



**MENTAL HEALTH**  
**AND GEORGIAN EXPERIENCE**



## HUMAN RIGHTS CENTER

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## INTRODUCTION

*"Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,"* this provision in the WHO Constitution defines health more broadly than it has long been viewed by individual states. The provision highlights the importance of the mental health field for the healthcare and national policies.

Physical health is a biological state of a person that is related to the proper functioning of all the organs of his or her body. As for the mental health, it is defined as a human well-being, i.e. the condition when an individual is given the opportunity to fully realize his/her own resources, to cope with the stresses of daily routine, to work productively and fruitfully, thus making a certain contribution to the life of the society.

In Georgia, neuropsychiatric diseases account for 22.8% of the total morbidity burden of the population. This is a very high rate, which without proper reaction may cause an irrevocable damage<sup>1</sup>. These severe statistics are due to the direct proportional link of mental health problems to the quality and duration of human life.

Like other aspects of health, mental health is greatly influenced by a number of socio-economic factors, which must be taken into account in the comprehensive strategies of the state approach to promotion, prevention, treatment and recovery.

Ensuring access to high-quality, safe and effective care is central to both the National Mental Health Policy and a number of regional programs of the World Health Organization, which in turn is a key element of regional policy frameworks, including Health 2020 and the European Mental Health Action Plan 2013-2020.

Nevertheless, challenges in this sector remain unresolved even in high-income countries, often due to a lack of investor interest in the mental health system and its reform.

As a result, the most vulnerable, marginalized individuals in society (persons with intellectual and psycho-social disabilities) are left without the necessary services and care. Even mental health institutions are left with malfunctioning, insufficient

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<sup>1</sup>According to the World Health Organization, depression affects approximately 340 million people worldwide, 45 million is affected by schizophrenia, and 29 million by dementia. The burden of mental disorder, in relation to Disability Adjusted Life Years (DALYs), is the highest of all other disabilities. Given the available data (WHO, 2001b), this burden will increase significantly in the future.

infrastructure, without the necessary and professional management and staff. Consequently, we often encounter inhumane treatment practices in such facilities and an environment unsuitable for safe, effective, and high-quality care.

## MENTAL HEALTH AS AN INTEGRAL PART OF HUMAN RIGHTS

The fundamental goal of mental health legislation is to protect, support and improve the quality of life and public welfare. Persons with mental disorders are or may be particularly vulnerable in the context of human rights abuses. Therefore, progressive legislation may be an effective tool to ensure not only the increased access to mental health care but also the protection of the rights of persons with mental disorders.<sup>2</sup>

The determinant of mental health and mental disorders is not only the individual features of individuals (ability to manage their own thoughts, emotions, behavior, relationships with others), but also social, cultural, political and environmental factors - social protection, national policy, standard of living, work conditions and support of those around.

Hence, the state has a special responsibility to protect mental health. Therefore, it is especially important to develop not only a proactive but also a preventive policy and a systematic vision for solving the problem, as its results affect a number of factors, including the standard of human rights, improving working capacity and encouraging economic activity, increasing quality and longevity of life.

By itself, the existence of mental health legislation does not mean unconditional respect for and protection of human rights. World practice shows that poor legislation can be more detrimental to the rights of such persons than adequate to protect them.

The *Law on Mental Health* is an important mechanism for achieving policy goals and objectives. A comprehensive and well-thought-out mental health policy addresses important issues such as: Creating high quality psychiatric facilities and services; Access to quality psychiatric care; Protection of human rights; The right to treat patients; Develop strong procedural protection mechanisms; Integrating persons with mental disorders into society and promoting mental health throughout the society. Accordingly, the purpose of any legislative act aimed at mental health is to create a legislative framework that ensures that these policy objectives are met.

Policies and legislation are complementary tools to improve mental health care and services. However, despite the creation of the best policies and legislation, the lack of

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<sup>2</sup> 3-2-05-9-2 WHO Resource Book on Mental Health, Human Rights and Legislation

political will, adequate resources, functional institutions, community support services and qualified staff will not allow us to achieve proper results. Thus, any mental health policy requires political support to ensure that correct and inclusive legislation is in place.

The 1948 UN Universal Declaration of Human Rights, the 1966 UN International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) form the International Bill of Rights and Recognize the freedom and equality of all human beings. Persons with mental disorders are just the objects of protection of this right as anyone else. Therefore, the protection of their fundamental human rights is not a goodwill but an obligation of every state.

International human rights law obliges countries that their domestic policies and practices comply with and be bound by international human rights law. It also means to protect persons with mental disorders.<sup>3</sup>

Although the European Convention for the Protection of Human Rights and Fundamental Freedoms does not directly guarantee the right to health or the right to be healthy, the case law of the European Court of Human Rights shows that the Court protects this right under other rights guaranteed by the Convention.

In the case law of the European Court of Human Rights, the rights related to health are mainly considered in relation to the Articles 2 (right to life), 3 (prohibition of torture), 8 (right to privacy and family life) and 10 (freedom of expression) of the Convention.<sup>4</sup>

## GEORGIAN EXPERIENCE

According to the National Center for Disease Control and Public Health, 77,111 cases of mental and behavioral disorders were registered in Georgia in 2019<sup>5</sup>. The most common diagnosis is depression. Neuropsychiatric diseases in Georgia account for 22.8% of the global disease burden. The burden is quite high, requiring adequate management and attention from the decision makers.

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<sup>3</sup> WHO RESOURCE BOOK ON MENTAL HEALTH, HUMAN RIGHTS AND LEGISLATION, PG 8-9

[https://ec.europa.eu/health/sites/health/files/mental\\_health/docs/who\\_resource\\_book\\_en.pdf](https://ec.europa.eu/health/sites/health/files/mental_health/docs/who_resource_book_en.pdf)

<sup>4</sup>Thematic report: *Health Problems in the Case Law of the European Court*:

[https://www.echr.coe.int/Documents/Research\\_report\\_health.pdf](https://www.echr.coe.int/Documents/Research_report_health.pdf)

<sup>5</sup> Letter # 01/10902 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, of September 09, 2020 to Human Rights Center

According to the official data on mental health in Georgia, in 2019: The prevalence of mental disorders per 100,000 population is 2072.8 and 5,284 new cases of mental disorder were diagnosed (142.0 cases per 100,000 population).

In children aged 0-15 years, 3269 cases were registered with this diagnosis, the prevalence per 100 000 children - 414.0 (in 2016 there were 2708 children registered, and the prevalence was 432.0). New cases accounted for almost 25% of the registered number<sup>6</sup>.

According to independent experts, these data, due to the shortcomings of epidemiological surveillance over the years, remain incomplete and do not reflect the reality. According to the experts, the real numbers are at least twice as much as the official data, for example: The incidence of schizophrenia in most countries of the world ranges from 20-54 per 100,000 population, in Georgia the rate is 9.5.

Mental health, as one of the priorities of public health, is a serious challenge in many countries around the world. Health systems still fail to adequately respond to the burden of mental disorders; In this regard, there is a huge difference throughout the world between the need for treatment and the provision of necessary services: **In low- and middle-income countries, 76% to 85% of persons with severe mental disorders cannot afford the treatment. Even in high-income countries, this rate is high ranging from 35% to 50%.<sup>7</sup>**

Awareness, stigma, insufficient resources, lack of political will is a small list of reasons that make persons with mental health problems one of the most vulnerable groups in Georgia. Under the current circumstances, many persons with similar needs remain beyond the official statistics and state aid. De-institutionalization, the protection of the human rights of patients with mental health problems, and other specific problems are still acute.

- *State Program and Concept of Mental Health*

**The State Program of Mental Health Care** was launched in Georgia in 1995 and fully finances mental health services. The program includes the following services: **Community outpatient services, psychosocial rehabilitation, children's mental health,**

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<sup>6</sup>Letter # 06/3235 of the legal entity of public law L. Sakvarelidze National Center for Disease Control and Public Health of July 31, 2020 to the Human Rights Center

<sup>7</sup>see Tornicroft G. & Tanzela, M (2012) Better Mental Health Care. Tbilisi. pg. 10

**community-based mobile team services, inpatient services, and shelter for persons with mental disorders<sup>8</sup>.**

The UN Committee on Economic, Social and Cultural Rights clarifies that the right to health should be seen as the right to use the various facilities, goods, services and conditions necessary to achieve the highest possible standard of health. The Committee defines in concept papers how it sees the right to health (normative content), the obligations of the Member States and the recommendations for the implementation of the right to health at the national level, and the Committee acts in accordance with the definitions.

Taking into account the existing challenges and in order to respond systematically, the Parliament of Georgia adopted the State Concept Paper of Mental Health Care in 2013. The introduction to the Concept Paper states that "Georgia recognizes the importance of mental healthcare and for the first time approves the State Concept Paper for mental healthcare." This is the main document defining the state policy in the field of mental health, in the creation of which civil society organizations and human rights defenders actively participated.

According to the Concept Paper, the State recognizes the importance of mental health and the country undertakes to "provide services to persons with mental disorders by means of organizing the mental healthcare, in a less restrictive environment, as close as possible to their place of residence or home, taking into account their individual needs; further, to take the obligation to protect the rights and dignity of this person as much as possible, to ensure his/her equal, full-fledged and effective participation in public life."

The document was also important in terms of deinstitutionalization of mental health system, as the State Concept of Mental Health<sup>9</sup> provides for the following goals of the state policy in the field of mental health: *a) improving the mental health of the population; b) increase financial protection in the field of mental health; c) raising public awareness.* According to the Concept Paper, the development of mental health in Georgia over the next 10 years, shall be directed instead of isolation in large institutions, towards developing a balanced care system and the inclusion of persons with mental health problems in society.

In order to achieve the goals identified in the state concept paper, on December 31, 2014, the Government of Georgia adopted the Ordinance *On the Approval of the Strategic*

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<sup>8</sup>see in detail [http://ssa.gov.ge/index.php?lang\\_id=&sec\\_id=808](http://ssa.gov.ge/index.php?lang_id=&sec_id=808)

<sup>9</sup>see the Resolution of the Parliament of Georgia on the Approval of the State Concept Paper on Mental Health: <https://matsne.gov.ge/ka/document/view/2157098?publication=0>.

*Document for Mental Health Development and the Action Plan for 2015-2020*.<sup>10</sup>, which defined the people's mental health well-being, self-determination of individuals with mental health problems, and integration into society as a vision for the future, which includes inpatient treatment in general hospitals and the development of community-based mental health services. In order to achieve the set goal, it is necessary to carry out the following tasks: **1. Protection of human rights and respect for human dignity 2. Equality and accessibility 3. Tolerance and social inclusion.** The National Plan outlines the vision for the development of mental healthcare in the country for the next 7 years, defines the values and principles underlying the arrangement of mental health and the basic needs that are necessary for the realization of the vision for the future.

Most of the vision outlined by the State in the Concept Paper and the Action Plan including the development of community-based services, remains unfulfilled to this day. Further, instead of strengthening the integration efforts and mobilizing additional resources, the government is isolating and segregating one of the most oppressed groups, resulting in a reduction in funding for mental health services based under the governmental ordinance, and resulting in abolishment of significant part of psychiatric departments<sup>11</sup>.

On December 30, 2016, the Government issued a new Ordinance N 638 according to which from January 2017, the funding rules for so called acute patients have changed. The amended rule led to the closure of psychiatric wards operating in general hospitals. This event clearly had a negative impact on mental health reform, and through such a step on the part of the State the development of services was sharply slowed down for persons with mental health problems to be more protected from stigma on one hand and, to receive better quality services on the other hand. Following the closure of wards at general hospitals, many beneficiaries still had to turn to large psychiatric facilities which did not meet the goals of the reform. Overcrowdedness existing in large psychiatric facilities, often disrespectful and degrading treatment, inadequate environment, treatment only with medications, staff shortages, and other causes continue to leave persons with mental health problems as one of the most vulnerable groups making the risks of human rights abuses no less<sup>12</sup>.

To this date, no steps have been taken to achieve the objectives set out in the National Action Plan: **a) to promote the mental well-being of the population; b) to prevent**

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<sup>10</sup>see Ordinance №762 of the Government of Georgia from December 31, 2014, Tbilisi, on Approval of the Strategic Document for Mental Health Development and the Action Plan for 2015-2020: <https://matsne.gov.ge/ka/document/view/2667876?publication=0>.

<sup>11</sup>see in detail [http://ssa.gov.ge/index.php?lang\\_id=&sec\\_id=808](http://ssa.gov.ge/index.php?lang_id=&sec_id=808)

<sup>12</sup> An interview of the Human Rights Center with mental health expert Olga Kalina.

*mental disorders; c) to protect the rights of persons with mental disorders and d) reduce morbidity and mortality caused by mental disorders in Georgia.*

The monitoring conducted by the Staff of the Public Defender of the measures under *the Strategic Document for the Development of Mental Health and the Action Plan for 2015-2020* revealed<sup>13</sup> that the actual implementation of the Action Plan in due time is problematic. According to the 2018 Report of the Public Defender, certain steps have been taken in 2018. In particular, the ratio of funding for hospital and community-based services from the total program budget exceeded the intermediate target set by the Action Plan and amounted to 34% / -66% in 2018. Moreover, the number of community-based mobile teams has increased and the geographical area of their coverage has also expanded. By the end of 2019, the number of mobile teams has increased to 31. However, funding for beyond-the hospital services is still low. Furthermore, according to the Report, no steps have actually been taken to harmonize the Georgian mental health legislation with the international standards. No changes have been made to bring involuntary inpatient mental health procedures into the line with the international regulations. Informing the patient and verifying the authenticity of his/her will in the process of consenting to psychiatric treatment still remains as a challenge.

According to the same Report of the monitoring of the Public Defender, in accordance with the legal regulations and programs in force in the country, emergency medical care for patients is often not available, in particular, patients with psychotic substance abuse cannot receive the necessary services, because the narcological services are not ready to provide appropriate assistance, while the psychiatric services do not have the competence to manage these conditions. The report also highlights the fact that in the case of patients receiving inpatient psychiatric services, the problem of accessibility to somatic health services is also acute. Although some psychiatric inpatient facilities have service contracts with various healthcare professionals (GPs, surgeons, dentists, gynecologists etc.), their work schedules and the small number of patients who have received the required services during the year raise questions. The existing somatic health services in psychiatric institutions are not focused on prevention etc.

The State's response to these problems in the manner that seeks to achieve the goals set out in the National Action Plan is often a violation of the rights recognized by the Constitution of Georgia and international treaties, and a disrespect for the obligations under the international law.

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<sup>13</sup>see Report of the Public Defender of Georgia *on the Situation of Human Rights and Freedoms in Georgia 2018*: <http://www.ombudsman.ge/res/docs/2019033019563052300.pdf>.

- *New Law on Social Protection of Persons with Disabilities*

The discussion on the development of the rights of persons with disabilities as a specific area of social rights at the international level dates back to 1981, when the Decade of Persons with Disabilities was declared. A draft international convention was to be drafted by the General Assembly with the aim of eliminating discrimination / unequal treatment of persons with disabilities. However, no consensus was reached then, and because of this, few years later, on December 20, 1993, the UN General Assembly adopted a non-binding document of 'soft power' - *the Standard Rules on the Equalization of Opportunities for Persons with Disabilities*. In 2001, a draft of the Convention on the Rights of Persons with Disabilities was created on international level which was supported by an unprecedented number of the UN member states (177 states), despite the events preceding the adoption of the Convention and the difficulties to reach a final agreement. The Parliament of Georgia<sup>14</sup> ratified the Convention on December 26, 2013.

From the date of entry into force of the Convention (2014 April 12), it became a binding act for Georgia, with direct effect. **However, one of the major problems in ensuring a legal protection for persons with disabilities is the fact that the UN Convention on the Rights of Persons with Disabilities has been ratified in Georgia without its Optional Protocol, which precludes persons with disabilities from applying to the UN Committee on the Rights of Persons with Disabilities and to use the individual complaint mechanism.**

It should also be noted that the first Law on Social Protection of Persons with Disabilities was adopted in Georgia long before the ratification of the UN Convention in 1995, with the aim of facilitating the implementation of the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities through its implementation. At the same time, one of the examples of strengthening the universal principle of equality is the decision of the Constitutional Court of Georgia of October 8, 2014, which made it possible to replace the full limitation of the legal capacity of an adult with the institution of 'support'.<sup>15</sup>

Despite the efforts of the legislative, executive and judicial authorities, the reality in Georgia hardly provides the possibilities for persons with disabilities to lead

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<sup>14</sup>see the Convention on the Rights of Persons with Disabilities:  
<https://matsne.gov.ge/ka/document/view/2334289?publication=0>.

<sup>15</sup>see Judgment №2 / 4 / 532,533 of the Constitutional Court of Georgia, *Citizens of Georgia - Irakli Kemoklidze and Davit Kharadze v. Parliament of Georgia*, Batumi, October 8, 2014.  
<https://matsne.gov.ge/ka/document/view/2549051#>.

independent lives as evident both by statistical<sup>16</sup> and substantial research<sup>17</sup>. To date, for persons with disabilities, regardless of the degree and type of disability, public space is largely inaccessible, incompletely accessible, or only superficially accessible.

From the moment the Convention enters into force, each of its norms is a so-called 'self-implemented' rule and has a direct effect. This means that at the theoretical level, it is not mandatory to incorporate the norms of the Convention into the national law. However, the lack of equal opportunities and access in practice is largely due to the fact that there is no set of effective and systemic mechanisms enshrined in national law that would make practically feasible the guarantees provided for by the Convention. At the same time, in the presence of legislative and sub-legal regulations, these documents are unsystematized and fail to provide equal opportunities for persons with disabilities in different areas of public life.

On July 14, 2020, a new Law was adopted on Social Protection of Persons with Disabilities<sup>18</sup>. The preamble to the Law stipulates that the state promotes the realization of the rights and fundamental freedoms of persons with disabilities. Further, the Law ensures the protection of their inherent personal dignity and in this process acts in accordance with the Constitution of Georgia, the UN Convention on the Rights of Persons with Disabilities, universally recognized human rights, the norms of the international law and legislative and subordinate normative acts of Georgia. Despite a similar record and international commitments, the new Law fails to meet the obligations under the UN Convention. Moreover, the government failed to ensure the effective involvement of persons with disabilities in the development of the Law. Furthermore, the comments submitted with regard the draft law were reflected in the draft and eventually in the adopted Law in minimal terms. Particularly problematic in this regard is the declarative nature of the draft law, which does not provide for the particular standards of rights and for the effective mechanisms for the implementation of the Convention. Although the Law introduces some positive novelties, it still does not change the legal status of persons with disabilities and, in some cases, sets a lower standard than the Convention, including with regard to social rights. One of the major problems is the fact that the law does not address the most pressing issues in the

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<sup>16</sup>see *Statistical Analysis of Various Data on Persons with Disabilities*, Information Development Institute: [https://idfi.ge/ge/data analysis%20 on persons with disabilities living in georgia](https://idfi.ge/ge/data%20analysis%20on%20persons%20with%20disabilities%20living%20in%20georgia).

<sup>17</sup>see Special Report of the Public Defender of Georgia on the Legal Status of Persons with Disabilities, 2017: <http://www.ombudsman.ge/ge/reports/specialuri-angarishebi/shezgudulishesadzleblobis-mqone-pirta-uflebrivi-mdgomareoba1.page>.

<sup>18</sup>see the Law of Georgia on *Social Protection of Persons with Disabilities*: <https://matsne.gov.ge/ka/document/view/30316?publication=11>.

country - mental health issues, including the need for the deinstitutionalization and for the legal capacity reforms.

The positive novelty of the new Law is the institute of the status of special plaintiff and the powers with regard the protection of the rights of persons with disabilities. As the main guarantee for the protection of all other rights of persons with disabilities is the administration of fair justice, according to the Law, even in the absence of immediate and direct harm, the organizations with a status of special plaintiff will be able to protect the rights of persons with disabilities in administrative and civil cases without having been assigned as legal representatives. The introduction of this institute is also aimed at developing the case law in this area, which will promote uniformity of enforcement in governance and service areas and lead to creation of equal opportunities in different directions.

## STIGMA AND DISCRIMINATION

Mental disorders and mental health problems are as common in Georgia as in other parts of the world. It is one of the factors contributing to death, disability, economic backwardness and poverty. The morbidity of the adult part of the population also affects the intellectual and emotional background of future generations. According to the Concept Paper of mental health, "the difference caused by mental disorder is a common occurrence and it cannot become a source of discomfort and discrimination in human relations."<sup>19</sup>

One of the major challenges in Georgia is the low level of public awareness about mental health, which complicates the lives of persons with similar problems and their family members and their struggles. Along with this challenge, the number of persons with mental health problems keeps increasing by years. These persons face many challenges and problems, including particularly acute low quality services, the problem of geographical access to relevant services, stigma and discrimination by the public, and the inability to be integrated into society in general. The attitude of the society towards persons with such problems is often sharply negative. It can be said that there is still no common experience in the Georgian society to view such problems correctly, due to

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<sup>19</sup>see Resolution of the Parliament of Georgia on the Approval of the State Concept Paper on Mental Health:<https://bit.ly/2Px6MgW>.

which persons with mental health problems become victims of discrimination and exclusion.

It is true that funding for mental health in Georgia is increasing every year, but the existing finances do not cover the costs of quality services. Moreover, funding for beyond the hospital services is low. Funding for inpatient services remains a priority for the State, and funds for community-based services and psycho-social rehabilitation are scarce.

There are different types of stigma attached to persons with mental disorders and mental health problems. Stigma can be directed at:

**a) persons with mental health problems and their family members.** In many cases, the attitude of the public towards persons with mental health problems is stereotypic. Most people have some sort of fear towards persons with mental health problems. However, a certain part of the society expresses pity for them, which is as irritating as an ignorance. Consequently, these persons are so called victims of positive discrimination. They often are neglected by their families, losing social ties and are excluded from the society.

b) Self-stigmatization is one of the most acute problems for persons with mental health problems and mental disorders, that is why the persons often refuse to receive necessary and essential medical services. As a result of the stigmatization of individuals with such problems by the society and their family members, the stigma is often internalized formed into a self-stigma . In such cases, the person or his family member, especially the parents, develops a feeling of shame or guilt.

**c) Stigmatization of specialists / professionals of the field of psychiatry.** According to the opinion of the experts in the field, due to lack of information and stigma, it is quite common practice when a family member does not turn to a psychiatrist for help in case of suspicion of mental problems. Moreover, unfortunately there is a prevailing opinion in the society that the treatment by a psychiatrist leads to worse results, which ends up with detrimental consequences for the persons with ill health.

Furthermore, , according to psychiatrists, representatives of the judiciary, human rights defenders, media / journalists, medical and other representatives have misconceptions about mental disorders and psychiatry in general, and like the public, they are as well influenced by common stereotypes.

- *Media/Journalists*

The media plays a major role in educating the public, which in turn helps to get rid of society of stereotypes hence to properly see the needs of people with mental health problems. In the past years, the interest of media representatives has especially increased towards persons with mental disorders and mental health problems, but the stories prepared on this topic are mostly one-sided. The issues of the psychiatrists are not covered. The issues are covered only from the point of view of human rights defenders and based on the information provided by them.<sup>20</sup> It is also problematic that even journalists who are actively working on these issues in the print media or are covering on TV the current situation are not specialists in the relevant field and do not have enough experience, and / or are not sensitive enough. Incorrectly provided information creates not only social stereotypes, but also helps to develop 'self-stigma' in persons with mental health problems. After each incompetent / negative information covered in media, they experience feelings of exclusion, deepening depression and suicidal thoughts. And the motivation to be employed or even to volunteer rapidly decreases. Moreover, as a result of misreporting stories, the chances of stigmatization and discrimination from the public increase, forcing these people to refuse or prematurely terminate the necessary treatment. And this, in turn, causes the symptoms to recur.

## PSYCHO-SOCIAL NEEDS OF THE ACCUSED / CONVICTED

The mental illness and disorders in the world is particularly high among the so called prison population under the conditions of restriction of freedom<sup>21</sup>. The disproportionately high rate of mental disorder in detention facilities is due to a variety of factors. These include existing stereotypes and stigmas associated with mental illness, general intolerance of the public to difficult and disturbing behaviors, ignorance of the problems, lack of necessary resources, and so on.

Often, the condition of such persons deteriorates irreversibly after the imprisonment, due to the stress that accompanies prison conditions in general. Furthermore, it is not

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<sup>20</sup> Qualitative research to promote mental health in the framework of the 2016 state program component of the Health Promotion (Health Promotion and Strengthening Component).

<sup>21</sup> See Brinded PM et al. Prevalence of psychiatric disorders in New Zealand prisons: a national study. *Australia and New Zealand Journal of Psychiatry*. 2001.08.20. Brugha T et al. Psychosis in the community and in prisons: a report from the British National Survey of psychiatric morbidity. *American Journal of Psychiatry*. 2005;162:774-80. Holley HL, Arboleda-Flórez J, Love E. Lifetime prevalence of prior suicide attempts in a remanded population and relationship to current mental illness. *International journal of offender therapy and comparative criminology*, 1995, 39(3): 190-209.

uncommon for a person to develop mental disorders in prison, which can be caused by the situation in the facility, the torture of a prisoner and the violation of his / her other rights.

Imprisonment, by its very nature, is an unfavorable environment for mental health. However, even in these circumstances, it is necessary to ensure the minimum standard required for the protection of human rights, which should help to reduce the negative effects. In practice, difficult prison conditions, overcrowdedness, violent practices of various forms, forced loneliness or vice versa, lack of confidentiality and personal space, isolation from social ties, lack of faith and fear of the future, lack of proper health services (including mental health) may serve as factors for deteriorating mental health.

The detection, prevention and appropriate treatment of mental disorders, along with mental health promotion measures, should be part of the public health goals and at the same time a central aspect of good management of prison facilities.

Recommendations developed by the World Health Organization and the Red Cross highlight the need to diversify mental health policies in prisons, and the advantages of using a special needs-tailored approach to different groups<sup>22</sup>. Together with other groups, special attention should be paid to women, juveniles and foreigner convicted / accused persons.

- *Women prisoners*

Different studies show that the prevalence of poor mental health among female prisoners is much higher as compared to the general prison population<sup>23</sup>. Moreover, female prisoners have higher rates of traumatic experience for example of sexual violence etc.

Furthermore, women may have played a major role in the upbringing of their own children, and imprisonment, which often separates mother from a child, may present additional difficulties for the mental state of female prisoners.

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<sup>22</sup>see. WHO Regional Office for Europe - *Prisons and Health*

[https://www.euro.who.int/\\_data/assets/pdf\\_file/0005/249188/Prisons-and-Health.pdf](https://www.euro.who.int/_data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf)

<sup>23</sup>Graham Durcan, Jan Cees Zwemstra, *Prisons and Health*, Chapter 11 - Prisoners and Mental Health, p. 92

- *Juveniles and young prisoners*

The obligation to pay special attention to juveniles and young people in detention facilities is also enshrined in the United Nations Convention on the Rights of the Child<sup>24</sup>, which imposes special obligations on the contracting countries, including Georgia. In particular, Article 40 of the Convention regulates the issues of juvenile justice, while Article 25 creates an obligation to protect children in foster care, including juveniles in detention. All other provisions of the Convention also apply to the protection of juveniles in detention. Irrespective of the conditions of deprivation or restriction of liberty, the Convention obliges the State and the prison administration to observe all the obligations under the Convention even in such conditions<sup>25</sup>.

Detection of mental health problems in children and adolescents often takes place in different manner than in adults, which is very important to consider when treating them or during any kind of intervention. This also refers to those in detention who are legally considered adults (persons aged 18-21) but have special needs. For the purposes of mental health care, it is often crucial to know the needs of specific groups and their characteristics and to take them into account when carrying out interventions.

- *Prisoners with foreign and different cultural backgrounds*

Prisoners who are originally from another country or culture, for a variety of reasons (including linguistic, religious, visual, and other peculiarities), may be more isolated than under the conditions of conventional detention. It may also negatively affect their re-socialization process with the community, which in turn may present additional difficulties for mental health. If possible, international prisoners should be transferred to facilities in their home countries in accordance with international standards.

Mental health awareness and patient communication language may differ depending on the cultural background. Moreover, as a rule, stigmas and stereotypes towards mental health are manifested differently in different countries and cultures. For the purposes of mental health, correct and timely diagnosis and derived from that planned treatment are of particular importance. In accordance with the recommendation of the

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<sup>24</sup> Convention on the Rights of the Child. Geneva, High Commissioner for Human Rights, 1989 (United Nations General Assembly resolution 44/25, 2 September 1990) (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>, accessed 15 November 2013)

<sup>25</sup> Convention on the Rights of the Child. General Comment No. 10 (2007). Children's rights in juvenile justice. Geneva, United Nations, 2007 (<http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>, accessed 27 November 2013).

UN Committee against Torture, in such circumstances, prisoners and the prison hospital administration should be provided with timely and professional translation<sup>26</sup>.

## TRAGIC OUTCOMES - HUMAN RIGHTS CENTER CASE REVIEW

The severity of the problem caused by the lack of such outpatient mental health services as community-based and outpatient services is once again confirmed by the murder of 13-year-old G.I. on February 10, 2019. Human Rights Center became involved in the case in March 2019 and still defends the interests of the victim's assignee.

According to the investigation, on February 9, 2019, one day before the incident, V.I. and his relatives contacted the Center for Mental Health and Drug Prevention for medical assistance. Due to the sharp and visible deterioration of the patient's mental health, V.I.'s friends and family members had to call emergency medical aid and the patient was transferred to Rustavi at so-called Azoti Clinic. Family members informed the doctors about the patient's symptoms. According to the clinic, an initial medical report was drawn up about the patient's health condition. Based on the information obtained, the patient was given the probable diagnosis at the same clinic - mental and behavioral disorders caused by taking cannabinoids, acute intoxication. Diagnosis under code F12.

Later, during the investigative actions, psychotropic drugs were found at V.I.'s home. The accused had severe depression 2 weeks prior the murder. He felt helpless and asked for treatment.

V. I.'s friends mention in private conversations that he did not leave his apartment at all for about 10 days before the incident. Had hallucinations, often remarked that he was being watched, and wanted to take the law in his own hands.

According to the initial medical report of the Azoti Clinic and taking into account the existing legislation, drug addiction is not subject to forced treatment (unlike mental health problems) and there are no available and quality services even if the patient wishes to get a treatment. V.I. was referred for mental health and drug prevention center. In psychiatry, where there are acute cases, where the patient is so abusive that

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<sup>26</sup> Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Foreign Prisoners: the CPT Standards. 17th Council of Europe Conference of Directors of Prison Administration (Rome, 22–24 November 2012). Presentation by Latif Hüseyinov, President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) ([http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/Conference\\_17\\_en\\_files/Foreign%20prisoners%20-%20the%20CPT%20standards%20\(2\).pdf](http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/Conference_17_en_files/Foreign%20prisoners%20-%20the%20CPT%20standards%20(2).pdf), accessed 28 November 2013).

he or she is unable to respond to his or her own behavior and poses some danger to himself or to society, there is a mandatory treatment mechanism. Both doctors and a specially trained judge are involved in resolving such a case, who decides on the mandatory character of the treatment, determines the duration of treatment together with the doctors and so on. There is no similar mechanism in relation to a narcological patient who is in the same condition having a psychotic episode. In such cases, if the patient does not want to be treated voluntarily, there is no mechanism for making him/her committed for treatment. As a result, the patient remains beyond the State's and medical supervision, and the potential risks of both self-harm and harm to society grow sharply.

This case is a so-called dual diagnosis of an acute problem in the process of treating persons and this shows us the inconsistent and different regulations in the fields of psychiatry and narcology.

After staying at Azoti Clinic in Rustavi, the patient was referred to the Center for Mental Health and Drug Prevention where the accompanying persons requested on-duty psychiatrist T.A. to examine V.I. and place him to the inpatient setting. In his turn, the doctor on duty took less than a minute to assess the patient's health and decided not to leave the patient in the clinic, despite the fact that the V.I was transferred there on the recommendation of the Prevention Center and doctors of Rustavi clinic. As a result, V.I had to leave the medical facility and move home.

Later psychiatric examination revealed that the patient had a mental disorder - epileptic psychosis and there was a risk that he would either harm himself and/or others. Therefore, for the doctor, the mental state of the person should have been perceivable by the first examination, especially when the initial medical report from the so-called Azoti Clinic were available as well as the recommendation of the doctors from the Prevention Center and Rustavi Clinic.

The National Recommendation (Guideline) for the Clinical Practice for the Treatment and Management of Schizophrenia <sup>27</sup> in adults defines how the mental status and clinical-psychological assessment of patients should take place which was ignored in given case. The doctor has not defined the possible risks - whether the patient was dangerous to himself or those around him. Although, there are no well-established criteria for this, but the standards used by the guideline for post-crime assessment

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<sup>27</sup> Approved by Order N01-151 / ო of the Minister of Labor, Health and Social Affairs of Georgia of July 24, 2013. see more in detail:

<https://www.moh.gov.ge/uploads/guidelines/2017/06/02/027a1faa4884f16b6046d141805f7e09.pdf>

should have been used for preventive purposes, especially when the patient had a double conviction record in the past<sup>28</sup>.

According to the Guideline, in each specific case, the existing materials about the past crimes committed by the patient are examined as well as the circumstances in which the crime was committed. During the analysis of the information, the following key points should be taken into account: Whether or one definite pattern of behavior is revealed; What factors provoked the violent acts committed in the past; Is it possible a similar situation to take place in the future that would lead to the same actions; Are there any clear signs that the patient wants to change their own behavior; Is there any expectation of achieving the desired result by the treatment. Clearly, the doctor could not learn all of these and analyze the information in less than 1 minute.

It is noteworthy that V.I. has mental problems after the severe psychological trauma he endured as a child. He was given a status of person with disabilities since 2000, in accordance with the legislation in force.

Moreover, there is his medical history in the criminal case file of V.I.. There are numerous pieces of evidence that he had a mental disorder caused by epilepsy; numerous reports from the Rustavi Psychiatric Hospital report that he had been registered in this medical institution for years and was constantly receiving medications.

On the morning of February 10, 2019, on the second day after leaving the center and returning to his home, V.I. asked his father by using the physical force to leave the house as V.I. wanted to have a private conversation with his teenage nephew (G.I.) Leaving the house, V.I.'s father turned to the neighbors for help and explained that his son had become once again aggressive and asked them to help to deal with him.

On their way back, they found the door of the house locked from the inside and the voice of 13-year-old G.I. was heard asking for help. Neighbors immediately called a patrol police for help. Speaking to lawyers of the Human Rights Center, several witnesses noted that after police officers arrived at the scene, the victim's voice was still heard calling for help. Moreover, they immediately explained the situation to the police officers, who were at the scene and also provided information about the mental state of V.I. and his previous convictions.

Nevertheless, the patrol crew who arrived at the scene refused to take appropriate measures and to enter the house - to neutralize the immediate threat and to help the

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<sup>28</sup> Valerian Iremadze was convicted of robbery in 2008 and of battery in 2014

juvenile. Although the scene took place on the first floor, which should have further facilitated the actions of the police and the prevention of crime, they did not enter the apartment and neither allowed neighbors to do so, who were willing to enter the room through the window for helping the child. The actions of the law enforcers were limited to summoning additional crews.

Prior to the mobilization of additional forces on the ground, uncle V.I. using a cold weapon, inflicted multiple wounds on 13-year-old G.I. who died at the scene. After the crime, V.I. voluntarily got out from the window and he was arrested.

According to the Human Rights Center, law enforcement officers resigned shortly after the incident. Despite the appeal of the organization, according to the General Inspection of the Ministry of Internal Affairs, the investigation of the case is beyond their competence, as specific police officers are no longer included among current employees of the Ministry of Internal Affairs.

Human Rights Center also requested the Office of the Prosecutor General of Georgia to investigate the possible crime committed by the police officers. Despite numerous attempts, the request remains without any response.

The request of the Human Rights Center is still the same - to launch an objective investigation into these facts of official negligence of police officers and to punish the perpetrators.

Upon reviewing the case file by the HRC lawyer , it became clear that in the reports of interrogations of the witnesses there are no clarifying questions as to whether the victim's voice was heard when police officers arrived at the scene. Witnesses talk about the incompetent and ineffective response of the police officers on the TV program *New Week* aired by the Public Broadcaster. In the story, the witness also states that when the police officers arrived at the scene, the child's voice could still be heard from the flat. Investigative agencies were not interested in the content of this story aired on TV either.

According to the decision of March 25, 2019, Rustavi City Court held to 29-year-old V.I. accused of murdering his 13-year-old nephew two years of forced psychiatric treatment and closed the case. Judge Madona Maisuradze took into account the conclusion of the Samkharauli Forensics Bureau and granted the motion of the Prosecutor's Office. V. I. will be treated at Khoni Psychiatric Hospital.<sup>29</sup>

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<sup>29</sup>see more in detail: <https://reginfo.ge/people/item/13325-rustavshi-13-xlis-bichis-mkvlelobashi-braldebuls-2-xliani-iwulebiti-mkurnaloba-miesaja>

As for the issue of liability of medical personnel, after numerous requests from the Human Rights Center, the Ministry of Internal Affairs of Georgia started an investigation for improper performance of official duties resulting in the destruction of human life. The crime is envisaged under Article 220<sup>1</sup> of the Criminal Code of Georgia and provided for an imprisonment for up to 5 years. Taking into account numerous pieces of evidence obtained during the investigation, on June 18, 2019, the officers of the Ministry of Internal Affairs detained T.A., a psychiatrist at the Rustavi Psychiatric Hospital. He was charged under the Article 220.2 of the Criminal Code of Georgia. On June 20, Rustavi City Court Judge Madona Maisuradze remanded the detained doctor on bail of GEL 20,000.

## CONCLUSION

Despite the various reforms in the field of mental healthcare in Georgia, the increased funding and other types of support in recent years, this issue remains problematic and still remains relevant.

As major challenges for the country remain the deinstitutionalization, prioritisation of hospital services, scarcity of financial resources and lack of political will, lack of medical and other staff resources, and the poor quality of medical care. A multidisciplinary approach remains undeveloped failing to replace already well-established inpatient services. The quality of medical care and staffing, low-cost medicines, inappropriate conditions and attitudes towards patients remain as a challenge in hospitals.

Poor geographical access to services negatively impacts the health of the rural population. The problem is the unequal geographical distribution of the existing beds, the shortage of long-term beds and the consequent misuse of acute beds, the lack of community residence beds for persons with mental disorders etc. In this context, the most important problem is the low financial accessibility to the services.

A small number of services aimed at prevention, social integration and rehabilitation remain as a problem. Low level of public awareness and thus high rate of public stigma and discrimination is another problem.

In the recent years, the problem of diagnosing and treating persons with a so-called dual diagnosis, and different regulations in the fields of psychiatry and narcology.

Due to the current situation in Georgia, up to the date, a large proportion of patients with similar needs are either left without access to services and assistance at all, or are victims of inappropriate and often degrading treatment. In the current situation,

inpatient treatment fails to provide patients with training for basic skills, balancing, and stabilization of emotional background. Moreover, long-term hospitalization usually worsens the condition of patients.

## RECOMMENDATIONS

Stemming from the difficult situation in the field of mental health in Georgia, it is necessary for the State to increase the efforts and implement systemic changes for the development of the field.

In the process of developing the field of mental health, the main goal of the State should be to promote the mental well-being of the population, unwavering protection of human rights and freedoms of persons with mental disorders, reduction of morbidity and mortality due to mental disorders in Georgia, self-determination of persons with mental health problems.

It is important that representatives of the community are directly involved in the implementation or planning of all changes and that their views are taken into account. The final decisions must be tailored to the real needs of these persons.

It is necessary to staff the field with specialists and increase their qualification. Moreover, one of the most important challenges is the replacement of inpatient treatment with the development of community-based mental health services, for which, beside the mobilization of the necessary resources, the existence of political will is also important.

In order to improve the field of mental health and protect human rights, among other measures, the government must:

- **Take all measures to harmonize Georgian legislation on mental health with international legislation;**
- **Develop a mental health reform action plan with the involvement of all stakeholders. The goal of the plan should be to integrate the various components of mental health services into a single system. The plan should also outline the goals and priorities of the reform, defining the roles or responsibilities of the various services or institutions.**
- **Increase budgetary resources for the development of the mental health sector. Ensure funding system and sustainability;**

- Transform the outpatient services so that the services provided meets the needs of the beneficiaries;
- To control the quality of mental health services and to establish and implement a systemic mechanism for its improvement;
- Provide the mental health sector with qualified staff;
- Increase the capacity of primary care system staff to identify and manage mental health problems;
- Replace mental health outpatient services (including children and adolescents) with community services and expand the services by creating multidisciplinary teams and also increasing geographical coverage and decentralization for community services;
- Develop a real plan for deinstitutionalization of mental health and allocate the necessary budgetary funds for it;
- Increase efforts to overcome the stigmas and discrimination that exist in the community regarding mental health.
- Take measures to train police officers and raise their awareness with regard to persons with mental health problems. Also, strengthen the training of ordinary police officers to ensure adequate and immediate response in force majeure situations.