

UNIVERSAL PERIODIC REVIEW – HUMAN RIGHTS COUNCIL

UNICEF INPUTS – Georgia

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I. Background and Framework

A. Constitutional and legislative framework

1. According to the Georgian Constitution domestic legislation is required to correspond to universally recognized principles and rules of international law. Thus an international treaty ratified or acceded to by Georgia takes precedence over national law if there is a conflict, unless such treaties contradict the Constitution itself.¹ The current legislation is in general relevant, but there is insufficient funding for its implementation, insufficient monitoring and insufficient enforcement mechanisms.

2. There is a need for a thorough review of existing legislation in order to identify any potential gaps. In parallel an effective monitoring system is required to ensure and enforce implementation. UNICEF supported the establishment of the Child Rights Council at the Parliament of Georgia which aims at harmonizing the national legislation in line with the Convention on the Rights of the Child and other international standards.

3. The Law of Georgia on Licensing of the Educational and Residential Institutions stipulates that all institutions engaged in provision of twenty-four-hour residential/educational care are subject to licensing. However, the law does not cover all family substitute services available in the country, e.g foster care. According to international experience and the Resolution adopted by the UN General Assembly on Alternative Care of Children (24.02.10) it is critical for the state to ensure that all entities and individuals engaged in the provision of care for children (especially 24 hour care) receive due authorization i.e. should be licensed, accredited, etc. These measures will ensure adequate monitoring and quality of care for vulnerable children. Hence, it is strongly recommended that similar to other 24-hr settings, licensing/accreditation is also introduced for foster care providers.

4. Street Children in Georgia do not receive age-appropriate schooling and vocational training. 14-17 years old street children who have never studied at school find it difficult to obtain a public school certificate. Without such a certificate it is impossible to enter and receive vocational training according to current Georgian legislation. They cannot enter special rehabilitation centres due to lack of IDs and other registration documents that leave them out of the social benefits. There is a need for legal provisions into the education law enabling street children without compulsory school education to receive complete vocational and technical training; and amendments must be enacted in administrative provisions by the MLHSA enabling the street children to gain access to and benefit from the continuum of services they are entitled to through the established care centres.

¹ Article 6 of the Constitution as referred to by Hamilton, Carolyn for UNICEF, (2007), *Analysis of the Juvenile Justice System in Georgia*, p. 50

5. There are no clearly defined laws for protecting the privacy and confidentiality of a juvenile regardless of status at any stage of criminal process. There are many cases of violation of right to privacy by the media, especially in regards to juvenile witness and victims. There is a need to regulate it at the legislative level in order to avoid further violation of this right.

B. Institutional and human rights structure

6. There is no single state body responsible for human rights protection. The Ministry of Foreign Affairs is responsible for drafting the Government reports on implementation of the UN Conventions.

C. Policy measures

7. The Government prioritizes child protection, and has adopted a Child Welfare Action Plan 2008 – 2011, which outlines the key intervention areas for reforming the child care system. The Action Plan informs a new phase in the child care reform process – moving towards reaching vulnerable and at-risk children before family breakdown occurs.

8. There is no comprehensive government policy for children with disabilities taking into account all the developmental needs, including the right to health, education and not to be discriminated against. However, the Strategy and Action Plan of Special Needs Education for the years 2009-11 is built on the Concept of Social Integration of Persons with Disabilities and includes important provisions for access to mainstream education among children with disabilities.

II. Promotion and protection of human rights on the ground

A. Implementation of international human rights obligations

1. Equality and non discrimination

9. Social inclusion remains a significant challenge. The Committee on the Rights of the Child highlighted in its 2008 concluding remarks that despite the Constitutional and other guarantees, the principle of non-discrimination is not fully respected in practice with certain groups of children, including, inter alia, for children belonging to minorities; children with disabilities; refugee and asylum-seeking children; children who are internally displaced; children of disadvantaged families; street children; children in juvenile justice system and children living in rural or remote areas². For example, the proportion of people in poverty in rural areas was 30 per cent compared to 18 per cent in urban areas³. Children with Azeri ethnicity have about twice the mortality level of children with Georgian ethnicity⁴. The urban-rural gap in early childhood education has increased. Nearly two-

² CRC- Concluding Observations Georgia June 2008 – CRC/C/GEO/CO/3.

³ The highest levels of total child poverty were found in the Northern Mountain Arc regions of Shida Kartli (68%), Kakheti (57%), Mtskheta-Mtianeti (44%). Source: Bradshaw, Jonathan, et al., (2008), *Chapter 4: Child Poverty in Georgia*, pp. 4-5.

⁴ The ethnic disparity seems to be particularly high when looking at the post-neonatal period, indicating weaknesses in household childcare practices and health seeking behaviour and possibly other cultural specificities such as early marriages. Source: NCDC, et al., (March 2007), *op. cit.*, p. 130, State Department of Statistics of Georgia, National Center for Disease Control Georgia and UNICEF, (2007), *Georgia Multiple Indicator Cluster Survey 2005*, Table CM.1

thirds of urban 3-4 year old children attend pre-school compared to only a quarter of rural children⁵.

10. There is significant stigma and discrimination in regard to children with disabilities, contributing to their systematic exclusion and isolation⁶. Only 7 per cent of pre-schools have any children with special needs, indicating that most children 3-6 years old with disabilities are never sent to pre-school but kept at home⁷. Children with disabilities that do have access to learning are often separated from mainstream schools.

2. Right to life, liberty and security of the person

11. Statistics reflect notable progress towards the Millennium Development Goals – yet Georgia is not on track to actually meet the under-five mortality rate goal. The under-five mortality rate fell from 47 per 1,000 live births in 1990 to 30 per 1,000 live births in 2008 according to United Nations estimates. A similar positive trend has been noted in maternal mortality. A high neonatal mortality rate indicates a weakness in the antenatal and perinatal care systems. In order to further reduce infant mortality additional efforts are required to ensure quality perinatal and neonatal services.

12. There is no national child protection referral mechanism. The number of social workers is growing, but still insufficient and lacking adequate training.

13. Domestic and gender-based violence⁸ and violence against children in schools are not unusual⁹. 47 per cent of children experience violence in schools and 21.5 per cent of caregivers say they repeatedly beat their children. A 2007/8 UNICEF-commissioned study found 71 per cent of children in institutions had experienced some sort of physical violence, 62 per cent psychological violence.

14. The number of children living in institutions reduced significantly from 5,200 in 2004 to 2,300 in 2008. An additional 1,200 children are estimated to live in private institutions run by NGOs and the church¹⁰. Over 90 per cent of children in residential institutions have a surviving parent. The main causes for admission are poverty and disability.

15. It is estimated that in the four largest cities¹¹ there are 1,050 children living and/or working on the streets, almost all of whom are boys¹². Approximately 60 per cent of street children in Tbilisi are of Roma origin¹³.

⁵ MICS 2005

⁶ PA consulting group and IPS for the World Bank, (2007), *Qualitative Survey on Disability and Living Standards in Georgia*, p. 1-5

⁷ Iltus, Selim for UNICEF – Georgia, (December 2007), *School Readiness in Georgia – Findings from Research on School Readiness*, p. 21

⁸ The only available source on domestic violence against women is old -> Reproductive Health Survey 2005, which showed that 5% of women experience some form of physical abuse during their lifetimes. p 359

⁹ For example, 47 per cent of children experience violence in schools; and 21.5 per cent of caretakers report repeatedly subjecting their child to physical violence (beatings).

¹⁰ Committee on the Rights of the Child, (May 2008), *op.cit.*, pp. 11-13, Statistics provided by MoES

¹¹ Tbilisi, Kutaisi, Rustavi and Batumi

¹² Wargan, Katarzyna and Dersham, Larry for Save the Children and ACT Research, (March 2009), *“Don’t Call Me a Street Child” – Estimation and Characteristics of Urban Street Children in Georgia*, pp. 11-15, 23

¹³ World Vision, (2007), *Street Children and Child Labor in Tbilisi*, pp. 4-5, UNICEF, (2006), *Children on the Brink – A Focused Situation Analysis of Vulnerable, Excluded and Discriminated Children in Romania*, p. 56.

16. Georgia has a low incidence and prevalence of HIV/AIDS (estimated HIV prevalence rate 0.1% among adults aged 15-49). Official statistics reported 2,005 HIV infections at the end of 2009. In 2008 experts estimate of the actual number of the cases was 4,000. Injecting drug users account for 59.7 per cent of infections. Almost two-thirds of Georgia's estimated 40,000 injecting drug users began using drugs between 15 to 19 years of age¹⁴. The Georgian Government has developed a multi-sectoral national response to HIV/AIDS, supported by the Global Fund.

3. Administration of justice and the rule of law

17. A comprehensive national strategy on juvenile justice was adopted in 2009 within the broader Criminal Justice Strategy. Repressive policies in place have been abandoned. Treatment of juvenile offenders has improved, in particular in detention and correctional facilities. The appointment and training of specialised judges and prosecutors has been institutionalized. The reforms and increase in system capacity are due to the combined efforts of Government, Penal Reform International, the Georgian Bar Association, and other key actors with support from EU and Dutch Government.

4. Right to social security and to an adequate standard of living

18. Despite the economic growth in recent years a significant proportion of the population is still living below the poverty line. The 2009 World Bank Poverty Assessment found that 23.7 per cent of the Georgian population was poor and 9.3 per cent was extremely poor. Among children poverty levels are higher than the national average (28 per cent) corresponding to 280,000 children. Families with four or more children are especially vulnerable: 44 per cent are poor, and the depth of their poverty is more severe¹⁵. The effects of the global economic crisis and the 2008 conflict on child poverty is difficult to assess. However, the 2009 Poverty Assessment forecasts the total poverty rate to go up from 23.7 per cent to 27.1 per cent.

19. The significant proportion of people living in poverty are not covered by a social safety net¹⁶. This may have improved partially as the number of people benefiting from Targeted Social Assistance Programme increased from 400,000 to 460,000 between January and June 2009. Major reform of the Social protection system is underway, with a particular emphasis on expanding means-tested social assistance. While there are encouraging signs of more resources being channeled to poor households through the targeted social assistance scheme, a major effort is required to strengthen the social protection system's capacity to encompass all of the vulnerable population.

¹⁴ Estimating the Prevalence of Injecting Drug Use in Five Cities of Georgia, 2009. Sirbiladze T., Tavzarashvili L., Zabransky T., Sturua L.

¹⁵ Georgia Poverty Assessment. Page 22-23. World Bank. April 2009

¹⁶ The WB Poverty Assessment showed that only 30% of the poorest quintile benefitted from the Government Targeted Social Assistance Programme (TSA). WB (April 2009) Georgia Poverty Assessment, p.93 - This may have improved partially as the number of people benefitting from TSA increased from 400,000 to 460,000 between January and June 2009.

20. The other major challenge consists of system and capacity gap in service delivery. Overall, social sector budget allocations remain insufficient: only 1.6 per cent of GDP is allocated to health and 2.8 per cent on education¹⁷. Public health expenditures as a share of total government spending are the second lowest in the European Region. Increased emphasis on public health and nutrition, health promotion and communication and disease prevention, is necessary to improve health outcomes¹⁸. Although there is a good geographical access to basic health facilities around the country and a significant proportion of the poor population is covered through state health benefits and/or medical vouchers (673,000 in 2007, increasing to 900,000 in 2009), three-quarter of the total population is not covered by any form of health insurance. Increasing out-of-pocket payments for health¹⁹ are leading to financial barriers to basic health services^{20,21}.

21. 99 per cent of population has access to improved drinking water, 93 per cent to adequate sanitation. 33 per cent of IDPs and 64 per cent of villagers have no access to bathing facilities.

5. Right to education and to participate in the cultural life of the community

22. Georgia has a strong education tradition with high primary and secondary enrolment ratios and high literacy rates. However, the pre-school attendance rate is only 49 per cent²². Children not attending pre-school have a higher risk not reaching their full potential and are at greater risk of learning difficulties, violence and social problems. The quality of education in primary schools, measured through learning achievements by the 2007 Trends in International Mathematics and Science Study (TIMSS) and Progress in International Reading Literacy Study (PIRLS) found that Georgian 4th and 8th graders were among the bottom third of 36 participating countries in mathematics and science²³. Georgian 4th graders were among the bottom fourth of 40 participating countries in reading achievements²⁴. Georgia scored lower than the other 11 participating CEE/CIS countries. The education system does not prepare young people adequately for the labour market resulting in high unemployment rates among this group.

III. Achievements, best practices, challenges and constraints

23. The main goal of the Government and UNICEF 2006-2010 programme of cooperation was to strengthen national reform processes as well as contribute to the

¹⁷ Source: Department of Statistics, (2008), *2008 Statistical Yearbook of Georgia*, pp. 132, 247, Department of Statistics, (2008), *2007 Statistical Yearbook of Georgia*, p. 249, Georgian-European Policy and Legal Advice Centre, (2008), *Georgian Economic Trends, Quarterly Review October 2008*, p. 24 + Comments First Lady during MTR.

¹⁸ WHO, WB, GoG. *Georgia Health System Performance Assessment, 2009*.

¹⁹ (with 72 per cent out-of-pocket spending of all health expenditure = second highest in the European Region)

²⁰ WHO, WB, GoG. *Georgia Health System Performance Assessment, 2009*. - As indicated by the fact that one out of four Georgian citizens cannot afford prescribed laboratory diagnostic tests and one out of ten cannot purchase prescribed medicine or go to the hospital due to financial hardship.

²¹ WHO, WB, GoG. *Georgia Health System Performance Assessment, 2009*. Page 79.

²² UIS web-site, http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=143&IF_Language=eng, (16Feb09), Georgia, Ministry of Economic Development – Department of Statistics, (2007), *Education, Science and Culture in Georgia – Statistical Publication*, p. 15

²³ TIMSS – Trends in International Mathematics and Science Study, (December 2008), *TIMSS 2007 International Mathematics Report*, pp. 34-35, 58-59, TIMSS – Trends in International Mathematics and Science Study, (December 2008), *TIMSS 2007 International Science Report*, pp. 34-35, 55-57

²⁴ PIRLS – Progress in International Reading Literacy Study, (2007), *PIRLS 2006 International Report*, pp. 37, 48, 51, 249

realization of children's rights to grow up healthy and well-nourished in a caring, nurturing and inclusive family environment.

24. The Government has implemented extensive health system reforms. For example, amendments to the health care law adding compliance of services to the evidence-based clinical guidelines and protocols were introduced with support from the European Commission, the World Bank, and WHO, with UNICEF focusing on perinatal health. Immunization rates remained high throughout the country. Pregnant women attending at least four ANC visits increased from 60 to 70 per cent. All HIV infected pregnant women received a complete course of ARV prophylaxis reducing the risk of mother-to-child transmission.

25. A new Alliance on Early Childhood consisting of parliamentarians, academic experts and civil society actors, with UNICEF support ensured endorsement of the Early Childhood Development National Strategic Plan of Action.

26. The Government prioritizes child protection, and has adopted a Child Welfare Action Plan 2008 – 2011, which outlines the key intervention areas for reforming the child care system. A focused and sustained effort around deinstitutionalization has produced a 52 per cent decline in the number of children living in institutional care²⁵. Family reunification has been a priority, and formal foster care and guardianship now function as alternatives to institutional care. The role of the European Union, the World Bank and USAID as well as key partners such as Save the Children, EveryChild, First Step, and World Vision have been critical to the reform process.

27. Social work as a profession has developed significantly. Alongside government, key partners include the Georgian Association of Social Workers and Tbilisi State University. In 2000, there were only 18 social workers. There are now 53 social work teams throughout the country, representing a total of nearly 200 social workers. Paraprofessional trainings are now available, and two Universities degree programmes in social work. A 2007 study found that the 86 per cent of children referred to a social worker were able to continue living with their families; 13 per cent were placed in family substitute care, with only 1 per cent in residential care.

28. A comprehensive national strategy on juvenile justice was adopted in 2009 within the broader Criminal Justice Strategy. Repressive policies in place have been abandoned. Treatment of juvenile offenders has improved, in particular in detention and correctional facilities.

29. A real-time evaluation found that 73,000 children affected by the conflict in and around South Ossetia could start the new school year in October 2008 through a coordinated back-to-school programme. Government efforts to prevent epidemics and malnutrition among 130,000 internally displaced persons were supported by UNICEF through its cluster coordination role in Water, Sanitation and Hygiene (WASH) and child nutrition. Eighty-four locations in conflict-affected areas established inter-agency child-friendly spaces. In addition to the UN, key partners in the humanitarian response and recovery phases included Save the Children, International Rescue Committee, Norwegian Refugee Council, Action Contre le Faim and World Vision.

²⁵ UNICEF: Assessment of the Child Welfare Reform Process in Georgia – Final Report. Clare O'Brien & Tata Chanturidze. November, 2009.

30. The ongoing national reform process and the European Neighbourhood Policy have both provided opportunities to advance the child rights agenda through leveraging key partnerships with the European Union and World Bank to ensure that resources are pooled and branches of international assistance are mutually reinforcing. Strengthening institutions which enable rights holders to claim their rights through capacity development for human rights based budget monitoring and policy advocacy has been welcomed by Public Defenders Office, the Parliament and Civil Society groups.

31. The establishment of support services for young people on probation has helped to reintegrate children with families and communities. No child who has gone through the newly established services for probationers has re-offended. The government is committed to establish juvenile probation officers throughout the country which may in turn provide opportunities to build a broader continuum of services for vulnerable youth.

32. The successful birth registration campaign led by the Civil Registration Agency supported by UNHCR and UNICEF has demonstrated the importance of supporting service provision with carefully targeted social mobilisation which can overcome cultural and traditional obstacles. Providing services without appropriate mobilization and information-sharing at the community level produces limited results. Under-utilization of health and other services, rather than their availability, is the greatest constraint to further improving the situation of Georgian children, especially in marginalized groups. There is a need for increased investments in social mobilization and communication for development capacity in country.