

## **Shadow report on implementation of the International Covenant on economic, social and cultural rights by the Republic of Tajikistan (with the focus on respect of rights of persons with disabilities)**

This report is drafted by several organisations, members of the Coalition of public associations on promotion of ratification of the UN Convention on Rights of Persons with Disabilities. It focuses on implementation of the International Covenant on Economic, Social and Cultural Rights by the Republic of Tajikistan in relation to the rights of persons with disabilities.

The following organisations took part in drafting of this report:

- Public Organisation “Bureau on Human Rights and Rule of Law”,
- League of Women with Disabilities “Ishtirok”,
- Association of parents of children with disabilities of Tajikistan,
- Association of parents of children with disabilities of GBAO “Savob”,
- Association of parents of children with disabilities of Khudjand city,
- Public Association of women with disabilities “Safoi Konibodom”.

### **1. Structure of this report**

Present shadow report includes information on respect of the International Covenant on Economic, Social and Cultural Rights by the Republic of Tajikistan in terms of the rights of persons with disabilities for the period of 2010 to 2014.

The report consists of the following chapters:

- General legal framework (article 2 of the Covenant).
- Gender equality (of men with disabilities and women with disabilities) in access to economic, social and cultural rights (article 3 of the Covenant).
- Right to work and favourable and just working conditions (articles 6,7 of the Covenant).
- Right to social security (article 9 of the Covenant).
- Right to adequate standard of living (article 11).
- Right to highest attainable standard of physical and mental health (article 12).
- Right to education and access to it (of children as well as adults with disabilities) (articles 13 and 14).
- Right to participation in cultural life (article 15)

### **2. Methodology:**

The following methodology was used in drafting of this Shadow report:

- Holding studies by organisations that took part in drafting of this report.
- Analysis of international and national reports and studies, mass media, available statistics.
- Analysis of national legislation in terms of its compliance with international standards.

### **3. List of abbreviations**

HIV/AIDS - Human immunodeficiency virus infection and acquired immune deficiency syndrome

ICF – International Classification of Functioning

IPR – Individual Programme of Rehabilitation of Disabled

RT – the Republic of Tajikistan

UN – United Nations

UNICEF - United Nations International Children's Emergency Fund.

UNDESA – United Nations Department of Economic and Social Affairs.

UPR – Universal Periodic Review

WHO – World Health Organisation

#### **4. General legal framework (article 2 of the Covenant).**

In recent years the Republic of Tajikistan deliberately took a direction in improvement of situation with respect of rights of persons with disabilities. For this purpose significant reforms in the area of social protection are ongoing in the country both at the level of institutions and legislation. A number of laws, concepts, strategies and programmes that pay attention *inter alia* to protection, adaptation and rehabilitation of persons with disabilities were adopted. At the same time, practical situation remains difficult, because persons with disabilities are still in very difficult and vulnerable situation, majority of persons with disabilities and members of their families live below the poverty line, majority of benefits established by the law are declarative and not applied in practice. Among the reasons are poor financing of this area, lack of legal awareness among persons with disabilities as well as lack of adequate control over implementation of adopted legislation.

“According to Agency of statistics under the President of the RT at the beginning of 2013 166 593 persons with disabilities who received pensions were registered. Out of this number, almost 43% were men, 15,74% were children below 18 years of age who received social pensions. More than 26 thousand children with disabilities are registered in the bodies of social protection of population. This number increases on not less than 3% annually. In reality number of these children could be higher, because not all parents of these children apply to bodies of social protection. Among social groups, which mostly face difficulties during economic reforms in Tajikistan, persons with disabilities occupy a special place. They acutely perceive economic and social inequality, inability of the state to provide social safety nets”.<sup>1</sup>

In 2001 World Health Organisation (WHO) published new International Classification of Functioning, Disability and Health (ICF). Practical use of the ICF for assessment of functioning implies application of alphabetic and digital codes for description and measurement of differences in organisation of body, functions, vital activity, participation in life of the society as well as personality and environmental factors. All together codes may be used as coordinates for reflection of functioning of every individual in particular moment of time and serve as a point of departure for further assessments.

In Tajikistan disability is strongly linked with violation of working capacity of a person (depending on loss of working capacity disability is divided in three groups) and is still perceived as medical problem. In this respect, in country charity approach to persons with disabilities prevails, though many countries in the world moved to “social model” and human rights based approach (or social and legal model) of disability, which is supported by the UN Convention on the Rights of Disabilities.

“There is no target programme on persons with disabilities in Tajikistan. There is only a Concept of social protection of the population (2006) which describes several approaches to development of a policy on persons with disabilities. Even the Concept on inclusive education

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<sup>1</sup> Comprehensive assessment of economic potential of Tajikistan on implementation of provisions of the UN Convention on the Rights of Persons with Disabilities, 2014.

adopted in 2011 does not include a programme on implementation of practical measures with confirmed funding”.<sup>2</sup>

### *Ratification of the UN Convention on the Rights of Persons with Disabilities*

Number of international organisations and civil society in Tajikistan already during several years call the government of the country to sign and ratify the UN Convention on the Rights of Persons with Disabilities. Based on initiative of public organisations informal Network of NGOs on promotion of ratification of this Convention was established in the country. It consists of 9 organisations that deal with promotion of the rights of persons with disabilities.

On 3 April 2013 the President of the country Emomali Rakhmon signed a Decree #PII - 2200 “On ratification of the Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities”. Based on it, Plan of Actions, according to which Tajikistan plans to ratify the Convention on the Rights of Persons with Disabilities by 2015, was developed.<sup>3</sup>

For this purpose, state established a Coordination council that consists of experts of the ministries of health, education, labour and employment of population was established to conduct analysis and submit proposals to the government on bringing current legislation in compliance with the Convention of the Rights of Persons with Disabilities.

With the financial support of the UNDESA in 2014 2 studies were conducted, “Comparative legal analysis of the UN Convention on the Rights of Persons with Disabilities and legislation of the Republic of Tajikistan” and “Comprehensive assessment of economic potential of Tajikistan on implementation of provisions of the UN Convention on the Rights of Persons with Disabilities.

According to findings of these studies, state already finances the area of social services for disabled, provides them with equipment and facilities. Based on this country may ratify the UN Convention on the Rights of Persons with Disabilities. It is important to start gradual implementation of measures on establishment of accessible environment for disabled and groups of population with low mobility.<sup>4</sup> Thus, according to conducted studies and assessments, today there are no obstacles for signing and ratification of the UN Convention on the Rights of Persons with Disabilities by Tajikistan.

According to article 10 of the Constitution of the Republic of Tajikistan “International legal acts acceded by Tajikistan are integral part of the legal system of the republic. In case of controversy between laws of the republic and acceded international legal acts provisions of the international legal acts apply”. As the UN Convention on the Rights of Persons with Disabilities was not signed and ratified by Tajikistan, national courts in hearing cases related to rights and interests of persons with disabilities are not able to apply provisions of the Convention directly and refer to its provisions in making decisions.

### ***Recommendations:***

- *Sign and ratify the Convention on the Rights of Persons with Disabilities.*
- *Adopt new criteria of definition of disability in accordance with international standards (taking into account International Classification of Functioning (ICF)) and eliminate criterion of working capacity in defining disability.*

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<sup>2</sup> Comprehensive assessment of economic potential of Tajikistan on implementation of provisions of the UN Convention on the Rights of Persons with Disabilities, 2014.

<sup>3</sup> Source: <http://khovar.tj/rus/society/42124-v-tadzhikistane-idet-podgotovka-k-ratifikacii-konvencii-oon-o-pravah-invalidov.html>

<sup>4</sup> Comprehensive assessment of economic potential of Tajikistan on implementation of provisions of the UN Convention on the Rights of Persons with Disabilities, 2014.

- *Undertake measures aimed at awareness raising among population on elimination of stigma and discrimination against persons with disabilities.*

## **5. Gender equality (of men with disabilities and women with disabilities) in access to economic, social and cultural rights (article 3 of the Covenant).**

As a rule, women with disabilities are subject to double and even triple discrimination because 1) they are women; 2) they are disabled; 3) often they are poor. This fact often is not taken into consideration and even ignored because persons with disabilities are perceived as sexless creatures.<sup>5</sup> Besides, women with disabilities, as a rule, have lower literacy and, respectively, constitute higher percentage among unemployed disabled compared to men.

Article 17 of the Constitution of Tajikistan establishes prohibition of discrimination and also envisages gender equality: “State guarantees rights and freedoms of everyone regardless of their race, sex, language, faith, political convictions, education, social and property status. Men and women have equal rights.”

In Tajikistan there are common cases when man divorces woman due to her disability or birth of children with disabilities. According to practice, in these cases family of husband considers that woman is guilty in giving birth to “problematic” child.

Mothers of children with disabilities do not have an opportunity to take care of their child and receive treatment, rehabilitation, education using money paid by the state for child/ Many mothers of children with disabilities are forced to stay at home due to complex disease of a child and to pay due attention to child. Number of day-care centers for children is not sufficient. Not everywhere in the republic there are early Intervention and Rehabilitation Centers.

Despite good relationships with relatives, women with disabilities are inclined to self-isolation, which can be lined to rare communication with friends and poor opportunities of taking jobs. Situation with friends among women with disabilities is focused on communication only by chance, i.e. there is no regular communication, joint pastime that also affects self-isolation of women with disabilities.<sup>6</sup>

Because there are many stereotypes about education of girls with disabilities, they compared to boys with disabilities are not sufficiently covered by education. Tajik families think that it is better for girl with disability to stay at home and other men in family will take care of her in the future. For example, one of the studies revealed that about 70% of girls and women with disability are dependent from other members of the family, particularly, from men.<sup>7</sup>

Women with disabilities and mothers with children with disabilities do not have equal access to health and health care services. The situation is particularly acute in rural areas. Polyclinics, hospitals have lots of architectural barriers. Gynecological rooms are not accessible. They are not equipped with accessible equipment for examination of women on wheelchairs or crutches (or with complex physical disability). Programmes of reproductive health (including awareness raising campaigns) do not cover women and girls with disabilities.<sup>8</sup>

### ***Recommendations:***

- *Conduct gender expertise of legislation governing rights of persons with disabilities.*

<sup>5</sup> “Rights of persons with disabilities to decent work”, by Arthur O’Reilly, International Labour Organisation, Geneva, ILO, 2007, p. 47

<sup>6</sup> Report in findings of study “Motherhood of women with disabilities: obstacles and perspectives”, Z-Analytics Group, upon initiative of the PA League of Women with Disabilities “Ishtirok”, 2014.

<sup>7</sup> Study was conducted by PA “Safoi Kanibadam” in Kanibadam of Sogd Province, 2014. 50 women with disabilities were surveyed.

<sup>8</sup> Information is provided by the League of women with disabilities “Ishtirok”, 2014.

- *Include such category as girls with disabilities to quota programmes on education of rural girls.*
  - *Include girls and women with disabilities to adopted state programmes aimed at increase of role of women including educational programmes, programmes on reproductive health, prevention of sexually transmitted diseases, HIV/AIDS.*
  - *Provide parents with children with disabilities (especially, mothers) with psychological, methodological and other consultative support on case, education and rehabilitation of children with disabilities.*
6. **Right (of persons with disabilities) to work and favourable and just working conditions (articles 6, 7 of the Covenant).**

*Non-discrimination in the area of respect of right of persons with disabilities for work and employment.*

Prohibition of discrimination in the country is established by the constitutional provision (article 17 of the Constitution of the RT). Right to work in the country is also constitutional. According to article 35 of the Constitution of the RT everyone is guaranteed with right to work, choice of occupation, job, occupational health and social protection from unemployment. Discrimination in labour relations is prohibited.

Prohibition of discrimination as a principle of social protection of disabled is only mentioned in article 3 of the Law “On Social Protection of Population”, wherein the definition of discrimination of disabled is not explained further.

Labour legislation of Tajikistan includes provision on prohibition of discrimination in the area of labour relations<sup>9</sup>. At the same time, among grounds of discrimination in labour relations “social origin” is established, but ground of disability does not exist. Because definition “social origin” is not explained, there is no clear interpretation of this ground (it is not clear whether disability is included here or “social origin” remained in Labour Code as inheritance from Soviet system of division of society to classes).

Thus, legislation of Tajikistan does not include anti-discrimination provisions and measures in the area of exercise of labour rights of persons with disabilities.

Discriminatory approach towards persons with disabilities as workers still prevails, because part of persons with disabilities receive smaller salary for job of equal value and equal productivity compared to other workers. Persons with disabilities are still considered as unwanted workers, they are not admitted to job. However, in personal relations employers and other workers treat them as other workers and some are treated even better.

Many persons with disabilities think that they are objects of charity and state or other people should take care of them. In this respect, they don't have to work.<sup>10</sup>

#### *Responsibility for violation of rights of disabled in labour relations*

Administrative responsibility of employer is established for refusal to admit to job persons with disabilities of II and III group in the framework of established quota as well as for unjustified refusal to register disabled as unemployed. It is punished by imposition of a fine to officials.<sup>11</sup>

#### *Guarantees of provision of employment to disabled*

<sup>9</sup> Article 7 of the Labour Code of the RT.

<sup>10</sup> Based on findings of the monitoring of respect of rights of persons with disabilities to decent work and employment, Bureau on human rights and rule of law under financial support of the UN Women in Tajikistan, 2013.

<sup>11</sup> Administrative code of the RT, article 108.

Guarantees of provision of employment to disabled are established by the Law of the RT “On social protection of disabled” (article 26). They include provision of quota for jobs for disabled; encouragement of opening of additional jobs by organisations for employment of disabled; establishment of working conditions in accordance with individual programmes of rehabilitation of disabled; establishment of favourable conditions for entrepreneurial activities of disabled; organisation of skills and professional trainings for disabled.

Quota for jobs for disabled is established in amount of not less than 5% of total number of workers in organisations, where number of workers is higher than 20 persons. This provision of the law<sup>12</sup> in practice is not implemented due to lack of effective mechanisms of its enforcement. Number of persons with disabilities employed through quota remains minimal. According to data of the Ministry of labour and social protection in 2012 174 persons with disabilities and in 2013 96 persons with disabilities were employed through state quota.

Such measure as encouragement of opening of additional jobs for disabled<sup>13</sup> by organisations remains declarative, because exact mechanisms and ways of such encouragement are not developed.

The Law “On social protection of disabled” includes provision on opening of required working conditions for disabled, but because neither the Law “On social protection of disabled” nor labour legislation or other legal acts has mechanisms of establishment of such conditions this provision does not have its practical application.

#### *Individual programme of rehabilitation of disabled (IPR)*

A critical element in the system of rehabilitation including labour, for persons with disabilities is an Individual programme of rehabilitation of disabled (IPR) as established by the legislation of Tajikistan, but in practice this programme is not applied. Lack of IPR among disabled restrict their rights, establish obstacles on the way to implementation of their labour and social rights.

#### *Benefits for persons with disabilities in labour legal relations*

Labour Code establishes a number of benefits for persons with disabilities and parents of children with disabilities.

#### **Recommendations:**

- *Include to the national legislation of the RT provisions on direct prohibition of discrimination on the ground of disability including in the area of labour relations.*
- *Develop a separate Programme on encouragement of employment of persons with disabilities.*
- *Introduce to the legislation of the RT provisions on reasonable adaptation of working place for persons with disabilities.*
- *Arrange regular courses of training and re-training of persons with disabilities.*
- *Provide viable conditions for development of entrepreneurial activities among persons with disabilities by means of provision of interest-free grants and loans.*
- *Conduct regular monitoring of implementation by employers of requirement on provision of quota for jobs for persons with disabilities and working conditions for persons with disabilities.*
- *Collect statistics of unemployed persons with disabilities in need of jobs and employed persons with disabilities disaggregated by years, sex, type of work.*
- *Provide persons with disabilities with access to information about their right to work and employment, particularly on activities of Employment Agencies and system of quota as well as raise awareness among employers and wide public on right of persons with disabilities to work.*

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<sup>12</sup> Article 26 of the Law “On social protection of disabled” (“Provisions of Employment to Disabled”).

<sup>13</sup> Article 26 of the Law of the RT “On social protection of disabled”.

- *Oblige competent bodies (medical and social expertise) to develop in writing IPR for persons with disabilities and children with disabilities and control its implementation.*

## **7. Right to social security (article 9 of the Covenant).**

Article 1 of the Constitution of the RT declares that Tajikistan is a social state, which politics is aimed at establishment of conditions ensuring decent life and free development of a human being.

According to article 39 of the Constitution of the RT social security in old age, in case of diseases, disability, loss of working capacity, loss of breadwinners and in other cases established by the law is guaranteed to everyone.

Disabled have a right to free or preferential round trip travel to place of treatment related to prosthetics and rehabilitation in accordance with procedure established by the Government of the Republic of Tajikistan.

Families with two and more disabled as well as single disabled parents upbringing disabled child are provided by additional social support in accordance with procedure established by the Government of the Republic of Tajikistan.

According to the Law “On social services” (2008) disability is attributed to difficult live situation that objectively violates normal vital activity of a national. In this respect, persons with disabilities according to the law are recipients of social services. Social services include household, medical, resort and recreational, cultural, educational, legal, physical-recreational social services. Social services may be paid and unpaid. Unpaid social services are provided to persons with disabilities without relatives who can provide them with support and care.

Currently, practically all persons with disabilities and children with disabilities in the country are covered by pensions and benefits. On average they receive amount equivalent to 20 USD on monthly basis. Overwhelming majority of persons with disabilities and parents of children with disabilities think that pension is low and emphasise that these amounts do not meet basic needs in food, cloth and treatment of persons with disabilities and children with disabilities, not mentioning other expenses (leisure, toys etc.)

Situation is aggravated by growth of prices for electricity, food, household appliances, treatment and medication.

As to preferences, according to the legislation of the RT, disabled of I and II group enjoy preferences in payment for housing, communal services (with exception of payment for electricity and gas) and phone as well as preferences in 50% discount in privatisation of occupied state house (apartment) and they are entitled to priority and free installation of landlines, installment of electricity and gas lines and drinking water. Besides, persons with disabilities have a right to free use of district, inter-district, city and inter-city transport of general use (with exception of taxi).

Organisations of persons with disabilities, where not less than 50% of workers are disabled as well as disabled of I and II group are exempted from payment of property tax.<sup>14</sup>

Unemployed disabled of all groups are exempted from payment of land tax, but under condition of lack of employable member of family.<sup>15</sup>

Local bodies of state power, other organisations may establish additional preferences for persons with disabilities in payment for housing, communal services, local taxes and other payments.

In practice majority of persons with disabilities enjoy preferences in payment for housing, communal services, and in some cases on use of public transport. However, these preferences equal to meager amounts and, in fact, do not provide sufficient support to persons with disabilities.

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<sup>14</sup> Article 278 of the Tax code of the RT.

<sup>15</sup> Article 274 of the Tax code of the RT.

Many persons with disabilities do not have information about their rights and preferences provided by the legislation. Besides, often persons with disabilities perceive themselves as objects of charity and passive recipients of monetary allowances and other preferences by state.

#### *Amendments to the legislation on pensions*

According to amendments introduced to the legislation “On provision of pensions to nationals of the RT”<sup>16</sup> in 2012, the following minimal pensions on disability were established:

- for disabled of I group – 10 minimal amounts of age pensions<sup>17</sup>;
- for disabled of II group – 8 minimal amounts of age pensions;
- for disabled of III group - 6 minimal amounts of age pensions.

Previously, prior to introduction of amendments amount of disability pension was not limited.

#### ***Recommendations:***

- *Increase pensions and allowances for persons with disabilities and children with disabilities.*
- *Establish by the legislation a mechanism of assessment of needs of disabled.*
- *Increase allocated budgetary means to ensure practical implementation of the right of disabled persons and children with disabilities to access e health care services for free, receipt of most needed medications for free etc.*
- *Amend part 2 of the article 31 of the Law “On social protection of disabled” with provision, according to which preferences established by this law shall be extended to children with disabilities as well as to unemployable members of families of disabled of I and 2 groups.*
- *Amend article 29 of the Law of the RT “On social protection of disabled” by the provision, according to which unemployed parent (or lawful representative of a child) who is in charge of care after disabled child below 18 years of age will be entitled to receipt of monthly allowance in the amount to be defined by the Government of the RT.*

### **8. Right to adequate standard of living (article 11).**

#### *Accessibility*<sup>18</sup>

Issue of accessibility of physical environment is a key for provision of opportunity for persons with disabilities to have independent and socially active way of life. Majority of existing buildings and facilities do not comply with standards of construction that take into account accessibility for persons with disabilities. However, in the legislation issues of accessibility of objects of social infrastructure and transportation means are clearly established by the Law of the RT “On social protection of disabled”<sup>19</sup>.

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<sup>16</sup> Article 27 of the Law.

<sup>17</sup> Since 2013 minimal amount of pension is 130 Somoni.

<sup>18</sup> “Monitoring of respect of rights of persons with disabilities in Sogd province”, PA “Bureau on human rights and rule of law”, 2011-2012 with support of the UN Women in Tajikistan. As to issue of accessibility information was also received from Network of public organisations on promotion of ratification of the UN Convention on the Rights of Disabilities.

<sup>19</sup> Adopted on 29 December 2010, entered to force in January 2011.



It is difficult not only to visit cultural, educational and entertainment places, but vitally important objects for persons with disabilities such as hospitals, polyclinics, buildings of bodies of social protection and etc.

In the vast majority, entrance to buildings is not equipped with ramps or walkways without staircases. If there are ramps, most of them are not suitable for use (they don't have handrails, they have too steep slopes, they are slippery and etc.)

Overwhelming majority of apartments and houses are not equipped with elevators suitable for use by persons with disabilities (for instance, elevators that can accommodate wheelchair), ramps and other facilities. Size of doors of entrance to apartment blocks and doorways of apartments also do not ensure unobstructed access to wheelchairs as well as establish obstacles for persons with disabilities with violation of musculoskeletal system.

“Accessible environment for these persons exists only on paper. Houses, in which they live, had to be repaired long time ago, but none of the competent public body or charity organisation provides them with assistance. Lack of light, gas and water further complicates their life. They have to fetch water from far away and they collect firewood for heating of dwelling, boiling of water and cooking.

During construction of houses and administrative buildings needs of persons with disabilities are not taken into account. Provision of streets with signs and indications for persons with disabilities, equipment of public transport with lifting facilities for wheelchair users or purchase of accessible transport for persons with disabilities and groups of population with low mobility, construction of ramps and elevators in houses and administrative buildings etc. are needs of disabled, to which they would like to attract attention of the society”.<sup>20</sup>

According to survey and observations, in general, there are significant challenges with access to transport. In many provinces of Tajikistan there are no city buses. This affects movements of persons with disabilities, especially those with violation of musculoskeletal system. But route taxis, which persons with disabilities mostly use, are not equipped with facilities for their convenience (tracks for lifting to transport, special places).

### *Right to housing*

Article 36 of the Constitution of Tajikistan establishes right of everyone to housing.

Urban-planning code of the RT adopted in 2012 also included a provision on ensuring of conditions for persons with disabilities for unhindered access to objects of social and other use.

In practice many persons with disabilities are in need of improvement of housing conditions or do not have their own housing. Persons with disabilities apply with these issues persons to executive bodies of power, but taking into account that state housing fund is not able to provide housing to all persons with disabilities in need of it, they queue for receipt of housing, but they can't wait for results.

Provision of housing to persons with disabilities is governed by the Housing Code of the RT. Disabled of 1 and 2 groups as well as families with disabled children have a right for provision with housing on priority basis. Disabled of the 3 group have a right to provision with housing on priority basis only if they receive income below subsistence level. Information about subsistence level shall be published in state mass media every three months, but in practice, this information does not exist.

All mentioned categories of persons/families have a right to provision with housing on priority basis only if it is acknowledged that they are in need of improvement of housing conditions.

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<sup>20</sup> Legislation and policy of the Republic of Tajikistan in the area of social protection of population: Gender analysis, UN Women, 2012.

According to provisions of the Housing Code of the RT, not less than 50% of all constructed living spaces and vacated houses have to be directed to provision of housing to nationals entitled to housing on priority basis.<sup>21</sup>

Housing code of the RT was adopted in 1997, majority of provisions are outdated and do not meet realities of today. Housing Code of Tajikistan does not include such definition as “social housing” or any other definition of economically accessible housing for vulnerable and marginal groups of population.

In practice, the problem of receipt of housing and improvement of housing conditions for persons with disabilities is practically irresolvable. There is no Fund of social housing for persons with disabilities in the country.

New Housing Code, which can to some extent solve problems with access of persons with disabilities to adequate housing, is still not adopted. Allotment of land plot (even if persons with disabilities will after queuing receive land plot for construction of house) cannot fully solve the problem of shortage of housing, because persons with disabilities face lack of money for house construction, but according to legislation of the RT land plot can be withdrawn in the future in case of not being used or its inappropriate use.

#### *Technical means of rehabilitation*

Articles 12-15 of the Law “On social protection of disabled”<sup>22</sup> establish procedure of provision of disabled with technical means of rehabilitation. On 3 December 2011 local legal act in the area of social protection of persons with disabilities - Rules of provision of persons with disabilities with technical means of rehabilitation were adopted by the Resolution of the Government of the Republic of Tajikistan #604. According to practice, majority of persons with disabilities do not have information about their right to receive technical rehabilitation means.<sup>23</sup>

#### ***Recommendations:***

- *Take into consideration needs of disabled in construction of roads, houses and administrative buildings, construct required facilities for movement of persons with disabilities.*
- *Assign organisations in charge of provision of transportation services to population to equip stops, railway stations, airports and other objects as well as transportation means with special facilities and devises for persons with disabilities.*
- *Impose administrative responsibility on persons responsible for failure to enforce instructions of state bodies on architecture and urban planning on ensuring accessibility of objects for persons with disabilities.*
- *Adopt new version of the Housing Code of the RT.*
- *Draft state programme of subsidising and state support in the area of social housing for certain categories of population, particularly, to persons with disabilities.*
- *Draft state programme on accessible environment or establishment of accessibility for persons with disabilities.*

#### **9. Right to highest attainable standard of physical and mental health (article 12).**

Article 38 of the Constitution of the RT guarantees everyone a right to health protection: “Everyone has a right to protection of health. Everyone, in accordance with legal framework, enjoys free health care in public health care institutions...”.

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<sup>21</sup> Article 34 of the Housing Code of the RT.

<sup>22</sup> Adopted in December 2010, entered into force in January 2011.

<sup>23</sup> According to findings of the monitoring of respect of rights of persons with disabilities in Sogd province, Bureau of human rights and rule of law under support of the UN Women, 2012.

According to the National Plan of the RT on implementation of recommendations of state-members of the UN in the framework of the Universal Period Review (UPR) on human rights for 2013-2015, approved by the Order of the President of the RT on 3 April 2013, Tajikistan took an obligation to develop plan of activities on implementation of the recommendations of the UN Committee on Economic, Social and Cultural Rights, undertake a number of activities on reduction of poverty level as well as activate efforts in the area of health care, education, guarantees of interests and protection of rights of women and children and advance general social and economic development; develop plan of activities on implementation of the recommendations of the UN Special Rapporteur on right of everyone to highest attainable level of physical and mental health.

The Law “On social protection of disabled” envisages provision of health care for persons with disabilities in public health care and social institutions either on free or preferential basis. Based on the statement of the medical and social expertise disabled persons have a right to recreational and resort treatment on free or preferential basis, priority receipt of voucher and free travel to place of treatment in accordance with the procedure established by the Government of the RT. On 3 December 2011 Rules on provision of disabled with resort and recreation treatment were adopted by the Resolution of the Government of Tajikistan. In its turn, the Ministry of Health and Social Protection also initiated a six-year Memorandum for 2014-2019 “Best health for persons with disabilities with the purpose of establishment of fulfilling society in the Republic of Tajikistan”.

In accordance with the Law of the RT “On psychiatric care” the following are included to the list of psychiatric care and social protection ensured by the state:

- social and household facilities for disabled and care after them;
- education of disabled.

Psycho-neurological institutions of bodies of social protection provide medical and social assistance also to disabled in need of social and household facilities, care, health care and supervision.

Mental disorder that prevents stay of disabled in non-specialised institution of bodies of social protection confirmed by the commission of psychiatrists of the health care institution is a basis for placement of disabled to psycho-neurological institution of the bodies of social protection.<sup>24</sup>

At the same time, persons with disabilities and children with disabilities face significant challenges with receipt of free medications and respective treatment. Public pharmacy shops where disabled apply for free medication do not always have them. Often drugs are very expensive and pharmacy shops are not able to provide them for free. Cheap drugs that are available do not give substantial effect on improvement of health and rehabilitation of persons with disabilities and children with disabilities.

“The Ministry of Health does not have means for free medication. Yet, tested original drugs of famous companies disappeared from the market and are replaced by cheap medication produced by foreign companies from China and India. As a result, persons consuming drugs (complications of diabetes, cystic fibrosis, hemophilia, asthma) remain without drugs, which they are not able to buy...”<sup>25</sup>

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<sup>24</sup> The Law of the RT “On psychiatric health” (adopted on 2 December 2002), articles 16, 36, 37.

<sup>25</sup> Opinion of the Ministry of Justice on compliance of the UN Convention on the Rights of Persons with Disabilities with the laws of the Republic of Tajikistan.

Currently, in Tajikistan majority of mothers, children and adolescents do not have access to protection of health, they are not provided with health care.<sup>26</sup>

Practically, all surveyed persons with disabilities and parents of children with disabilities<sup>27</sup> apply to public health care institutions for medical help. Majority of surveyed do not pay officially for health care services in the polyclinics. Unofficial payments for health care services (counseling by doctors, massage and other manipulations, analysis) in polyclinics are paid by more than half of surveyed persons with disabilities.

Yet, only one third of surveyed mentioned that special financial resources targeted for treatment of persons with disabilities were transferred to their institutions. Out of this number, some respondents believe that money are transferred from state budget, others mentioned help from international organisations. Practically, none of surveyed representatives of health care institutions knew from where and which amount was transferred for treatment of persons with disabilities.

Women with disabilities have a right for free health care services or services provided under preferential basis. However, in practice, access to health care services does not comply with preferences system. Not all health care workers are notified and trained to inform women with disabilities about available preferences. In order to receive quality services, women with disabilities sometimes are forced to pay full amount despite available preferences. Moreover, based on stories on biased treatment by health care workers, women with disabilities try to visit only those doctors who were recommended by their friends.<sup>28</sup>

#### *Care and support*

For example, analysis of applications of families with disabled children to Association of parents of children with disabilities of Dushanbe city, demonstrates that more than 70% of mothers of children with disabilities are in the state of depression, because they have a special child and, yet, they don't have sufficient knowledge, skills and support on care, education, communication with their children. As a rule, women – mothers of children with disabilities apply for support to various organisations.

12 % of families did not register disability of their children. Therefore children are out of systems of education, health, social protection and other support.

24 % of families hide their children at home as they are hesitant to take them out to show to society and other people.

More than 70% of parents applied to Association of parents of children with disabilities in 2013-2014 are not informed about national legislation of the RT in the area of education, social protection and support of children with disabilities and international treaties in these areas, they do not have sufficient information about rights and preferences for children with disabilities. As a result, children with disabilities have limited access to education, health care, social protection and other rights.

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<sup>26</sup> National concept of inclusive education for children with disabilities in the Republic of Tajikistan for 2011-2015, adopted by the Resolution of the Government of the Republic of Tajikistan on 30 April 2011, #228.

<sup>27</sup> Based on findings of monitoring conducted by the Bureau of human rights and rule of law in 2011 with support of the UN Women in Tajikistan.

<sup>28</sup> Report in findings of study "Motherhood of women with disabilities: obstacles and perspectives", Z-Analytics Group, upon initiative of the PA League of Women with Disabilities "Ishtirok", 2014.

### *Reproductive health and motherhood of women with disabilities*<sup>29</sup>

National legislation of Tajikistan protects rights of women with disabilities on motherhood. Women with disabilities have a right to establishment and reproduction of family, plan number of children and intervals between children. Moreover, they have a right for free health care services or preferential services. Legislation does not establish a clear system of preferences and services. However, women with disabilities have a right to receive information from health care workers and quality services.

Additional obstacle for women with hearing and speech disorders is that during consultations they are not able to explain their problems to doctors and gynecologists.

One of the main obstacles in implementation of rights of women with disabilities on reproductive health is lack of adapted equipment and conditions in hospitals, polyclinics, maternity hospitals (birthing chair, beds, wardens, toilets, etc.).

Health care workers mostly are guided by their subjective opinion, i.e. they are of the opinion that women with disabilities are not recommended to give birth.

### *Repeated medical re-examination of persons with disabilities*<sup>30</sup>

Repeated medical re-examination of disabled of Tajikistan including those whose disability raises no doubts (lack of limbs of foot and hands, eyesight and etc.) and is approved opinion of the state service of medical and social expertise with no expiration date as prescribed by the legislation, aimed at confirmation of disability and degree of disability sparked wide public outcry. This demand was initiated by subordinate units of the Ministry of health of the RT and it was required to go through full procedure of re-examination with reference to existing order of the minister of health. Representatives of commissions as well as health care workers responsible for re-examination did not explain to persons with disabilities a purpose of these activities. This raised confusion among persons with disabilities.

Number of public organisations working in the field of protection of rights of persons with disabilities released an open statement<sup>31</sup>, where concerns with current situation were expressed. They called authorities to undertake measures to prevent violation of rights of persons with disabilities during these activities. In response to the statement minister of health of Tajikistan Mr. Nusratullo Salimov met public organisations that disseminated the statement. During discussion Salimov informed that re-examination was conducted to verify persons who illegally registered disability and unreasonably received very high pensions on disability. However, according to the law re-examination of men of 63 years and older and women of 58 years and older receiving persons on disability is possible only upon their application.<sup>32</sup> According to legislation of the RT 1<sup>st</sup> group of disability is established for two years, but 2<sup>nd</sup> and 3<sup>rd</sup> groups are established for one year. For persons disabled due to Chernobyl catastrophe disability is established with no expiration date.<sup>33</sup>

Nonetheless, in 2014 according to order adopted on 5 June 2014, it was required from 1 June to 1 November to conduct re-examination of disabled of 2<sup>nd</sup> and 3<sup>rd</sup> groups in cities and districts with exception of disabled of World War II and persons who received disability due to occupational trauma or occupational diseases, and disabled, who receive pensions for special

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<sup>29</sup> Report in findings of study “Motherhood of women with disabilities: obstacles and perspectives”, Z-Analytics Group, upon initiative of the PA League of Women with Disabilities “Ishtirok”, 2014.

<sup>30</sup> Annual report “Situation with respect of human rights in the Republic of Tajikistan” for 2012, Bureau on human rights and rule of law.

<sup>31</sup> Source: [http://www.toptj.com/News/2012/05/04/npo\\_tadzhikistana\\_obespokoeny\\_narusheniem\\_prav\\_invalidov](http://www.toptj.com/News/2012/05/04/npo_tadzhikistana_obespokoeny_narusheniem_prav_invalidov), “Asia-Plus”. 7 May 2012, Nargis Khamrabaeva.

<sup>32</sup> Article 33 of the Law “On provision of pensions for nationals of the RT”.

<sup>33</sup> Instruction on medical and social expertise approved by the order of the Ministry of labour and social protection on 21 August 2009 #68 and Ministry of health of the RT on 5 August 2009 #11.

merits before the RT. But, in fact, re-examination concerned also disabled of 1 group. Due to lack of compliance of the commission with established deadlines, the duration of re-examination was extended to 31 December 2014. State service of medical and social expertise explained that re-examination of disabled was required to identify those who received this status without due reasons. According to persons with disabilities, reasons of re-examination were not explained to them. Large queues of persons with disabilities stayed near offices of the commission. They had to wait for their turn for several hours.

Payment of pension was suspended in case of failure of persons with disabilities to appear for re-examination or in case of absence at the place of residence. Payment of pension was also suspended during the period of re-examination.

As it was the case with re-examination of persons with disabilities in 2012, persons with disabilities had to pay unofficially for all services and visits to doctors. However, all related examinations and analysis had to be free.<sup>34</sup>

***Recommendations:***

- *Open free state services of consultative help (medical, psychological, methodological) for persons with disabilities, particularly, for women with disabilities, who will be provided with consultative help on regular basis.*
- *Ensure practical realisation of preferences in the area of provision of health care services to persons with disabilities including receipt of free medication.*
- *Disseminate among health care workers information about preferences for women with disabilities and also conduct trainings for doctors on the need of dissemination of information on preferences among women with disabilities.*
- *Ensure that polyclinics have accessible environment, conditions and equipment for women with disabilities (adapted couches and gynecological chairs with the controls; ramps and elevators between levels; preferences for use of services including with use of Braille script, translators of sign language; adapted toilets etc.)*
- *Ensure access of persons with disabilities to information via mass media and local Health Centers on planned activities related to persons with disabilities (re—certification, other activities). Ensure respect of rights of persons with disabilities during conducted activities.*

**10. Right to education and access to it (articles 13 and 14).**

In recent years, many countries of the world moved away from practice of placing children with disabilities to special educational institutions. Experience of successful inclusive education in these countries is lined to expansion of programmes on early intervention that guarantee early start for children and their families.

It is widely recongnised that care after children in institutions inflicts danger to their wellbeing and development, because their needs can't be met within their own families. Institutionalisation often means that children are cut off their families and life in a society. World practice demonstrated that children, who were brought up in this environment, lag behind in their development and they are subject to potentially irreversible psychological harm.

Besides, children in these conditions are denied of important advantage of imitation of other children that is important for education.<sup>35</sup>

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<sup>34</sup> Source: <http://news.tj/ru/news/pereosvidetelstvovanie-ili-khozhdenie-po-mukam>

In July 2013 in order to implement National Concept of inclusive education of children with disabilities for 2011-2015<sup>36</sup>, new law of the RT “On education” was adopted. For the first time, this law established a definition of inclusive education and provided guarantees of upbringing and education of children with disabilities in public educational institutions with support from national budget as well as their future employment upon graduation from educational institution.<sup>37</sup> In order to implement the Law, the Ministry of education of the RT developed and approved “Regulation on procedure of organisation of inclusive education for children with disabilities in general educational organisations of the RT” and “Regulation on procedure of organisation of education at home for children with disabilities in the RT”.

Annual report of UNICEF “Situation of children in the world – 2013” was devoted to children with disabilities. Representatives of UNICEF in Tajikistan<sup>38</sup> believe that “in order to build more inclusive society it is insufficient to hold only coordination activities of ministries of health, education or labour and social protection of population of the RT. Every family should work in this direction and parents of children with disabilities should not hide their children due to fear of stigmatization as it happens in many cases, and also in Tajikistan”.<sup>39</sup>

To-date specialists<sup>40</sup> mention an opportunity of introduction of 3 models of inclusive education: child with disability can study in general schools with ordinary children; children with disability can study in one school, but can visit specially formed groups to study certain subjects; children with disabilities can visit one schools, but only take part in various activities with ordinary children. However, for any of these models it is required to equip schools with specially trained human resources, books and methodological publications on inclusive education as well as special equipment. It is also need to adapt infrastructure of many educational institutions.<sup>41</sup>

New kindergartens, schools, universities are constructed in the country. But majority of them do not have accessible environment. In this respect, many young persons with disabilities and children with disabilities remain without quality education. Persons with disabilities are not competitive in the labour market due to the lack of or insufficient quality education.<sup>42</sup>

So far, efforts to establish conditions for education of children with disabilities in general schools are undertaken mainly in the capital of Tajikistan. So, in two general schools of Dushanbe in 2014 special equipment for children with disabilities was installed. Installation was done by the Association of Aid and Relief (AAR) Japan in the framework of the programme “Life without barriers”<sup>43</sup>

According to the deputy minister of education and science of Tajikistan Mr. Farhod Rakhimov by 2030 all general schools will switch to system of inclusive education.<sup>44</sup>

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<sup>35</sup> “Promotion of rights of children with disabilities”, “Digest Innocenti” #13, UNICEF, Research Center “Innocenti”, 2008.

<sup>36</sup> Adopted on 30 April 2011, #228

<sup>37</sup> Article 6 of the Law of the RT “On education” #1004 adopted on 22 July 2013.

<sup>38</sup> Specialist of the department on child protection of UNICEF in Tajikistan Shima Barkin-Kuzmin.

<sup>39</sup> “UNICEF recommends to the RT to ratify the Convention on the Rights of Persons with Disabilities”, Asia-plus, , 04.06.2013, Mahpora Kiromova. Source: <http://www.news.tj/ru/news/yunisef-rekomenduet-rt-ratifitsirovat-konventsiyu-o-pravakh-lyudei-s-ogranichennymi-vozmozhnost>

<sup>40</sup> President of the Academy of education of the country Irina Karimova

“UNICEF recommends to the RT to ratify the Convention on the Rights of Persons with Disabilities”, Asia-plus, , 04.06.2013, Mahpora Kiromova. Source: <http://www.news.tj/ru/news/yunisef-rekomenduet-rt-ratifitsirovat-konventsiyu-o-pravakh-lyudei-s-ogranichennymi-vozmozhnost>

<sup>42</sup> Information is provided by the League of Women with Disabilities “Ishtirok”, 2014.

<sup>43</sup> Source: <http://news.tj/ru/news/dve-shkoly-dushanbe-teper-dostupny-dlya-detei-s-ogranichennymi-vozmozhnostyami>

<sup>44</sup> Ministry of Health: In Dushanbe more than 70% of children of school age have various diseases, source: <http://www.aot.tj/ru/index/index/pageId/348/>

For example, study conducted in one of the cities of Sogd province demonstrated that 1/3 of surveyed girls and women with disabilities can't read and write, while some of them studied at home.<sup>45</sup>

Education after school was received only by ¼ of surveyed. And only 8% of them are working within their specialty (nurse, teacher, accountant). Most often, lack of access to building and public transport is an obstacle to employment.

Situation with access to education of children with disabilities in regions of the country is particularly difficult. According to specialists, real number of children with disabilities does not correspond to official statistics, because many families hide from a society diagnosis of their children and children themselves.

According to deputy head of Main department of state property of GBAO Mr. Salmon Alimshoev, biggest problem in the area of access of children with disabilities to education is that neither provincial nor republican budget allocates funding for education of this group of children.<sup>46</sup>

Chairman of GBAO Mr. Kodiri Kosim gave an order to all heads of districts to open centers of education, but this order was ignored by several heads of districts. For instance, head of Vanj district in his letter mentioned that only 12 children with disabilities are registered in this district and one of them is educated at home, but 11 study in general schools. However, according to statistics of Department of Education of province, on 1 December 2013 there were 130 children with disabilities of school age registered in Vanj district.<sup>47</sup>

For instance, survey of families with disabled children conducted in Khorog (GBAO) demonstrated that only one children from one family attended general school.<sup>48</sup> Currently, 835 children with disability of school age are registered in the Department of Education of GBAO.

On 24 May and 2 June Japanese association completed renovation of general schools #28 and 72.

Thus, in compliance with international standards, the legislation of the RT in the field of education guarantees inclusive education for children with disabilities that allows to child with disability to visit pre-schools and general schools, where special conditions for such children should be established. Despite this, in Tajikistan mostly concept of "special education" is applied, when child with disability is brought up and educated in special institution.

Upbringing and education of children with disability at home are undertaken by educators and teachers of general category, who do not have special knowledge and skills to work with children with disabilities. This is due to lack of special programmes for education of children with disabilities in Tajikistan, which require individual approach to every category of children with disability and take into individual features of every child with disabilities. Besides, there are lack of programmes of education and improvement of qualification of educators and teachers, methodological recommendations on work with children with disabilities. Measures on

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<sup>45</sup> Research conducted by PA "Safoid Kanibadam" in Kanibadam of Sogd Province, 2014. 50 women with disabilities were surveyed.

<sup>46</sup> Publication "Impulse" (publication of the Center of support of civil society "Kalam"), # 28 (205), December 2014, authors: Mashhur Imomnazarov, Nekruz Navruzov, lawyer of the Association of Lawyers of Pamir.

<sup>47</sup> Publication "Impulse" (publication of the Center of support of civil society "Kalam"), # 28 (205), December 2014, authors: Mashhur Imomnazarov, Nekruz Navruzov, lawyer of the Association of Lawyers of Pamir.

<sup>48</sup> 19 families with disabled children were surveyed, study conducted by the Association of parents of children with disabilities "Savob", GBAO, 2011.



introduction of inclusive education for children with disability are undertaken both at policy and legislative levels, but currently, they are enforced in practice in the country.<sup>49</sup>

***Recommendations:***

- *Establish accessible environment and conditions in pre-school educational institutions, schools, universities, other educational institutions, dorms of institutions and etc. for access to education by children with disabilities and persons with disabilities.*
- *Ensure practical implementation of the Concept of inclusive education of children with disabilities.*
- *Provide training for specialists on education of children with physical and mental disorders;*
- *Facilitate receipt of high and vocational education by persons with disabilities.*

**11. Right to participate in cultural life (article 15)**

Exercise of this right by persons with disabilities is again hindered by physical accessibility of objects of material environment for persons with disabilities. In this respect, persons with disabilities on wheelchairs or with movement problems practically do not visit cultural events due to lack of physical accessibility of cultural objects (museums, theaters etc.). For instance, National museum of the capital city is equipped with high staircase, which has many stairs, high ramps without handrails, its use is unsafe both for persons with disabilities on wheelchairs and for disabled persons with problems of musculoskeletal system. Museum in Khudjand city of Sogd province is also equipped with high ramps without handrails, but inside there are staircases without ramps and stairs, which persons with disabilities are not able to use without external support to see exhibition.

Persons with disabilities on wheelchairs very rarely visit restaurants and cafes and may enter inside only with help of their friends and acquaints due to physical barriers.

As to persons with hearing, seeing disabilities, cultural events are also not accessible for them due to lack of special facilities, conditions and devices for this category (lack of tables, information using Braille system for blind, lack of translators of sign language, signs for deaf persons etc.)

***Recommendations:***

- *Ensure physical accessibility of objects of cultural value for persons with disabilities.*
- *Pay attention on accessibility of buildings for persons with disabilities in conducting expertise of project documentation of objects of capital construction (including objects of cultural value).*
- *Envisage conditions inside objects of cultural value to ensure their use by persons with disabilities on wheelchairs and with problems of musculoskeletal system.*
- *Arrange translation to sign language during theatre performance and other activities for persons with low hearing capacity and persons with problems with hearing.*

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<sup>49</sup> Analysis of implementation by the Republic of Tajikistan of selected Concluding observations of the UN Committee on Economic, Social and Cultural Rights, PA “Bureau on human rights and rule of law”, 2014.