The authors of the report realize that the abovementioned problems are known to the Ministry of Education and Science of Georgia and they are working to improve it. The authors hope that the following problems will be solved: The state should define the precise criteria of entry into the school-orphanages. The inclusive education should be supported by the state and the children should be taken to the public schools. If it is not possible to take the children to the public school, the educational environment should be created at orphanages to support the development of their potential. The physical environment should be improved and the universal design for the PWD children created. Teaching method at the orphanages should be revised and it should be oriented on the student and his/her necessities.

d. Dzevri Boarding House.

38. Dzevri boarding house for the PWDs is designed for people with psychical disabilities. It is the specialized institution in this field (There are two such institutions in Georgia – Dzevri and Martkopi boarding houses. The Martkopi boarding house has just opened). Although the Government conducted reforms to improve the situation, the proper conditions for the entertainment and rest in the Dzevri boarding house is not guaranteed in the institution. The conditions do not support the social rehabilitation and the integration process into the society.
39. The main problem in the boarding house is the lack of the therapeutic staff and it is not oriented on the therapeutic treatment of the PWDs. There are no individual development plans for the beneficiaries. Their free time is not properly planned with the activities. They spent the most of the time in the living room and foyer and the conditions in these places are unsatisfactory, the heating is not sufficient in winter.
40. There are not effective mechanisms to prevent and identify the sexual violations in the boarding houses.
41. The administration does not have the identity documentation of the majority of beneficiaries. If a beneficiary gives birth within the institution, a child is taken to the different institution and parents are not able to live with him/her.
42. The supply of the medicines is not effective in the boarding house. They are provided 10 days later after request is made. Such management is dangerous in the case of urgent need.
43. **Recommendation:** The number of therapeutic staff should increase in the boarding house. The individual development plans should be elaborated for each beneficiary. The risks of sexual violence should be identified and prevented. The parents placed within an institution should be able to live with their children. The buildings which need the maintenance should be repaired and the universal design should be established. The hygiene control and disinfection should be conducted regularly.

e. Conditions in Hospitals for mental Diseases

44. Although there were some positive changes in the last years, generally it may be assumed that the environment in psychiatric hospitals is non-therapeutic, degrading and intervenient for the recovery of beneficiary. The institution doesn't have enough middle and ordinary medical personnel. The underdeveloped services out of hospital hinders the integration of beneficiaries in the community - a large number of patients who do not need psychiatric treatment stay in hospitals and due to the lack of such services the most of the released patients return to hospitals and need rehospitalization. The conditions of infrastructure are not acceptable: heavy odor, inefficient lightning and heating in chambers, bed sanitary conditions. There is no private room for a patient in hospital. The issue of personal hygiene is not regulated. Many institutions can not ensure health and correct nutrition. Recreational activity of stationary patients is extremely scarce. The diagnostic and treatment of somatic diseases is the serious problem. The patients who are staying at the institution on the voluntary basis have not opportunity to leave the facility of their own free will. The facts of using patients as labor force are detected when they perform the work that is officially included in personnel's responsibility. In some of the institutions social services are not properly organized. Patients are not aware about their rights. Communication facilities often are not accessible for them.
45. **Recommendation:** The qualification of the personnel should be improved. Living and rehabilitation conditions of beneficiaries should be improved, the use of individual rehabilitation

plans and multidisciplinary approach should be implemented. Beneficiaries should be involved in their own rehabilitation process and they should be given the proper information about the results, predictions and side effects. It should be distinguished who need the clinic psychiatric treatment and accommodation and supporting services. The control should be tightened in order to avoid any kind of degrading treatment towards beneficiaries.

IX. Organizing psychiatric services

46. Currently the state psychiatric services consist of the hospitals and ambulatories. These services, especially hospitals, are not equally dispersed on the territory of the state. Due to the long distance to psychiatric hospitals the duration of hospitalization is increased. Often the service user is unable to go home independently and has to wait for someone to take him/her.
47. Only 30% of state funding goes to ambulatories. Due to this fact dispensary is allowed to use only a small part of the resources. Because of the lack of dispensaries and subordinated centers, some of the regions are without hospitals for mental diseases. Some institutions are forced to treat service users with old-generation medicines due to the lack of funding.
48. There is no continuing program for education and qualification of psychiatrists. Medical personnel, especially in regions, work uniformly for years and have not qualification courses, they are threatened to lose their qualification.
49. According to the 2007 research data, there were no stationeries for children. Due to this children with acute mental diseases were often placed in adult's departments. Since 2009 children's mental health clinic was launched on the territory of Iashvili Clinic, which is a positive fact.
50. Since then a separate children's mental health service component with respective budget was allocated (including inpatient and outpatient psycho-social assistance component). However, this center has not been monitored and it is unknown what kind of service it exercises and whether there are enough places to satisfy the need of the population (as it is the only children's stationary).
51. **Recommendation:** Services should be equal throughout the state's territory; funding for mental health should be increased; attention should be paid to the improvement of the qualification of the doctors' skills; the role of therapy should be increased.

X. Living independently and being included in the community

a. Services

52. The authors of the report want to pay attention to the fact that in the recent years the budget of the programs for PWDs has not been increased. During the same period the GDP and the state budget has been increased year by year.
53. The services are not diverse and do not meet the needs of PWDs. They are insufficient and serve only a small part of PWDs. None of the programs of auxiliary facilities are in accordance with individual needs.
54. The Program of the Daycare centers serves to 828 beneficiaries, which is completely inadequate number. It does not have the full geographical coverage. Currently out of 70 self-governing cities and regions the Daycare centers are only in 12. Existing funding (maximum limit for the daycare centers - 10 GEL per person per day) cannot cover the costs for qualified services.

55. It is noteworthy that 650 beneficiaries received free of charge service of daycare centers during 2009. 160 people were moved to partial financing by the changes in 2010. Thus their condition worsened.
56. **Recommendation:** The total budget on programs for PWDs should be increased; the services for PWDs should adequately be elaborated; the budgets of existing services should be increased to cover larger number of the persons with disabilities; services should be designed according to the individual needs of PWDs; on the entire territory of Georgia PWDs should be given opportunity to get the services of daycare centers; daycare centers subprogram should reflect adequate number of beneficiaries; all those persons who enjoyed the service of daycare centers in 2009 should unconditionally receive full funding (this should not affect the total number of beneficiaries).

b. The issue of guardianship of legally incapable PWDs

57. Under Georgian legislation legally incapable persons are subject to total guardianship. They are subject to automatic and arbitrary deprivation of rights. This includes, inter alia, confiscation of their property, deprivation of family life, right to marriage, right to be parent, right to vote and access to the court. It is not mandatory for the adult person to attend the trial while considering the issue of his legal capability. Legally incapable person has the right to appeal the court decision only while decision enters into the force. After the expiration of that term, he does not have such right.
58. According to the legislation of Georgia the guardian is not required to obtain consent from an incapable person before any decision is made. The guardian is permitted to run the property on incapable person. The analysis of practice in Georgia shows that such approach is very weak and in some cases legally incapable persons remain homeless.
59. **Recommendation:** Person under the guardianship should be given the right to appeal; before the guardianship is established the participation in the process and consent of the trustee should be considered; the law should determine the control of the guardian and procedure for the appeal that will prevent the abuse of rights by guardian. Trustees should maintain maximum autonomy and preserve their rights.

XI. Education

60. The infrastructure of educational institutions often is inaccessible for the PWDs. There is a lack of qualified teachers, often they have not experience working in education field with PWDs. There are not resource rooms and auxiliary facilities/materials. The administration of the institution cannot allocate the necessary funds for special educational needs of PWDs to provide them with material resources. The examination conditions, except the entry exams to the university, are not adapted to the needs of PWDs. There are not regulations for the inclusive education which would solve the problem of involvement of PWDs in the educational activities.
61. **Recommendation:** Universal design should be implemented. The examination environment should be adapted to the special needs of PWDs. Professional trainings should be conducted for the teachers. Regulations on inclusive education should be elaborated.

a. Pre-school Education

62. Although in some of the nurseries in Tbilisi non-governmental organizations exercise pilot inclusive education programs, the nurseries are not accessible for many children with special needs. The situation is especially hard in regions. There is a number of problems regarding the full inclusive pre-school education of infants with special needs in nurseries.

63. **Recommendation:** Inclusive education should be established on the entire territory of Georgia. The municipalities should support financially the children with special needs; discrimination should be eliminated; teachers and parents should be educated in about the necessities of PWDs.

b. Right to Education at Schools

• Law on General Education

64. The analysis of the Law on General Education indicates that it needs further revision concerning PWDs. It should be noted that in some cases it is based on medical approach. The law uses the terms such as patient, correctional study etc. The most of definitions and terms used in the law are outdated or they need to be changed as they do not fully reflect the essence of inclusive education. Some of the important sections are missing (e. g. definition of the child with special needs, individual learning plan etc.). The law improperly regulates the system of funding.
65. The Law on General Education does not provide the obligation of the schools to guarantee the accessibility of children with special needs to the learning process. The law also does not requires the public schools to use the alternative communication, such as: sign language, Braille system and its analogies.
66. **Recommendation:** The legislations should be revised considering abovementioned notes.

• General Problems at Schools

67. The Ministry of Education and Science exercises the pilot program on inclusive learning; that is a significant step forward. However this program does not meet the existing requirements. There are not sufficient and individual learning plans at schools. There is not the position of the assistant of the teacher at schools. A large number of the children at the class is a restraining circumstance too. The methods of distant learning and home-based education are not used.
68. **Recommendation:** The Ministry of Education and Science should expand inclusive education program at schools and implement universal design; the assistant of the teacher should be appointed at school; in every school individual learning plans should be implemented. The work of multidisciplinary groups and the recruitment of children with disabilities in schools should be systematically monitored. Distance learning and home-based education should be implemented.

c. Professional education

69. Current state professional centers cannot fit the needs of PWDs.
70. **Recommendation:** Inclusive Centers should be created.

d. Higher education

71. Law of Georgia on Higher Education is discriminative in relation to PWDs. There are no adapted programs or educational material for PWDs. The methodological literature is not sufficient. No supportive social services are provided for the students with disabilities at universities. The situation is worse in the regions.
72. **Recommendation:** The comprehensive strategy should be worked out in order to provide accessible higher education for PWDs; current legislation should be reviewed; educational

programs should fit the needs of PWDs. Methodological literature should be prepared; supportive centers should be established.

XII. Health Care

73. There are not sufficient health care programs considering the needs of the PWDs in Georgia. There are the cases when the private insurance companies refuse to give insurance package to the PWDs as they consider that they belong to the high risk groups. The problem to provide the medication to PWDs is still unsolved as well.
74. **Recommendation:** The State should take effective measures to eliminate the discrimination of PWDs by the insurance companies. The Ministry of Labor, Health and Social Affairs of Georgia must implement a new State Health Program that would make health care available for the PWDs.

XIII. Employment

a. Economic mechanisms to provide equal opportunities

75. According to the Tax Code of Georgia there are some economic mechanisms to provide equal opportunities, but these measures are not sufficient. It puts PWDs from different age groups into unequal conditions.
76. **Recommendation:** The varied privileges should be defined by objective and reasonable criteria, not by the causes of disabilities or the age of PWDs. The economic mechanisms to support the PWDs should be increased and become rational.

b. The Quota System

77. There are not sufficient state programs concerning the employment of PWDs in public or private sectors. In the business area there are no encouraging norms (e. g. tax laws) which would raise the interest to employ PWDs in the private sector.
78. **Recommendation:** The policy of the employment of PWDs should be implemented on the basis of the conceptual and legislative analysis. The use of mandatory system of quotas can become one of the options. The tax privileges should be established for the employers of PWDs.

c. Social Enterprises

79. There is not precise definition for the social enterprise in the country, neither the view for its support and development.
80. There is a state program about the employment of PWDs since 2010. The program supports only one social enterprise, however it is not considered to cover systematic changes. Although some of the PWDs are employed in the enterprise, it cannot solve the global problems existing in the country.
81. **Recommendation:** The definition of a social enterprise should be defined. Economic and financial measures should be elaborated for the development and stability of such enterprises.