



# Women with disabilities in Tajikistan

**Joint NGO submission to CEDAW ahead of 71st Session**

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# Introduction

***“The Committee is concerned about the particular vulnerability of [...] women and girls with disabilities, who suffer multiple forms of discrimination.”*** Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on Tajikistan, October 2013

Women with disabilities in Tajikistan are subjected to multiple forms of discrimination due to their gender, their disability, and often poverty as well. This document focuses on women with disabilities and presents information about the implementation of Tajikistan’s obligations under Articles 1, 2, 3, 4, 5, 10, 11, 12, 14 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women.

This submission assesses improvements and remaining gaps in relevant legislation and government programmes, observed since CEDAW last reviewed Tajikistan in October 2013. The document highlights allegations of ill-treatment and concerns about limited civil society access -- for the purpose of human rights monitoring -- to semi-closed institutions that house persons with disabilities. It also outlines concerns about barriers preventing persons with disabilities, particularly women, from enjoying equal access to education, the labour market, health care and social security. The document concludes with suggested priority recommendations to the Tajikistani authorities that are based on the issues and concerns raised in the thematic chapters.

The report was prepared jointly by the Tajikistani NGOs Bureau for Human Rights and Rule of Law (BHR), the League of women with disabilities Ishtirok (a member of the Network of Women with Disabilities), Nota Bene and International Partnership for Human Rights (IPHR). It is based on ongoing monitoring by the Tajikistani NGOs and field research conducted by IPHR in close cooperation with local partners in June 2018. The authors wish to thank representatives of the following NGOs for sharing information and analysis with IPHR researchers: Association of Parents of Children with Disabilities (Dushanbe), Information and Resource Centre Inclusion (Khorog, Badakhshan Autonomous Region), Iroda (Dushanbe), National Association of the Deaf (Dushanbe), NOIL (Dushanbe), National Association of the Blind (Dushanbe), Women with Disabilities Safoi Konibodom (Sughd Region), Branch of the League of Women with Disabilities Ishtirok in Dangara and other activists and women with disabilities, representatives of inter-governmental organizations based in Tajikistan and the NGO Disability Rights International.

Please note that the situation of children with disabilities is not the main focus of the report and therefore this issue is only mentioned when it has strong implications for the situation of women with disabilities.<sup>1</sup>

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1 For further information on children with disabilities, refer to:

- Alternative report on the Implementation of the Convention on the Rights of the Child in the Republic Tajikistan, jointly prepared by BHR and the Parents’ Coalition of Children with Disabilities: [http://bhr.tj/sites/default/files/articles/2018-01/alternativnyi-doklad\\_dsi\\_2016-g.pdf](http://bhr.tj/sites/default/files/articles/2018-01/alternativnyi-doklad_dsi_2016-g.pdf) (in Russian)
- *Alternative Report of the NGOs on the Implementation of the Convention on the Rights of the Child by the Republic of Tajikistan, issued by a coalition of Tajikistani NGOs:* [http://notorturetj.org/sites/default/files/articles/2018/files/alternative\\_report\\_of\\_the\\_ngos\\_on\\_the\\_implementation\\_of\\_the\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child\\_by\\_the\\_republic\\_of\\_tajikistan.pdf](http://notorturetj.org/sites/default/files/articles/2018/files/alternative_report_of_the_ngos_on_the_implementation_of_the_convention_on_the_rights_of_the_child_by_the_republic_of_tajikistan.pdf)
- *Strategic Plan of the Commissioner for the Rights of the Child for 2018-2020:* [https://vhk.tj/images/strategy/O4CR\\_Strategy\\_2018\\_-\\_2020\\_TAJ\\_RUS\\_ENG.pdf](https://vhk.tj/images/strategy/O4CR_Strategy_2018_-_2020_TAJ_RUS_ENG.pdf).

## Living in Tajikistan with a disability

All people with disabilities and the parents of children with disabilities interviewed by IPHR researchers during field research conducted in June 2018 said that they or their children face major obstacles. Societal stigma, omnipresent physical and other barriers and the current system of special schooling and institutionalization, a legacy from the Soviet past, contribute to their marginalization.

Tajikistani society typically associates disability with poverty, illness and lack of education and some see it as a punishment for sin, but it is chiefly societal barriers which prevent most people with disabilities from breaking this vicious circle. In many cases people with disabilities have internalized the stigma to such an extent that, in addition to physical and other barriers, a sense of deep shame prevents them from realizing their potential.

Women and girls with disabilities face multiple discrimination. Girls are less likely to receive an education and thus be able to access employment than boys as many parents believe it is less important for girls, and more so for those with disabilities, to be educated. The expectation is that relatives will take care of a girl with disabilities throughout her life. In addition, parents are more likely to send a boy with disabilities to a special boarding school than a girl for fear of leaving her without family supervision.

Parents of children with disabilities often feel that they did something wrong and in many cases the stigma that affects their family fills them with shame. While many parents and relatives are supportive, others hide their disabled relative at home, keeping them out of sight of the neighbours. Sometimes relatives try to prevent persons with disabilities from finding sources of income because they do not want to be seen by society as neglectful and unable to take good care of them. Women with disabilities are particularly vulnerable to domestic violence.

It is very difficult and often impossible for women with a disability to get married, more so than for men. Families of men with physical, intellectual or mental disabilities often reportedly find poorer families who agree to marry their daughter to him. She is then expected to take care of him.

IPHR was told that in Tajikistan, it is not uncommon for a man to leave his wife when their child is born with a disability as he and his relatives often believe it is her fault.

In many cases relatives who are unable or unwilling to take care of a disabled relative send them to a state residential care institution. Poverty is a key factor in such decisions, as these institutions at least provide food and shelter. Another reason cited by several interlocutors is the fear of stigma affecting the family if others, particularly relatives of potential brides or bridegrooms, suspect a hereditary disability.

As in many societies, the initial response to disability is often to offer charity. Saida Inoyatova, Chairperson of the NGO Ishtirok told IPHR researchers in June 2018: "People with disabilities are commonly pigeon-holed as poor and miserable. Our people aren't bad, they want to help and religious leaders preach that you should help the poor, the lonely and the disabled. But providing charity doesn't end the vicious circle of low education and poverty."

Several persons with disabilities and disability activists, who have found ways to overcome societal barriers and live their lives in defiance of common stereotypes, told IPHR researchers that education and supportive relatives and friends helped them break free.

# Tajikistan's international human rights commitments and government programmes

Tajikistan has ratified a number of key international human rights treaties and, by doing so, has undertaken to uphold fundamental human rights principles, including those of persons with disabilities. These commitments include ensuring equality before the law and protection from discrimination, freedom from torture and ill-treatment, and progressively ensuring the full realization of the rights to education, work, social security and the right to the enjoyment of the highest attainable standard of physical and mental health.

In March 2018 Tajikistan signed the Convention on the Rights of Persons with Disabilities. It is unclear if there are plans to ratify it in the near future.

Many of the above rights and principles are enshrined in Tajikistan's domestic legislation. Article 17 of the country's Constitution guarantees equality before the law and the rights and freedoms of everybody regardless of their nationality, race, sex, language, religion, political opinion, education, social and material situation. The codes of criminal, civil, administrative and economic procedure and the Code of Administrative Offences include similar provisions, but the Economic Procedure Code is the only code that specifies that, in addition to the grounds listed, discrimination is also prohibited under "other circumstances". Thus, disability is not explicitly mentioned as a prohibited ground for discrimination in any of the above legislation. The Law on Social Protection of Invalids stipulates that government policy regarding social protection of persons with disabilities is based on human rights principles and prohibits discrimination.

Although a number of other normative acts also include references to the prohibition of discrimination, Tajikistan does not have comprehensive anti-discrimination legislation. Domestic legislation does not clearly define discrimination. There is no national action plan to counteract discrimination.

Tajikistan's Constitution stipulates the equality of men and women. Article 35 guarantees the right to work and social protection from unemployment. Article 38 sets out the right to health protection and stipulates that everyone is entitled to free of charge medical care in public health care facilities. Article 41 stipulates the right of all to education. Article 3 of the Law on Social Protection also sets out that key principles underlying government policy include the right to access the necessary level of social protection, medical, social and professional rehabilitation, and equal access, along with other citizens, to health care, education, recreation, travel and free choice of activities, including work activities. Further references to domestic legislation are included in the relevant chapters below.

While there is room for improving legislation, it is primarily the lack of effective mechanisms to implement existing legislation that perpetuates the dire human rights situation of persons with disabilities.

In recent years the authorities have stated their commitment to improving the situation of persons with disabilities. For example, in his December 2017 Annual Address to the Parliament of Tajikistan, President Imomali Rahmon stressed his government's "particular attention to the rehabilitation of persons with disabilities".

Since CEDAW's last review of Tajikistan in 2013, the authorities have been guided by and have adopted a number of programmes and strategies that include measures to improve the situation of persons with disabilities, for example:

- *the National Strategy on the Development of Education*, valid until 2030, which includes plans for inclusive education;
- *the National Strategy on Health Protection of the Population of the Republic of Tajikistan (2010-2020)*;
- *the Concept Paper Better Health for Persons with Disabilities in the Inclusive Society in the Republic of Tajikistan (2014-2019)*;
- *the National Programme for the Rehabilitation of Invalids (2017-2020)*;
- *the Mid-Term Development Programme of the Republic of Tajikistan for 2016-2020*; and
- *the National Development Strategy of the Republic of Tajikistan*, valid up to 2030.

However, no comprehensive information is publicly available about the measures that have been implemented with regard to persons with disabilities under these programmes.

Since CEDAW issued its Concluding observations to Tajikistan in 2013 the NGOs issuing this report have observed a number of improvements regarding some of the topics outlined. While some steps have benefitted all persons with disabilities, many measures have focused on children:

- The Ombudsperson for the Rights of the Child's first Strategic Plan, issued in 2017, establishes access to quality education in an inclusive environment for children with disabilities, particularly girls, as a key priority.
- In May 2018 a working group was set up in the framework of the National Action Plan to Implement Recommendations issued under the UN Universal Periodic Review in order to draft a law on anti-discrimination.
- The Ministry of Health and Social Protection of the Population (Ministry of Health) set up a working group to elaborate a system of early diagnostics and intervention. Currently at least nine facilities provide such services.
- At the time of writing at least 37 social service facilities, funded by the Ministry of Health and run by NGOs, were functioning across the country. They provide early intervention services to children with disabilities and social services to children and adults with disabilities as well as to victims of domestic violence and human trafficking. The facilities offer day care, community support and home services.
- The provision of home care services to children and adults with disabilities has increased in recent years. At the time of writing agencies of the Ministry of Health provided such services in 41 out of a total of 68 districts of Tajikistan.
- At the time of writing at least 12 pre-school facilities offered inclusive education (eight in Dushanbe and four in the northern Sughd region).
- Opportunities to receive training to become a social worker have been developed in recent years at the Tajik National University, centres for adult education and the Practical Training Complex in Innovative Social Work, which was set up in 2012 with EU funding.
- There have been some limited improvements with regard to accessibility of certain buildings for persons with physical disabilities in some cities and access to public transportation (buses), particularly in the capital Dushanbe.

# Key barriers to accessing education, the labour market, health care and social security

*“[The] Committee is [...] concerned about obstacles preventing [women and girls with disabilities] from enjoying adequate access to health-care services, social benefits, education, employment and participation in political and public life.”* CEDAW, Concluding observations, October 2013

This chapter provides an overview of the main barriers limiting access or altogether preventing persons with disabilities in Tajikistan, in many cases women in particular, from accessing education, the labour market, health care and social security on an equal basis with others.

## LACK OF COMPREHENSIVE STATISTICS

In its 2013 Concluding observations CEDAW expressed concern at the lack of detailed statistics that could allow an accurate assessment of the situation of disadvantaged groups of women in Tajikistan. This concern continues to be valid today and poses obstacles for tailoring effective programmes addressing the rights and needs of individuals with disabilities.

Based on 2010 population figures, the WHO estimated that approximately 15 per cent of the world population lives with some form of disability.<sup>2</sup> This would mean that applied to Tajikistan’s population of approximately 8.9 million (as of 1 January 2018), there would be over 1.3 million persons living with disabilities.<sup>3</sup> However, Tajikistani official statistics have a record of only some 150 000 persons with disabilities.<sup>4</sup>

The available government statistics include only those individuals who are officially registered as “invalids” by the Government Service of Medico-Social Examination (GSMSE) – with regard to adults -- or the Doctors’ Consultation Commission (DCC), with regard to children.

Many people with disabilities do not apply for registration for a variety of reasons. These include the lack of information about the benefits and services available for persons whose disability has been recognized, a problem that is particularly pertinent in rural areas, and the stigma surrounding disability, which puts many people off registering. Another obstacle is the cumbersome and costly application process.

The national statistics that are publicly available are disaggregated by age (adult vs child) and sex, but not by type of disability, nationality or other.<sup>5</sup>

## TAJIKISTAN’S “INVALIDITY” DEFINITION, QUALIFYING DIAGNOSES AND PROCEDURE

*“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”* Convention on the Rights of Persons with Disabilities

2 World Report on Disability, 2001, p. 29: [http://www.who.int/disabilities/world\\_report/2011/report/en/](http://www.who.int/disabilities/world_report/2011/report/en/)

3 Official statistics can be found on: <https://www.stat.tj/ru/>

4 <http://avesta.tj/2017/07/08/v-tadzhikistane-naschityvaetsya-okolo-150-tys-invalidov-v-tom-chisle-okolo-25-tys-detej/>

5 Statistics published in 2016 by the Government Agency on Statistics of the President of Tajikistan: [http://oldstat.ww.tj/ru/img/958885d5dec55ce6eba4ebdeac71c911\\_1470381040.pdf](http://oldstat.ww.tj/ru/img/958885d5dec55ce6eba4ebdeac71c911_1470381040.pdf)

The definition of “invalidity” contained in domestic legislation, the official list of diagnoses constituting “invalidity”, the subdivision into “invalidity” groups and the associated procedure lead to discrimination and further marginalize certain groups of persons with disabilities.

While the definition contained in the CRPD is based on the social model of disability, the definition in Article 1 of the Law on Social Protection of Invalids is based on the medical model and defines an “invalid” as a person whose “health is damaged due to long-term impairments caused by impairment of body functions, complicated illnesses, trauma, physical and intellectual defects resulting in limited ability to carry out day-to-day tasks and leading to the need for social support”. This definition does not explicitly cover persons with mental impairments. The National Programme on the Rehabilitation of Invalids does include persons with mental impairments, however (Part 1.8).

When reviewing applications for “invalidity” status the authorities refer to government-approved lists of impairments that qualify for this status. Some psychiatric disorders are included in the lists but others, such as personality, anxiety or mood disorders are not and affected individuals are not entitled to disability benefits. Autism is also not included in the lists.

The NGOs issuing this report are also concerned that the way adults with disabilities are divided into three “invalidity” groups in Tajikistan opens doors to further discrimination and marginalization and the definition of each of the three groups is vague, which makes the system prone to manipulation. Based on doctors’ reports and other medical and psychosocial evidence, the GSMSE examines the onset and cause of the disability, the resulting limitations in carrying out day-to-day tasks, his or her need for social protection and the extent to which the person is able to work. GSMSE certifies persons classified with group 1 and 2 disability as unfit for work, but there are many cases where these individuals are able to work, but unable to find employment because potential employers risk being fined by the Inspection on Overseeing Work under the Ministry of Labour for causing harm to health.

The process of applying for “invalidity” status itself presents challenges and barriers that make it inaccessible for many persons with disabilities. It is bureaucratic, time intensive and can be costly, especially for people from rural areas, who have to travel to different towns and cities for medical and other examinations. Individuals have to reapply on a regular basis, in many cases every one or two years.

## PHYSICAL BARRIERS

***“Physical accessibility solves many social problems of persons with disabilities and is the key to remove many other barriers.”*** Fotima Shamsutdinova, Director of the NGO NOIL

***“The [Committee on Economic, Social and Cultural Rights] is [...] concerned at the lack of reasonable accommodation of persons with disabilities, including physical accessibility to buildings and facilities, particularly schools and health-care clinics.”*** CESCR, Concluding observations on Tajikistan, March 2015

Physical barriers and the lack of accessible transportation restrict the movement of persons with disabilities and prevent them from accessing buildings, with severe implications on their access to education, health care, the labour market, the social security infrastructure and other essential services.

Article 25 of the Law on Social Protection stipulates that the authorities should “create conditions for invalids [...] which allow for barrier-free access to social infrastructure (houses, public and commercial buildings, buildings, sports complexes, leisure facilities, cultural-educational and other facilities and

institutions), and barrier-free access to train and air travel, inter-city bus services and all types of city and rural passenger transportation, communication and information.” It prohibits constructing any new buildings or services that do not take into account accessibility and stipulates that the owners of buildings and transportation services are responsible for covering the costs necessary to ensure accessibility.

Town planning norms adopted in 2014 and the Town Planning Code as amended in July 2017 also include the requirement to ensure access for persons with disabilities. Article 64 of the Code stipulates that a government committee has to review all social, transport or recreational building projects to ensure that access is possible for persons with disabilities.

Nevertheless the large majority of buildings in Tajikistan are not accessible including crucial infrastructure such as hospitals, maternity clinics, centres for reproductive health, schools, other educational facilities and government buildings where individuals apply for social security provisions and the determination of their level of disability. In a welcome development some improvements regarding accessibility for persons with physical disabilities have been made in recent years, in the capital Dushanbe as well as in some other cities and towns. Unfortunately, some of the new ramps are not useable because they are too steep, too narrow, too slippery or because they lack handrails.

Several years ago public transportation (buses) in the capital Dushanbe was made accessible for persons with physical disabilities. However, outside of the bigger cities and towns there is no public transportation system and private businesses do not ensure accessibility.

Hardly any accommodation has been made for persons with visual impairments and the blind such as speaking traffic signals, raised edges of pavements and/or signs in Braille.

## **BARRIERS TO ACCESSING INFORMATION**

The authorities have failed to ensure that persons with disabilities and their families are easily able to access information about their rights, benefits, provision of services and other support.

Accessible information for persons with certain types of disabilities such as sensory and intellectual impairments, including on crucial topics such as reproductive health or educational options is particularly lacking. Very few books and educational materials are available in Braille and public institutions such as libraries are not obliged to purchase publications in Braille. Domestic legislation recognizes sign language as a language of interpersonal communication, but not as a state language. There is a severe lack of qualified sign language teachers and interpreters. There is only one TV programme with sign language interpretation, a news programme by the government Jakhonnamo Channel aired once a day for 30 minutes.

## **FURTHER BARRIERS TO ACCESSING EDUCATION**

In its March 2015 Concluding observations on Tajikistan, the CESCR expressed concern about the “gender disparity in enrolment and retention rates across all levels of education”. Women and girls with disabilities are additionally disadvantaged. This limited access to education has an obvious knock-on effect on their prospects on the labour market.

Tajikistan has embarked on introducing inclusive education in state schools and a number of pilot projects are underway, but there is still a long way to go to reach children in all parts of the country and to ensure that children with all kinds of disabilities have access to education that is tailored to their needs.

Most state schools have no specifically trained teaching staff, psychologists, social workers, therapists or facilities and equipment to address the needs of children with disabilities. Children who need additional support are not entitled to an assistant to help them at school. Often parents of children with disabilities have to be very persistent to find a place in a state school for their child and if they do, teachers are often unable or unwilling to tailor their teaching to the child's needs.

According to official figures, a total of 6 139 children with disabilities attended ordinary state schools in 2017. Only 2 502 of them were girls.<sup>6</sup> The authors of the report Situational Analysis. State of Rehabilitation in Tajikistan, issued by the Ministry of Health with support from WHO, estimated that only 12 per cent of all registered children with disabilities attended state schools.

Tajikistan inherited a system of special boarding schools for children with disabilities from the Soviet Union, but many parents are reluctant to send their child to such schools, especially when they are far from home. Parents are less likely to send girls to special boarding schools than boys.

According to information from the Ministry of Education and Science, a total of 1 744 children with disabilities attended special boarding schools, only 424 of whom were girls.<sup>7</sup> According to official figures issued in 2017, a total of 2 219 children attended these schools at the time.

Children with disabilities who do not attend school can also be home schooled, but the teachers have no special training and they usually only come for a maximum of a few hours per week. According to official information, a total of 1 040 children with physical disabilities (435 girls) were taught at home in 2017.<sup>8</sup>

The Boarding School for Children with Disabilities in Dushanbe and its branch in Rushansky District in Tajikistan's Gorno-Badakhshan Autonomous Region provide vocational training for students with disabilities, for example to become shoemakers, assistant accountants, tailors or radio mechanics.

With regard to higher education both special benefits and restrictions apply to persons with disabilities. For example, domestic legislation provides for people with disabilities who belong to "invalidity" groups 1 or 2 to receive preferential treatment when applying to enter higher educational facilities. Persons under 18, however, do not benefit from this provision because only adults are subdivided into disability groups.

The National Association of the Deaf reported that the only higher education facilities open to deaf people are an educational and a sports institute in Dushanbe. Blind people are barred from enrolling in polytechnic and medical institutes.

## **FURTHER BARRIERS TO ACCESSING THE LABOUR MARKET**

***"I don't lodge a complaint about discrimination in the labour market because I don't trust the courts to defend my rights."*** Anonymous

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6 *List of issues in relation to the combined third to fifth periodic reports of Tajikistan. Addendum, Replies of Tajikistan to the list of issues, 29 May 2017 (date received by CRC), para. 2.6.*

7 *2015 Rehabilitation report.*

8 *See above.*

As mentioned above, the Constitution and other domestic legislation prohibit discrimination and guarantee the right to work, but “disability” is not explicitly mentioned as a prohibited ground for discrimination. In practice access to the labour market for persons with disabilities is highly restricted as a result of prejudice, stigma, a number of discriminatory legal acts and declaring all individuals registered as “invalids” of groups 1 or 2 as unfit for work.

In addition, in a worrying move, Asadullo Rakhmon, responsible for staffing issues at the President’s Office issued an order (Order No. 15) on 9 April 2015 stipulating that all persons receiving disability allowances including individuals with disabilities and former military personnel should be dismissed from their work places within three days. As a result, persons with disabilities employed in government structures and public institutions such as schools and hospitals were forced to choose between their disability allowance and their employment. This move violated Tajikistan’s Labour Code, which stipulates that persons with disabilities are entitled to disability allowances regardless of whether they are employed or not, in addition to Tajikistan’s obligations under international human rights law.<sup>9</sup> Many of those affected were dismissed or “voluntarily” turned down their allowances in order to stay employed. Some complained and solutions were found in individual cases, but the order was not revoked and persons with disabilities continue to be excluded from working in government structures and public institutions unless they reject claims to their disability allowance. Some civil society activists interviewed by IPHR researchers in June 2018 alleged that the authorities’ aim was to save money and reduce the numbers of persons with disabilities in the official statistics.

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On 18 June 2015, Asadullo Zakrihudoyev, Chairperson of the Society of People with Disabilities Imkoniyat, was reported by the news agency Asia Plus as saying: “There is the case of a 40-year-old woman who was going through the medico-social examination. She clearly has a disability, she only has one eye. But she turned down the invalidity registration, to make sure that she can keep her job.”

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The dire situation of persons with disabilities on the labour market is exacerbated by Tajikistan’s high rate of unemployment. Tajikistan is the poorest country of the Commonwealth of Independent States (CIS) with a gross domestic product (GDP) per capita of 801 USD in 2017, according to the World Bank.<sup>10</sup> Competition is particularly high for unskilled labour. Many men and women, unable to find work in Tajikistan, leave the country to earn money abroad and Tajikistani households heavily rely on remittances.<sup>11</sup>

Domestic legislation contains laws intended to reduce barriers to the labour market for persons with disabilities. However, often these benefits, exemptions and special measures are not implemented in practice or even make it more difficult to find work. For example, the Labour Code stipulates that persons with disabilities should work for a maximum of six rather than eight hours per day, allows them to schedule medical appointments during working hours, and provides persons issued with “Invalidity” Group 2 with extended holidays. For many companies and businesses these provisions act as disincentives to hiring individuals with disabilities. In those cases where persons with disabilities have found work, their

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9 For further information (Russian only), refer to: *Rabotayushchie invalidy: byt ili ne byt?*, 8 June 2015 (<http://www.asiaplus.tj/ru/news/rabotayushchie-invalidy-byt-ili-ne-byt>) and *Obshchestvennye organizatsii Tadjikistana prizyvayut otmenit diskriminatsionnye rasporyazhenie*, 24 April 2015 (<https://news.tj/ru/news/obshchestvennye-organizatsii-prizyvayut-otmenit-diskriminatsionnoe-rasporyazhenie>)

10 Media sources reported a GDP increase in 2018: <https://ru.sputnik-tj.com/economy/20180418/1025343595/tajikistan-demonstriruyet-uverenny-rost-vvp.html>

11 For further information on remittances, refer to: [https://tjk.rus4all.ru/city\\_msk/20180323/728533532.html](https://tjk.rus4all.ru/city_msk/20180323/728533532.html) and <https://ru.sputnik-tj.com/russia/20180913/1026765370/russia-skolko-deneg-otpravlyayut-tajiki.html>

workplaces are typically not adapted to their needs. They often earn less than persons without disabilities in comparable jobs.

The Law on Social Protection of Invalids stipulates that companies with at least 20 employees should ensure that at least five per cent of their employees are persons with disabilities. In a sub-law the quota was increased to six per cent.<sup>12</sup> In its 2015 Concluding observations the CESCR recommended Tajikistan to ensure strict compliance with the quota legislation and “provid[e] for dissuasive sanctions for employers in case of non-compliance”. However, no enforcement mechanisms have been introduced and the quota system does not work in practice.

The authorities do not compile statistics on employment figures of persons with disabilities.

## **FURTHER BARRIERS TO ADEQUATE HEALTH CARE**

In its March 2015 Concluding observations on Tajikistan, the CESCR expressed concern “about the inadequate budget for the health sector and the lack of access to health care by disadvantaged and marginalized individuals and groups, including persons with disabilities.”

There is a noticeable lack of qualified specialists in the areas of health care and service provision for persons with disabilities. In most cases health care facilities including gynaecological treatment rooms and birth clinics are not accessible and lack specialized equipment for examining and treating persons with certain types of disabilities. Women with disabilities have limited access to reproductive health care and information about family planning and personal hygiene.

There is a high level of stigmatization of disability among medical personnel. Doctors often recommend abortions when they suspect there is a risk of the child being born with disabilities, for example, if a close relative has a disability. Genetical analysis and other diagnostic tools are very expensive and unaffordable to most.

The Law on Social Protection of Invalids stipulates that the authorities should develop an Individual Rehabilitation Programme for each person with disabilities aimed at increasing their ability to carry out certain activities. The Programme should contain measures geared towards strengthening the person’s health including, where appropriate, surgery, technical, prosthetic and orthopaedic equipment, and appropriate therapies; as well as measures focusing on professional orientation and development, education, further qualification and adaptation of the work place. Unfortunately, the implementation of the Individual Rehabilitation Programme was not included in the *National Programme on the Rehabilitation of Invalids* (2017-2020), and in practice Individual Rehabilitation Programmes are not consistently drawn up.

Access to service provision chiefly depends on where individuals with disabilities live. The 2015 Ministry of Health report *Situational Analysis. State of Rehabilitation in Tajikistan* concluded that the full spectrum of government services was only available to persons with disabilities in Dushanbe while a limited number of facilities provided a smaller range of services in other major cities like Khujand and Kulyab. Since the report was published services have been extended to other locations, but there is still a marked difference between service provision in different parts of Tajikistan.

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<sup>12</sup> *Rules to determine the quota for employing different groups of the population*, adopted by the Government in 2009 and amended in 2011.

## FURTHER BARRIERS TO SOCIAL SECURITY

Although significant reforms have been carried out in recent years to strengthen social protection for persons with disabilities, they and their families live below the poverty line a large proportion of cases, and many disability benefits laid down by law are declarative and not implemented in practice.

As of 1 September 2018 the disability allowance for adults is between 108 and 270 TJS (the equivalent of approx. 10 and 24 EUR) depending on the extent of the disability and whether the person is employed or not. This is significantly lower than the minimum monthly wage.

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A mother of two children with disabilities from Dushanbe, aged nine and 18 respectively, told IPHR researchers that she spends the two girls' disability allowances entirely on buying nappies for the older one.

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A mother in the town of Faizobad, east of Dushanbe, explained that she could no longer afford treatment for her eight-year-old son, who has cerebral palsy, as the disability allowance barely covers food and nappies.

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Other benefits persons with disabilities are entitled to by law include reduced costs of gas, water, electricity, communal services and free public transportation. These entitlements are gradually being replaced by the Targeted Social Assistance benefit, which amounts to 400 TJS per year per household.

Parents or other guardians who are not able to work as they care for children with disabilities full-time do not receive any benefits or support and are often in a particularly difficult financial situation.

Refugees with disabilities do not receive the same benefits as citizens although domestic legislation does not exclude refugees.

The public health care system is chronically underfunded and although persons with disabilities are entitled to free-of-charge medical treatment by law, in practice doctors often require unofficial fees. When treatment is necessary that is not available in public health care institutions, no support is provided to undergo treatment elsewhere. By law persons with disabilities, depending on the disability group, have free access to medicines that are included in a special government-approved list, but this is not always implemented in practice and when patients need other medication they receive no financial support. Access to rehabilitation equipment is also extremely limited.

## Limited access of independent monitors to semi-closed facilities for persons with disabilities

Although in recent years significant effort has been put into developing home care services, day care facilities and inclusion in the educational system, a strong emphasis on institutionalization persists. Several types of semi-closed institutions that house persons with physical, sensory, intellectual or mental disabilities can be found in Tajikistan: residential care facilities, special boarding schools, and psychiatric centres and hospitals.

The NGOs issuing this report are particularly concerned that access of human rights monitors to residential care facilities for persons with disabilities is extremely limited, despite allegations of human rights violations such as forced abortions, forced administration of drugs, indiscriminate and inappropriate use of measures of restraint and denial of the right to family life by the facilities' administrations. The Ministry of Health runs eight residential care institutions throughout the country that are intended to house persons with disabilities.

Independent NGOs have no access to facilities for persons with disabilities for the purpose of human rights monitoring, apart from in the framework of the Monitoring Group established within the Office of the Ombudsperson which has limited mandate and capacity. The Group began visiting pre- and post-trial facilities as well as other closed and semi-closed facilities in 2014. By the end of August 2018, it had visited at least 58 facilities, including several psychiatric centres and hospitals and conducted two visits to the residential care facility "Degmoy" in Jabbor Rasulov district of the northern Sughd Region. During the visits to facilities housing persons with disabilities the Monitoring Group received no complaints of torture or other ill-treatment, but did make recommendations on improving living conditions, employing specialized staff and training existing staff on how to work with persons with disabilities and on relevant international human rights standards. According to members of the Monitoring Group, none of the psychiatric facilities visited by the Group take into account accessibility requirements. No adaptations have been made for the needs of inhabitants and patients with regard to toilets, showers or hospital wards. Reportedly, some of the facilities lack wheelchairs. The Monitoring Group is only tasked with examining the conditions and treatment in closed and semi-closed facilities with a view to identifying cases of possible ill-treatment, not with recording and acting on any other human rights violations. The low number of Ombudsman Office staff in the Monitoring Group significantly limits the number of monitoring visits that can be conducted because the Group's civil society members are not authorized to carry out visits without Ombudsman Office staff. Up until recently the Group was able to conduct up to 15 visits per year. Now, it can visit several facilities housing children in addition.

Several interlocutors who have access to residential institutions for purposes other than monitoring or who know people who live in these institutions told IPHR researchers that leisure and outdoor activities are rarely organized and residents are often left in front of the television. They only work in exceptional cases. Some institutions do not offer therapies.

Residential care homes for people with disabilities and the elderly have to operate in line with the general Law on Social Services, which stipulates that residents have the right to be treated humanely and with respect by the employees, but it does not contain explicit prohibitions of torture and ill-treatment. There are no publicly available laws or regulations pertaining specifically to the running of residential care homes for people with disabilities and the elderly. Instead, their activities are regulated on the local level by the statutes, internal rules and instructions of each institution, which are usually not publicly

available. According to the Coalition against Torture and Impunity, which has obtained and reviewed some of these documents, they do not contain explicit prohibitions of torture and ill-treatment.

The Law on Psychiatric Assistance guarantees the respectful and humane treatment of psychiatric patients, but neither this Law nor other relevant instructions and regulations provide clarity on permissible forms of physical restraint and procedures to guide their application nor do they contain an explicit prohibition for staff of psychiatric institutions to subject patients to torture or ill-treatment.<sup>13</sup>

## **Impunity for violating the rights of persons with disabilities**

As outlined above, domestic legislation contains key principles and provisions to guarantee the human rights of persons with disabilities, but many of them are not implemented in practice, no effective enforcement mechanisms are in place, and those sanctions that do accompany violations are not strong enough to function as effective deterrents.

Other laws intended to guarantee human rights do not protect persons with disabilities. For example, Article 143 of the Criminal Code penalizes violations of the equality of citizens on certain discriminatory grounds, but makes no mention of disability. In addition, the Article is formulated in a way that places the burden of proof on the victim and requires her or him to prove the “infliction of harm,” a concept that is not further defined by criminal law.

The NGOs issuing this report are not aware of any cases where persons with disabilities lodged complaints with the courts in relation to discrimination or ill-treatment in institutions. The reasons for this include lack of knowledge about relevant laws, rights and complaint mechanisms and lack of trust that it is possible to obtain justice through the courts.

There are no trainings for judges on the issue of discrimination and there are no lawyers in Tajikistan who specialise in this issue.

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13 For further information, refer to *Otchet po rezultatam polotnykh poseshcheniy zakrytykh uchrezhdeniy v Respublike Tadjikistan, Faza 2, 2015*: <http://notorturetj.org/reports/otchet-po-rezultatam-pilotnyh-poseshcheniy-zakrytyh-uchrezhdeniy-v-respublike-tadjikistan>

## Suggested key recommendations to the authorities of Tajikistan

- Swiftly ratify the Convention on the Rights of Persons with Disabilities.
- Protect persons with disabilities residing in semi-closed facilities from ill-treatment and other human rights violations by setting up an independent monitoring mechanism authorized to carry out unannounced and unlimited visits to all these facilities for the purpose of monitoring, recording and acting on all human rights violations; investigate allegations of ill-treatment and other human rights violations in such institutions and bring anyone reasonably suspected of being responsible to justice. As a matter of urgency, investigate allegations of forced abortions, forced administration of drugs, indiscriminate measures of restraint and denial of marriage in residential care facilities for persons with disabilities and the elderly.
- Ensure that persons with physical, sensory, intellectual and mental disabilities have access to education, work, health care and social security on an equal basis with others, and pay particular attention to women, who face multiple discrimination.
- Adopt comprehensive anti-discrimination legislation, widen the definition of discrimination to explicitly include disability as one of the prohibited grounds for discrimination and transfer the burden of proof to the state in discrimination cases; bring the definition of disability into line with international human rights law and explicitly include mental impairments; and abolish the requirement to determine a person's ability to work when establishing her or his disability status.