

ECONOMIC AND SOCIAL RIGHTS. SITUATION OF VULNERABLE GROUPS.

MATERIALS OF RUSSIAN NGOs FOR THE UNIVERSAL PERIODIC REVIEW OF THE RUSSIAN FEDERATION IN THE UNITED NATIONS HUMAN RIGHTS COUNCIL IN 2013

These materials have been produced in October 2012 by a coalition of Russian NGOs for submission to the United Nations Office of the High Commissioner for Human Rights in the course of preparation of Universal Periodic Review of implementation of international obligations by the Russian Federation in the UN Human Rights Council in 2013. The coalition includes the following Russian NGOs: Center for Social and Labor Rights, Center “Anna” for the Prevention of Violence against Women, “Rights of the Child” Charitable Foundation, “Perspektiva” Regional NGO of Persons with Disabilities, LGBT Network, and the Center for the Development of Democracy and Human Rights.

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Economic and Social Rights

The recommendations in the framework of 2009 Universal Periodic Report urged Russia to “take further efforts in addressing the problem of unemployment, socio-economic inequality and social vulnerability among its population” (recommendation 26) and “continue its positive efforts to promote and protect economic, social and cultural rights and combat poverty” (recommendation 53).

The lack of effective measures in Russia in 2009-2012 to combat poverty and social vulnerability has had considerable social and economic implications, in particular as regards the increase in the unemployment rate, the reduction of nominal and real wages and the erosion of living standards.

The financial crisis has had a serious impact on employment in Russia. The biggest drop in employment was registered in 2009. In 2010-2012 the situation has improved, but the unemployment rate was still above that of the pre-crisis years. The level of official unemployment was 1.1 mln in the middle of 2012 (around 1.5% from economically active population) while the total amount of unemployed calculated on the basis of ILO methodology was 5.4 mln (around 6%). In the North Caucasus (Chechnya, Dagestan), the situation in the labor market continues to be very tense: official unemployment rate reached 66.5%.

Two government programs were launched to address the unemployment problem: subsidies for starting a business (58,000 Rubles, or around 2,000 USD) and subsidies for relocation to another region (around 40,000 Rubles, or around 1,300 USD). Numerous violations and abuse marred their implementation, such as allocation of subsidies to other people or for a fake relocation to another region. As a result, these measures have not been affective in tackling unemployment.

The second implication of the crisis-related production drop could be seen in the reduction of real wages. The labor regulations in Russia where a ratio between a base salary and additional bonuses is not fixed, enable employers to cut wages legally and with great ease. Therefore, when the financial crisis had seriously hit Russia, most of the employers cut the additional bonuses paid to the employees which often constituted a biggest part of their wages.

Low level of the national minimum wage is a serious problem in Russia. Since the early 1990s, the national minimum wage has not achieved its main aim of protecting the lowest wage earners in order to guarantee them a decent standard of living. While according to the Labour Code, the national minimum wage should be increased in line with the national subsistence minimum increase, in practice each forthcoming increase in the national minimum wage is determined by a new federal law. One of the main arguments that the government invokes against adequate increase in minimum wages is the deficit in regional and federal budgets. However, the government has never questioned the subsistence minimum as a minimum wage criterion enshrined in the law and has fully acknowledged that a minimum wage increase is an instrument for reducing poverty.

The minimum wage in Russia remains extremely low: it is about 130 Euro per month. The relatively low cost of labor encourages the entrepreneur to expand manual labour and invest less in new technology and modernization. The minimum wage is a small percentage of the national nominal average wage, which by international standards is extremely low. It is important to note that despite the fact that the minimum wage is lower than the subsistence minimum, this subsistence minimum is itself very low and does take into account basic human needs such as necessary expenditures on education, healthcare, etc.

The wage gap is still quite significant in Russia. According to the official statistics, in 2011 the ratio between the income of the most well-to-do 10% and the poorest 10% constituted 16.1.

In 2012 13.5% of employees (or 19.1 million people) were receiving the minimum wage. As a rule, these employees are women who work in agriculture and the service sector. Most of the low-wage workers (61%) work in the state-owned enterprises.

Payments for sick leave and maternity leave for employees who have worked for less than 6 months are still linked to the official minimum wage. Moreover, in 2013 a new law on sick leave pay will come into force. Payment for sick leave will be calculated from the employee's average wage over a period of 730 days before the sick leave. Thus, if a worker was not employed for some months during these 730 days, this period will be calculated on the basis of the minimum wage. National statistics still provide a very limited picture of minimum wage beneficiaries.

According to the official statistics, in 2011 the share of the population with income below the official minimum subsistence level was 12.8% (18.3 mln); this share has been gradually decreasing in the recent years. However, official standards in both the minimum subsistence level and the minimum wage are extremely low. The law does not require the minimum wage to be higher than the minimum subsistence level. In 2012 the minimum wage is 4611 Rubles (around 150 USD).

Deterioration of living standards demands an adequate social policy and special measures to support the labor market and the working poor. Existing measures are clearly insufficient. In particular, it is quite difficult to get access to the measures of support to the poor due to their extremely bureaucratic nature: one has to repeatedly prove and confirm his or her low income by numerous documents which is time and financially consuming. In addition, regional and local authorities who are responsible for these programs, systematically underfund them.

It is important to note that Russia has not ratified two relevant ILO Conventions on minimum wage regulation: the Minimum Wage-Fixing Machinery Convention No. 26 and the Minimum Wage Fixing Convention No. 131 (International Labour Organization 2011). The question of ratification of these conventions has never been at the centre of the political debates.

Gender Discrimination in Access to Economic and Social Rights

In the wake of the first phase of reviewing the Universal Periodic Report in 2009, Russia agreed to “continue its effort to promote equality between men and women” and “continue its policy to ensure gender equality aimed at upholding the rights of women” (recommendation 27).

Despite some positive changes, the problem of gender inequality and infringement upon women's rights in Russia remains acute. In particular, there is continued inequality in the work pay of men and women. According to the Federal Statistics Service, in 2009 the average monthly work pay of men amounted to 23,946 rubles, whereas women earned, on average, 15,639 rubles a month. In 2011 men brought home 30,005 rubles per

month while women averaged 15,639 rubles. Consequently, gender inequality in work pay not only persists, but is also on the rise: on average, in 2009 men made 53% more money than women, but in 2011 this figure increased to 56%.

Broadly, workplace inequality exists on two planes:

- 1) Direct violations of the principle of equal pay for the same type of work by employers, i.e. gender-based work pay discrimination. These violations are made possible by failure to apply anti-discrimination laws properly.
- 2) Gender segregation in the labor sphere, unequal distribution of men and women in professional areas and occupations, industries, and on the career ladder.

There are at least two causes of such segregation:

a) The society perpetuates the stereotype of dividing occupations into those meant for men and women that often trumps other considerations during hiring. It should be noted that “female” occupations traditionally pay less than those perceived as men’s jobs. For example, according to the Russian Statistics Service, “female” occupations include sales staff and product demonstrators (in 2011 84.9% of these positions were occupied by women). In the meantime, the Ministry of Health Care and Social Development of the Russian Federation notes that retail is traditionally one of the lowest paying sectors of the economy.

b) Segregation that limits upward mobility: the majority of the Russian regions have few women in managerial positions. For example, 71% of secondary school teachers are women, making it one of the most feminized areas of employment, but, by contrast, only 39% of secondary school directors are women.

A number of gender discrimination factors originate in the country’s existing legislation. The Russian labor laws set lofty safeguards for women’s rights, but at the same time contain a number of norms that create a divergent legal status for men and women and prevent women from realizing their labor rights in a market economy. Thus, RF Government decree No. 162, issued on February 25, 2000, banned the employment of women in certain jobs. The list of such jobs ought to be revised because it prevents women from realizing their right to express themselves through work in a number of high-paying occupations. Meanwhile, a number of low-paying jobs with a high level of health and safety hazards are not on the list.

Apart from that, guarantees established in the RF labor laws for employees with family commitments differentiate between men and women. Thus, until the end of 2011 part 4 of article 261 of the RF Labor Code that guarantees layoff protections to employees who have children of up to three years of age granted such protection only to women. On 15 December 2011 the RF Constitutional Court issued Ruling No. 28-P extending this guarantee to men with more than one child who are the sole breadwinners in the family on condition that the children’s mothers are not officially employed and are full time caretakers of their children. However, the legal status of men and women under this guarantee is still different.

The differences between the legal status of men and women cause the following problems:

a) Men have no opportunity to exercise their rights as employees with family commitments (the right to a fatherhood leave, the right to part-time employment, the right to a sick leave in cases of the child’s illness).

b) Women face hiring difficulties, especially when they return to the labor market from maternity leave. A number of RF regions have attempted to solve this problem by launching professional training programs for women on a 3-year maternity leave that are planning a return to the labor market, but their effectiveness remains low. The share of women that can use the legal guarantees and return to work after childbirth is extremely small. No official statistics are available on the matter.

The existing legal safeguards against discrimination applied in labor cases remain ineffective. In spite of the general legal norms in the Russian laws prohibiting any kind of discrimination, individuals who are discriminated against in labor relations face more hurdles while seeking legal remedy. Some of the problems encountered while adjudicating discrimination cases are as follows:

1) The definitions of discrimination contained in the current legislation are incomplete and do not fully express the spirit of this legal principle. They also fail to differentiate between direct and indirect discrimination. Such normative content, however, is fully represented in the international legal acts ratified by the Russian Federation. Yet in practice the Russian law enforcement does not follow these international requirements.

- 2) Russian courts have not established a judicial position regarding the evidence that the parties to a lawsuit ought to furnish to prove discrimination.
- 3) The procedures for adjudicating the burden of proof to the parties in discrimination cases have not been clarified.
- 4) The legislation does not provide for legal consequences upon establishing instances of discrimination in court.

In addition, Russia has not passed a law laying down state guarantees of gender equality. Bill No. 284965-3 “On state guarantees of equal rights and freedoms of men and women and equal opportunities for exercising these rights” passed the first reading the State Duma of the Russian Federation on April 16, 2003, but is still awaiting a second reading. The extensive debate over its contents and numerous decisions to extend the amendment deadlines speak to the pressing need of a concept for a system of state guarantees of gender equality. When this bill becomes law, it will defuse a lot of uncertainty on many issues in this area.

The problem of inequality puts women with children into a vulnerable position in the society and seriously affects their social and economic status. In 2009 Russia recognized the UPR recommendation that targeted poverty issues. At the same time in 2011 Federal Law No. 255-FZ “On mandatory social security due to temporary incapacity to work and maternity” passed on December 29, 2006, was amended, shrinking the scope of guarantees for workers who have to temporarily leave the workforce. In particular, it made changes to the procedures used to calculate the average work pay for determining the amount of government aid due to temporary inability to work. Since 2009 the benefits payable in such cases have been decreasing for each subsequent exit from the workforce. The changes have hit primarily the workers with family commitments, above all women, since this part of the workforce resorts to state benefits not only because of their own illness, but also when their children fall ill. Thus, if parents exercise their right to these guarantees, their benefits will undergo a progressive reduction, putting families with children under threat of poverty.

The Situation of Migrant Workers and Their Families

The recommendations with regard to migrants in the framework of 2009 UPR urge Russia to “consider ratifying the Convention for the Protection of the Rights of All Migrant Workers and Their Families” (recommendation 6, not accepted by Russia) and “to step up its efforts for the protection of economic, social and cultural rights for the most vulnerable segments of the population, including the migrants” (recommendation 51, accepted).

The Russian Federation has indeed not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Physical and legal conditions of life and work for migrants in Russia remain unfavorable, especially for “illegal migrants” that constitute the overwhelming majority. The average length of the work week for a working migrant is 61 hours. Illegal migrants work 3 hours a day more than their legal counterparts. Apart from that, only 40% of working migrants have written contracts with their employer. Also, 20% of documented migrants permitted to legally work in Russia hold the so called patents. However, the majority of these patent holders do not have any experience of working for individual employers, which distorts reports about the state of Russia’s labor market and discredits the idea of legalizing migrant workers¹.

As far as health care issues faced by migrants are concerned, starting January 1, 2010 payments made under employment and other types of civil contracts to foreign citizens and individuals without citizenship are not subject to social security withholdings (Federal law No. 212). Because of this, migrant workers who reside in Russia temporarily are not entitled to benefits under the state healthcare insurance plan. They can only request emergency medical help (with the exception of Belorussian citizens who temporarily reside in the Russian Federation – see Information Letter No. 20-1/10/2-7112 dated July 21, 2011 by the Ministry of Healthcare and Social Development).

For the same reasons the regional healthcare departments have been refusing to accept migrant children and pregnant migrant women who are not permanent residents or citizens of the Russian federation for treatment at

¹ See V.I. Mukomel, “Profiles of migrant workers in Russia (after a sociological study)” – a presentation at the twelfth meeting of the Scientific Council of the Federal Migration Service on April 24, 2012. <http://www.fms.gov.ru/upload/iblock/208/mykomel.pdf>

ambulatory clinics. At present these people can buy a health insurance policy or use paid services – something the majority of migrants cannot afford.

The most vulnerable group of migrants includes women and children: their appeals for legalizing their status in the country are limited by the quota for temporary residence permits. Because of this migrant children often do not undergo health screenings at schools and do not have guaranteed access to healthcare, aside from emergency medical aid.² At the same time migrant women holding residence permits do not have the right to a paid sick leave during pregnancy and after childbirth, as well as the right to government benefits in these cases.

Migrant children who reside in Russia on temporary stays and wish to attend Russian schools are often required to fill out an electronic form that has a mandatory entry called “registration” for the child. Additionally, some schools have also required evidence of registration from their parents and a state health insurance policy from the child. Therefore, the children’s right to education is limited by the registration and health insurance requirements even in the cases if their parents reside and work in the Russian Federation legally.

Furthermore, migrant children who pay for secondary and higher education in Russia do not have the opportunity to legalize their stay officially. Just like their parents, they have to leave Russia every three months in order to renew their residence permits.³

On July 11, 2011 Russia ratified the Agreement on the Legal Status of Migrant Workers and Members of their Families (signed by the Russian Federation, Belarus, and Kazakhstan on November 26, 2011 but coming into force only on July 26, 2011). This agreement affirms the right of migrant workers’ children to attend pre-school and receive education in accordance with the laws of the country where their parents are employed (article 12 of the Agreement). Since this moment Russian pre-school and other educational institutions have had no right to refuse to admit children from these countries citing the fact that their parents are not citizens of Russia.

The Situation of Trade Unions

Among the recommendations in the framework of 2009 UPR review that Russia accepted are the “implementation of the package of important programmes aimed at the defending citizens’ economic and social rights” (recommendation 54) and strengthening “its efforts for the protection of economic, social and cultural rights for the most vulnerable segments of the population including the migrants” (recommendation 51).

The most important tool for advocating and defending the economic and social rights of citizens is the trade unions. Russia’s trade unions have been going through a number of difficulties:

- for many years they have been denied the right to conduct strikes because, in the majority of cases, they have no legal right to declare a strike and also because the procedures for conducting one are rather complicated and require a lot of red tape;
- there are no effective mechanisms for protecting employees from discrimination if they are involved in the union work;
- there is a campaign to abolish layoff guarantees for unionized employees as unconstitutional;
- the government continues to interfere with the trade unions to hamper their efforts to protect worker rights.

The state has also set fairly inflexible rules for the internal structure of trade unions. Collective bargaining agreements are often formal in nature and rather rarely set additional protection of work conditions compared to those prescribed by labor legislation.

Retirement and Labor Relations Reform Plans

In an important development in 2012, conceptual plans to reform the most important social institutions, the labor legislation and the retirement system, have been formulated and presented to the public. The Russian government is proposing a pension reform that emphasizes the need to cut budget deficits at the RF Pension

² A series of special reports. Labor migration into Russia: where to go next? Zh. Zayonchkovskaya, E. Turyukanova, Y. Florinskaya http://www.baromig.ru/library/Turukanova_rus.pdf

³ Y. Florinskaya. Migrant children in Russia: access to education and healthcare <http://www.demoscope.ru/weekly/2012/0515/analit02.php>

Fund by increasing mandatory retirement payments for self-employed citizens, reforming the system of early retirement, transferring a part of funded retirement payments to pay-as-you-go pensions, and gradually increasing the general retirement withholding by 2%. The proposed reform holds that the income lost substitution quotient will equal 40% of the full work pay with 42 years of employment. This could be interpreted as an indirect increase of the retirement age. Experts have also reacted negatively to the proposed reform of retirement benefits for workers employed in hazardous conditions. It is proposed to introduce extra tariffs for employers (from 2-4% in 2013 to 8.7-15.1% later on) that will be based on the results of workplace assessment whose objectivity is doubted by experts.

The Russian Union of Industrialists and Entrepreneurs, the largest organization of Russian employers, has proposed a Concept for Reforming Labor Legislation that would bring about a profound change in labor relations and their regulation. It is proposed to downsize labor regulation on the legislative level, for example by excluding minimal labor standards, and move to bilateral regulation, i.e. through collective agreements and contracts, as well as individual contracts between employers and employees. Also, the initiative greatly extends the grounds for using fixed-term employment agreements, legalizes trilateral labor relations, revises the procedures for terminating fixed-term employment agreements, and cancels the existing guarantees that limit the length of working hours (the parties to employment agreements will agree among themselves on overtime, work outside normal working hours, and, if mutually acceptable, use work time summation in calculating the hours worked). The initiative goes as far as to reduce the amount of benefits and guarantees available to various categories of workers enshrined in the current labor legislation. At the same time, no measures are proposed to strengthen worker status that would put it on the same level with the status of employers. Experts believe that, given the weakness of the trade union movement and immaturity of collective contractual practices, implementing such measures will weaken employee standing, increase exploitation, and undermine the minimal legislated guarantees of worker rights.

Violence against Women

In Russia, statistical data on crimes of domestic violence against women is fragmentary, difficult to obtain, and often simply non-existent. In 2008, a representative of the Russian Ministry of Internal Affairs cited the following figures⁴: (a) violence, in one form or another, is observed in every fourth family; (b) two-thirds of homicides are attributable to household / domestic motives; (c) each year about 14 thousand women die at the hands of husbands or other relatives; (d) up to 40% of all serious violent crimes are committed within families. According to the official data from the Russian Ministry of Internal Affairs, as of December 2008 there were 212,700 domestic offenders on file with the police.⁵ These manifestations of the problem have had not positive dynamics in the recent years.

Under existing laws, it is possible to render only partial protection to women victims of violence. In view of the gaps in legislation, it is extremely difficult to prove crimes of domestic violence (even physical violence, which has ensuing visible evidence). Various forms of violence against women, particularly domestic violence, are not recognized by the Russian Criminal Code as separate offences. The only applicable criminal provisions are those relating to bodily injuries or other crimes. Thus, acts of violence against women in the family, like any violent crime against a person, are punishable under Part VII of the Russian Criminal Code (crimes against the person): Article 112 (intentional causing of average gravity harm to health); Article 115 (intentional causing of minor harm to health); Article 116 (beating); Article 119 (threat of homicide or of causing grave harm to health). None of these articles takes note of the relationship between the perpetrator and the victim. Moreover, a perpetrator repeated acts of violence against the same person are not specifically criminalized under the law.

According to the official statistics, in 2008 departments of the Ministry of the Interior registered 5398 crimes qualified as 'rape' or 'attempted rape'; In 2009, 4790 such crimes were registered, 11.2% less than in 2008. However, the situation differs from area to area. In 2009, despite the Russia-wide downward trend, the number

⁴ Interview with Police Lieutenant General M. Artamoshkin, Acting Head of the Department for the Protection of Public Order under the auspices of the Russian Ministry of Internal Affairs, published on the website of the Ministry of Internal Affairs 01/24/2008, see www.mvd.ru/news/14047/

⁵ According to the announcement of the press centre of the Russian Ministry of Internal Affairs "The Russian Ministry of Internal Affairs has held a scheduled session of the Government Commission on the Prevention of Offences", see the website of the Ministry of Internal Affairs, www.mvd.ru/announce/6022/

of registered rapes in Moscow was up by 25% and reached 318⁶. This trend is echoed in Pskov Region where the level was up by 32.4%⁷, and in Adygeya, where the number of registered rapes in 2009 was up 28.6%⁸.

The Penal Code contains a clear definition of violent crimes of sexual nature. Nevertheless, certain legislative gaps remain. The Penal Code and the Code of Penal Procedures do not take into account certain aspects of these crimes, thus leading to the breaches of rights of the victims of violence. Art. 20(3) of the Code of Penal Procedures provides that criminal cases under art. 131(1) ("Rape, or sexual intercourse with the use of violence or threat thereof to the victim or other persons, or using the victim's helpless state") fall into the category of private-public prosecution, i.e. proceedings are only instigated if the crime is reported by the victim or her legal representative at their request"⁹.

In 2010 the Russian government presented its periodical report to the Committee on the implementation of the Convention on Elimination of Discrimination against Women (CEDAW). Based on recommendations of the Committee, the following steps have been undertaken by the Russian authorities and NGOs in 2010-2012:

- An inter-agency Commission on Gender Equality was established under the Ministry of Labor and Social development Chaired by the Minister (Sept. 2010);
- A working group consisting of women's rights NGO experts, lawyers experienced in violence against women litigation, and representatives of different governmental agencies was established within the inter-agency Commission for developing legislation addressing domestic violence (spring 2012);
- Discussion on domestic violence health consequences for women and children took place in the Duma Committee on Health as a part of promotion of legislative change (September 2012);
- There are plans in the Duma to draft a law on sexual harassment against women in the workplace and in public; discussions on the need for the law took place in the Duma in September 2012;
- Women's NGOs in the Russian regions have developed an awareness campaign promoting a need for a legislative change.

The Rights of the Child

Among recommendations given to Russia by the UN Committee on the Rights of the Child (CRC) in its September 2005 Concluding Observations to Russia's Third Periodic Report on implementation of the Convention of the Rights of the Child was an advice to create a federal body responsible for implementation of the Convention and more generally responsible for coordination of all the work on protection of the rights of children in Russia. This body has not been created and more than that: there is no body in the government authorized even to read the documents on the rights of the child coming from UN. This goes contrary to recommendation #33 in the 2009 UPR review, accepted by Russia, to implement a wide range of measures aimed at practical implementation of the provisions of the Convention and its two optional protocols.

Beginning from 2005 not a single "Annual State Report on Observation of Children's Rights in Russia" has been prepared by the government. This reflects a general approach established since 2005 by the law to transfer all the social responsibility from the federal government to Russia's regions. This approach also fundamentally ignores another CRC recommendation to overcome an unfair regional disparity in the children's welfare.

Although the idea of creation in Russia of "the modern system of protection of children's rights" was declared by the then President Dmitry Medvedev more than once, beginning in March 2009, although the position of the Children's Rights Ombudsman under the President of Russia was established in September 2009, and although a special Commission chaired by this Ombudsman worked in 2010-2011 with a task to create a federal coordinating body, it has not happened.

Years 2009-2012 have been a period of great hopes not one of which has become a reality. In particular, draft laws on juvenile justice for children-delinquents are still waiting for adoption, in contrast with internationally adopted standards and recommendation #38 in the 2009 UPR review, accepted by Russia.

⁶ Rosbalt news agency: <http://www.rosbalt.ru/2009/01/19/610797.html>

⁷ Information supplied by the Pskov regional civic organisation "Independent Social Women's Centre".

⁸ <http://www.regnum.ru/news/1247663.html>

⁹ Code of Penal Procedure of the Russian Federation of 18/12/2001 no. 174-FZ: http://www.consultant.ru/popular/upkrf/11_3.html#p291

Direct orders by the then President Dmitry Medvedev and the then Prime Minister Vladimir Putin to decrease the number of children living in institutions and strengthen the work on prevention of social orphanhood in vulnerable families have not been implemented. A number of inmates of children's institutions has decreased in 2009-2011 exactly in parallel with the dramatic decrease of children population of Russia and is equal to about 300 thousand children. 25% of them are orphans; others are placed under the care of the state on the will of their parents because of the child's disability or difficulties which the family is incapable of overcoming in the situation of absence of assistance from the social services. Every day in 2011 in Russia 240 new orphans are revealed. The orders of the high political leaders did not manage to stop this fabric of destroying families. This situation contradicts Russia's acceptance of recommendation #39 of the UPR in 2009 to act to protect the rights of children and families and to continue efforts to decrease the number of children living outside of families.

Educational segregation of children with disabilities is still flourishing in Russia, as well as traditional practice of misdiagnostics of children's mental disabilities, in contrast to the recommendation #52 of the 2009 UPR, accepted by Russia.

There are some positive signs giving new hopes for the future. On 1 June 2012 President Putin signed a "National Strategy on Actions in the Interests of Children for 2012-2017" which is based on the priorities of the Convention on the Rights of the Child. New laws "On Education" and "On Social Service" are drafted. NGOs work hard to ensure that these laws will implement CRC priorities and correspond to international standards. However, resistance of conservative bureaucracy is very strong.

The Rights of Persons with Disabilities

A number of positive developments have taken place in this area since 2009. On 3 May 2012 Russia ratified the UN Convention of the Rights of Persons with Disabilities (CRPD). However, the failure to sign and ratify the Optional Protocol has undermined effective implementation of the Convention obligations. After the signing of the CRPD, a Department on Disability was formed in part to bring Russian legislation in compliance with the CRPD. In accordance with the CRPD, a national program "Accessible Environment 2011-2015" was developed by that Department and is currently being implemented. It contains ambitious plans to remove physical barriers faced by people with disabilities.

In March, 2011, a significant change was made to Russian legislation requiring that a person with a disability be present in court when a decision is being made regarding his or her legal capacity. There have also been positive efforts to raise awareness about disability issues, e.g. the Paralympic Games were shown on national TV, and a special Cable TV channel Inva TV was launched. Top level officials often comment on the need to improve the lives of persons with disabilities. A federal level committee on children with disabilities was recently formed under the new deputy Prime Minister.

However, there is still much to be done for persons with disabilities (PWDs) to enjoy the same rights as citizens without disabilities. PWDs continue to remain invisible in society, especially people with reduced mobility (wheel-chair users) and people with psycho-social (mental and intellectual) disabilities. The situation with regard to accessibility has been slowly improving, especially in larger cities; however, in most places in Russia little has been done to improve physical accessibility of public places or state-owned institutions or provide accessible transportation. Consequently, most wheel-chair users or persons with more significant mobility impairments still remain isolated in their homes or specialized residential institutions.

The restrictive legal capacity and guardianship framework has been preventing over 300,000 people in Russia from exercising their fundamental human rights. Persons deprived of their legal capacity are prohibited from managing their finances, entering into marriage, raising children, voting, or working. Hundreds of thousands of persons with psychosocial disabilities in Russia have been deprived of their legal capacity and placed in large psycho-neurological social care institutions, with a hospital-like regimen, and often with deplorable conditions, closed wards and no rehabilitation or educational programs aimed at helping them to move back into the community. Despite the 2009 UN Human Rights Committee recommendations to revise the guardianship system and reduce institutional placement, for most people with intellectual and severe mental or physical disabilities large residential institutions have remained the only available arrangement. Initiatives to improve the lives of persons living in institutions have been limited to improving the physical conditions of these institutions which only perpetuates social exclusion and stigmatization and denies PWDs the right to live in the community.

Regrettably, the national Accessible Environment Program has not addressed the special needs of persons with psychosocial disabilities.

Inclusive education has been acknowledged at the national level and funds are being provided for teacher training via the Accessible Environment Program. The National Strategy for Child Welfare 2012-2017 has acknowledged the importance of inclusive education programs for children with disabilities having set up concrete policy measures and indicators. However, implementation of inclusive education initiatives is the responsibility, including financial, of each region, and to date there is no national legal framework for its implementation. Therefore, the development of inclusive schools across Russia has been very slow with most cities having no or only 1-2 inclusive schools. In Moscow, however, inclusive schools are developing in each of its 10 districts, and in 2010 regional legislation that guarantees access to mainstream schools for children with disabilities was passed in Moscow. This best practice should be replicated in other cities of Russia.

Educational authorities, due to negative attitudes and their ignorance about the abilities of PWDs and how to support them in an inclusive setting, are still encouraging parents to place their children with disabilities in specialized educational facilities. Finally, extensive funds are still being spent on distance learning programs for school aged children that leads to continued isolation in their homes.

State authorities often make statements regarding the necessity to improve employment for PWDs. However, limited measures, if any, are being taken to implement programs to support and promote inclusive employment. Furthermore, the majority of federal funding is allocated to sheltered workshops for persons who are blind, deaf or have a physical disability. The majority of people with a mental disability are unemployed and there are no programs to provide coaching and support for them to work in mainstream employment.

Finally, employment recommendations made by state welfare agencies often make it impossible for people with disabilities to find a job matching their professional qualifications as such. These recommendations fail to recognize reasonable accommodation principles of the UN CRPD.

The Rights of LGBT Persons

Homosexual, bisexual, and transgender persons permanently face manifestations of discrimination and violence in many spheres. Russian authorities deny the existence of the problem with discrimination on grounds of sexual orientation and gender identity and take no measures to combat homophobia in the society and prevent hate crimes on grounds of sexual orientation and gender identity, in spite of widespread homophobia and transphobia in the Russian society.

As of now, nine regions of Russia have adopted laws banning the so called “propaganda of homosexuality”. Several other regions are also considering adoption of such laws. These laws are used in these regions as means for arbitrary detention of LGBT activists and systematic restriction of their freedom of expression and assembly. A similar draft federal law was introduced in spring 2012 to the State Duma. We believe that adoption of the above laws contradicts the principles stipulated in the report of the UN High Commissioner for Human Rights on discriminatory laws and practices and acts of violence against individuals on grounds of their sexual orientation and gender identity.

The Criminal Code of the Russian Federation does not contain any hate motive or preconceived opinion against LGBT individuals as an aggravation of a crime. While the Criminal Code does contain a concept of a “social group” which might include LGBT persons, the police and the courts do not define LGBT individuals as a “social group”. For now, not a single hate crime against LGBT has been investigated as a hate crime and, of course, no individual has been convicted of a crime on grounds of hatred or preconceived opinion against LGBT individuals.

Administrative bodies often refuse to warrant official approval of notification of LGBT-related public events, making discriminatory judgments or citing security considerations. When approved, these public events are held with insufficient security protection or no protection at all. Incidents of violence against participants of public activities by LGBT remain unpunished.

Systematic practice of refusals to register LGBT organizations and alteration of their charters leads to a restriction of freedom of association. These violations are manifested in refusals of registration not only on formal grounds but also using the arguments of morality, traditional family values, etc.

Although the Labor Code of the Russian Federation contains a ban on any kind of discrimination in the labor relations, LGBT individuals experience difficulties searching for job, career development, and often become victims of harassment (bullying) by their colleagues. Documented cases of labour discrimination of LGBT persons are limited in numbers. A need to hide one's sexual orientation or gender identity out of fear of negative consequences, especially at the work place, is the main reason for this. This in turn leads to absence of information about a real scope and magnitude of discrimination of LGBT persons in labor relations.

Inaction of the government bodies concerning improvement of the situation of LGBT persons and ensuring guarantees from discrimination against them is another reason for continued violation of rights. Absence in the Russian law of direct ban of discrimination on the grounds of sexual orientation and gender identity, first of all in labour relations, is a fundamental problem, providing grounds for discrimination and violation of rights of LGBT people in various spheres of life.

Questions of grounds for and procedure of de jure recognition of sex change as well as the legal status of individuals who underwent sex change are still not defined in the Russian laws. This leads to the fact that registry offices impose on transsexual applicants demands that are not provided by the law, particularly, an obligation to undergo surgical operations for sex reassignment.