



Human Rights Watch Submission on Armenia to the Committee on the Rights of Persons with Disabilities (CRPD)

February 15, 2017

This memorandum, submitted to the United Nations Committee on the Rights of Persons with Disabilities (“the Committee”), ahead of its review on Armenia, highlights areas of concern that Human Rights Watch hopes will inform the Committee’s consideration of the Armenian government’s compliance with the Convention on the Rights of Persons with Disabilities (“CRPD”). This submission focuses on violations of the rights of children and young people with disabilities in Armenia, in particular articles 4, 5, 7, 8, 12, 14, 19, 22, 23, 24, 26, 28 of the CRPD. This submission proposes issues and questions that Committee members may wish to raise with the Armenian government as the Committee reviews Armenia’s compliance with its obligations under the CRPD.

This submission draws primarily on Human Rights Watch’s research in 2016 in eight cities in Armenia, including visits to five state-run orphanages and ten state-run schools, including six special schools and four mainstream schools, and interviews with 173 people. We interviewed 47 children and young adults, and 63 families of children living in orphanages, attending special schools or attending mainstream schools. We also interviewed directors of orphanages, special schools, and mainstream schools, as well as social workers, doctors, teachers, psychologists, caregivers, and other staff in institutions. The information in this report is based on material that is published in the report by Human Rights Watch titled [When Will I Get to Go Home?: Abuses and Discrimination against Children in Institutions and Lack of Access to Quality Inclusive Education in Armenia](#).

1. Children and Young People in State Institutions

Background

Many children in Armenia in orphanages and other residential institutions end up there because they have disabilities. There are three types of state residential institutions in Armenia: orphanages, residential special schools, and night boarding institutions. As of April 2016, there were nearly 3,700 children with and without disabilities in residential institutions in Armenia. Ninety percent of these children have at least one living parent.

There are six state-run orphanages in Armenia: three generalized orphanages where primarily children without disabilities live, and three specialized orphanages for children with disabilities. According to UNICEF, of 670 children residing in orphanages in May 2016, 70 percent have disabilities. According to the Ministry of Education and the Ministry of Territorial Affairs and Administration, as of December 2016, there were 20 residential special schools in Armenia, with most having both children with and without disabilities enrolled.

Discrimination in the deinstitutionalization process

The government of Armenia is currently undertaking some important reforms regarding children in institutions, including reducing the number of children in state-run residential institutions and moving these children back to their families. However, the government appears to prioritize the return of children without disabilities to their families. Thus, although the total number of children in orphanages is decreasing, the concentration of children with disabilities, in particular children with multiple disabilities, mobility disabilities, or high support needs in orphanages is increasing. For example, at the time of Human Rights Watch's visit to the Kharberd specialized orphanage in May 2016, there were 221 residents, including 94 children and 127 young adults. Half of the residents are wheelchair users. Thirty-six children have visual and multiple disabilities, only two of whom have been taught to use a cane as a mobility tool.

Furthermore, the government has stated it plans to transform three generalized orphanages for children without disabilities into community-based support centers, but has made no commitments to transform or close the three orphanages where children with disabilities reside, and continues to invest in these institutions. This approach exacerbates the overrepresentation of children with disabilities in institutional care and is discriminatory.

Moving children between institutions instead of to families; no decrease in numbers of children with disabilities in institutions

Human Rights Watch found substantial evidence of children with disabilities being moved out of one orphanage or institution, only to be placed in another institution. In some cases, when children have returned to their birth families from an orphanage, they are then enrolled in a residential special school.

Directors of orphanages for children with disabilities reported that there is a large demand to place children in the orphanages. The three specialized orphanages, which are not scheduled for transformation, face overcrowding and, in some cases, waiting lists for children to enter. Thus, even when the institution is able to return children to their families or find alternative care solutions, or if the orphanage transfers children to another institution, more children quickly take the vacant places. The total population of children with disabilities in institutions is not decreasing.

Children who grow up in institutions remain in institutions as adults

For example, in response to the presence of many young adults in orphanages for children with disabilities, in 2015, the government converted a night boarding institution for children into the Zorag Psychiatric Care Center in Yerevan. Residents included people with psychosocial, intellectual, sensory, and other disabilities. According to the Zorag director, as of December 2016, the institution had 120 residents. Planned renovations will allow the institution to hold up to 200. In a December 2016 interview, the Zorag director told Human Rights Watch that the center's residents "will never go anywhere else. They will remain in this institution for their whole lives."

Denial of legal capacity

Armenian law guarantees every person who turns 18 the right to full legal capacity.¹ However, upon reaching adulthood, a person with intellectual or psychosocial disabilities can be deprived of legal capacity by a court decision, and the court identifies a guardian for this person to take decisions on

¹ Civil Code, art, 24(1).

his or her behalf.² There is no mechanism for partial deprivation of legal capacity for persons with intellectual and psychosocial disabilities in Armenia.³ Supported decision making institutions do not exist in Armenia.

Children with disabilities who age out of institutions for children may remain in institutions indefinitely due to the lack of alternatives in the community, as well as officials' failure to ensure that all young people with disabilities have the right to exercise their legal capacity when they turn 18. Human Rights Watch found that authorities may deprive individuals with intellectual and psychosocial disabilities of legal capacity upon reaching adulthood, so that an individual's guardian, which can be an orphanage or an institution, continues to make all legal and other decisions for them even as adults. The forced confinement of adults in institutions without their consent can be a form of arbitrary detention.

In contrast, staff at a generalized orphanage, where only children without disabilities live, stated clearly that upon reaching 18, children have full legal capacity and the orphanage respects the law in this regard.

Problems in institutions

Even in the most well-resourced residential institutions in Armenia, children face isolation, the lack of individual attention and nurture, a lack of privacy, emotional distress due to family separation and a lack of preparation to lead individual lives as adults.

- In residential institutions, children are typically divided into groups of between 10-17 children, with two caregivers.
 - Even the most dedicated and caring staff are challenged to provide individualized care and attention.
 - The organization of children into large groups also leads to a lack of privacy, with older children and young adults sleeping in bedrooms with up to 13 others.
- Children placed in institutions and their parents consistently reported that being separated from each other takes an emotional toll on them. Children often show symptoms of emotional and sometimes physical distress due to the separation from their families. Children may cry, refuse to eat, and experience poor moods and anxiety.
- Residential institutions do little to prepare children to live on their own once they become adults.

Lack of services in the community drives placement of children with disabilities in institutions

Human Rights Watch research found that trained staff and specialized services for children with disabilities such as rehabilitation are available only to children living in institutions, rather than in the community. Concentrating services for children with disabilities in institutions rather than in the community contributes to many families' decisions to place children in institutions. It also means that many children with disabilities who remain with their families and who may require or benefit from certain services and resources are often unable to access them. The continued concentration of resources within institutions will have a disproportionate effect on children with disabilities, both those who live inside them and those who live in the community.

² Ibid., art. 31(1).

³ Ibid., art. 32. Reasons for partial deprivation of legal capacity include only addiction to alcohol, narcotics, or gambling.

Lack of foster care and adoption

Alternative child care services in Armenia remain underdeveloped, even as the government is moving to transform residential institutions into centers providing community-based services, in some cases very quickly, and ostensibly prioritize family-based care. There is a risk of harm to children should the government move children out of residential institutions without alternative care solutions sufficient in quantity and quality. There are currently a total of 23 foster care families in all of Armenia. Currently, the national budget provides financial support for only 25 families annually. As this includes families already serving as foster parents, there is not currently budget capacity to support more foster families. In the absence of sufficient alternative care solutions, referral to residential institutions remains the only resort in the overwhelming majority of cases in which remaining in or returning to the biological family is not possible or not in a child's best interest.

Under Armenian law, for a child to be placed in foster care, the child's parents have to relinquish their parental rights, which impedes the possibilities for many children to be moved out of institutions and into alternative care, or for children to be placed in foster care as a temporary measure, rather than in an institution.⁴ Amendments to the family code would eliminate the requirement for parents to have relinquished their parental rights in order for children to be eligible for foster care placement. The amendments have been under review by several government ministries for many months, but at time of writing have not been sent to parliament.

Continued concentration of resources in buildings

UNICEF maintains that the financial support allocated to support children in institutions in Armenia, currently between US\$3,000 and 5,000 per year per child, can be reallocated to community-based services and direct support to families and that these types of support in the long term require less budgetary expenditure.⁵ A UNICEF study analyzing the costs of institutions in Armenia in contrast to community-based services determined that "services of residential institutions are very expensive." The report also found "the reallocation of children into family care does not necessarily lead to the creation of an additional burden on the state budget" and that, "on the contrary, depending on the policy chosen, the savings can be quite tangible, even if the reform costs include the provision of jobs to excessive staff of the discharged residential institutions and additional social support and care services for children released from residential institutions, and their families."⁶

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Armenia:

- What specific steps is the government taking to promote deinstitutionalization of children with disabilities on an equal basis with other children, and to guarantee that policies and practices on deinstitutionalization do not discriminate against children on the basis of disability, on the type of disability or high support needs?
- What is the government doing to ensure that people with intellectual or psychosocial disabilities are not denied their legal capacity and placed in institutions in circumstances, which could amount to arbitrary deprivation of liberty?
- How many individuals living in institutions for adults with disabilities have their legal capacity?

⁴ Human Rights Watch telephone interview with Arsen Stepanyan, November 2, 2016. The government piloted a 10-year foster care program in Armenia, with 13 foster families, but the project was discontinued due to lack of funding.

⁵ Human Rights Watch interview with Tanja Radocaj, Artak Shakaryan, and George Abadjian, UNICEF, April 12, 2016.

⁶ UNICEF, "Towards Alternative Child Care Services in Armenia: Costing Residential Care Institutions and Community Based Services."

- Will the government commit to replacing legal provisions that permit persons with intellectual or psychosocial disabilities to be denied full legal capacity and placed under full guardianship, with a system of assisted decision-making?
- What specific steps is the government taking to ensure that financial and other resources allocated to institutions are truly decentralized and redirected to the establishment of community-based services, and do not remain exclusively in transformed institutions?
- What steps is the government taking to introduce in parliament legislative amendments to the Family Code that would facilitate more foster care and adoption?
- What steps is the government taking to ensure that there is sufficient budgetary support to support more than 25 foster families?

Human Rights Watch encourages the Committee to make the following recommendations to the government of Armenia:

- Deter any new long-term placements of children in residential institutions;
- Establish a time-bound plan to end the institutionalization of children;
- End discrimination against children with disabilities in the deinstitutionalization process;
- Recognize involuntary hospitalization or institutionalization based on the existence of a disability as a form of discrimination and without consent of the individual as a form of arbitrary detention;
- Ensure that financial and other resources allocated to institutions are decentralized and redirected to community-based services, and do not remain exclusively in transformed institutions;
- Ensure that foster care and adoption systems are fully functional by the time children are moved out of residential institutions;
- Ensure that systems promoting and implementing foster care and adoption take specific measures to ensure children with disabilities are placed in foster and adoptive families on an equal basis with children without disabilities;
- Establish and maintain a range of targeted, accessible, diversified community-based services for families in difficult situations, as well as for individuals, including children with disabilities and their families, to prevent institutionalization and to support families to raise their children at home.

2. Lack of Access to Quality Inclusive Education

Background

The Armenian government has committed to making all primary and secondary schools (compulsory education, grades 1 to 12) inclusive of children with disabilities by 2022. According to the Ministry of Education, for the 2016-2017 school year, 6,700 children with “special educational needs” are enrolled in mainstream schools providing inclusive education.

Lack of reasonable accommodations

Human Rights Watch found that children with disabilities, including those in mainstream schools designated as “inclusive”, often do not receive a quality education on an equal basis with others. Schools in Armenia rarely provide sufficient reasonable accommodations to facilitate the learning of each child with a disability. The lack of reasonable accommodations, include, but are not limited to, the absence of basic physical accessibility in educational buildings; a lack of accessible sanitary facilities; and a lack of accommodations for children with sensory disabilities. A lack of an

individualized approach to education and social development impedes the ability of many children with disabilities to enjoy a quality education.

Human Rights Watch spoke with numerous parents of children with disabilities enrolled in inclusive community schools who remained with their children in the classroom to support him or her because of the absence of reasonable accommodations to support the child's learning needs and full inclusion in the school and classroom. In most cases, this was the child's mother. This can impede children's inclusion and can disrupt family life, including a parent's ability to secure paid employment or care for other children. Parents frequently referred to certain behaviors or features related to the child's disability, such as an inability to speak, write, move independently, sit still for extended periods of time, or sit without support, which many schools would not accommodate, as the main reason for staying with their child at school, or opting for a special school (see below).

Separate and irregular education

Despite attending so-called inclusive schools, many children with disabilities do not attend classes with other children or are present in classrooms but do not participate in the academic curriculum. Their education often consists of primarily or exclusively one hour or shorter sessions once or a few times a week with specialists employed at the school: typically, a speech therapist, psychologist, and social worker.

In addition, children with disabilities enrolled in "inclusive" mainstream schools and in special schools may attend school for only a few hours a day, or not all days of the week, due to the lack of reasonable accommodations or other obstacles, such as lack of accessibility in apartments or in public transportation which makes it difficult for them to regularly attend school.

Lack of sufficient staff, including as a component of reasonable accommodation

Inclusive community schools and special schools often lack sufficient staff, in particular aides who can provide direct support to one or more children. Teachers' assistants are being introduced to every inclusive school, at a ratio of one per 100 children. The teacher's assistant's role is to support teachers in organizing the education of every child with educational support needs, including implementation of the child's individual education plan, facilitating contacts with families, and providing additional courses to children after school. This position is not designed to provide direct academic, self-care, or other support children with disabilities.

Special schools and separation from families and the community

Some parents continue to opt for special schools for their children with disabilities, in search of smaller class sizes and more individualized approaches. Armenian law protects the right of parents to choose to send their children to a special school. However, these schools may be located far from their homes, and often require children to live at the school full-time or during the school week, may not provide a quality education, and inhibit children's full inclusion in the community.

Home education, not a quality education

Human Rights Watch also found that children with disabilities may be relegated to home education, due to problems with accessibility in schools, homes, and in the community as well as schools' failure to provide reasonable accommodation. With home education, teachers from local schools visit children at home and provide a few hours of basic literacy and numeracy instruction per week, in mathematics, Armenian language and Russian language, which does not constitute a quality education. These children typically have little or no interaction with classmates or other peers.

Stigma and discrimination

Numerous children with disabilities and their parents said stigma was an obstacle to receiving a quality inclusive education. Parents of children with disabilities described instances of harassment and bullying of their children who attended mainstream schools. Other parents declined to send their children to mainstream schools, or to school at all, or placed their children in institutions due to fears of stigma.

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Armenia:

- What steps is the government taking to minimize the removal of children with disabilities from classrooms for separate coursework?
- What steps is the government taking to consistently ensure the provision of reasonable accommodations for each child with a disability, including low-cost accommodations, classroom-based personnel to support children who require individualized attention to facilitate their learning, time-bound plans to improve physical accessibility in schools, and other relevant measures?
- What steps is the government taking to reduce stigma and discrimination against people with disabilities in schools and communities?
- What steps is the government taking to reduce the number of children receiving home education, including by working with municipal governments to address accessibility obstacles in the community?

Human Rights Watch encourages the Committee to make the following recommendations to the government of Armenia:

- Implement inclusive education at all levels in such a way as to achieve maximum inclusion of children with disabilities, including children with high support needs, in mainstream schools;
- In schools, minimize the removal of children with disabilities from classrooms for separate coursework. While some children may require certain individual or small group coursework, these classes should maximize children's academic and social development and should not be a replacement for children's full participation in the classroom;
- Ensure there are sufficient and trained staff in classrooms, including by ensuring sufficient financial support for assistant teachers and student aides at a ratio that promotes inclusion;
- Collect comprehensive data on and take steps to reduce the number of children receiving home education or receiving no education and ensure reasonable accommodations for them to study in community schools.