



**American University of Armenia**

Masters' thesis:

**Disability Benefits-who qualifies and how benefits  
are determined.**

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Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

**Article 25(1) of Universal Declaration of Human Rights**

1. Transaction description. Public policy/private interest clarification

It is said that the culture of a country is defined by two things: attitude toward disabled and old people and general cleanliness of its citizens. In Armenia the attitude toward disabled people putting it mildly is unordinary. In recent times people were convinced that Armenia had no disabled. But it did. They were just hidden. There were and are schools for disabled people. Government and State Medical Institutions justified it as necessity for ill children, that disabled people need peace and silence. But after that “peace and silence” children emerged from these schools unadapted to their surroundings and with inferiority complex.

Problems relating to disabled people in Armenia became more vivid after the earthquake of 1988, the Karabakh War and the subsequent blockade of the newly established republic. Social status, absence of medicine, lack of medical apparatus and qualified personnel resulted in the worsening of the state of health and increase in number of disabled people of the Republic of Armenia. Since the independence of Armenia the social status of disabled did not changed positively. Because of changes in legislation the disabled lost benefits in housing and communal services, employment and other spheres of social life. According to statistical data provided by the Ministry of Social Security in 2003 about 120,000 disabled people are currently registered, more than 9,000 of them children under age of 18. Almost 66% of overall numbers of disabled people became disabled due to general diseases, 18% are disabled since childhood, 7% became disabled during military service, 7% due to professional and occupational traumas and only 1% as

a consequence of the earthquake. 56% of disabled people are of employment age, but only 7% are employed<sup>1</sup>.

The integration of disabled people into society should be considered as an opportunity for them to take part in all spheres of political, economic, cultural and social lives. The appearance on the scene of a certain united ideology for all citizens of the country should result in the formation of national projects. The idea of integration of disabled people into society should be incorporated into several, if not into all, national projects. These activities should be not only declared but also supported with the necessary resources and synchronized with all other activities in particular national projects.

May 5 is the Day of Europe and International Day of Disabled People. It is symbolic that both these significant events fall at the same date. That day honored the idea of the unified European Union and the value common for all Europeans: freedom, democracy and equality independently of nationality, religion, property status or state of health. The struggle against discrimination for the creation of equal opportunities and development of full civil participation for people with disabilities are included in the 2006-2015 plan of the Committee of the Ministers of Council of Europe. It appears from this that the many countries concern with the problems of disabled people and the Republic of Armenia should not become detached from the world community. On 26 April 2002 Republic of Armenia joined to European Community thereby ratified European Convention on Human Rights and Fundamental Freedoms. Correspondingly the 5<sup>th</sup> of May should be held as a Day of Europe and International Day of Disabled People in the Republic of Armenia as well.

## 2. Armenian Legal Framework

In the Republic of Armenia (RA), the legislative framework for social protection of the disabled consists mainly of the 1995 Constitution, articles 14.1 and 37, as amended by the

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<sup>1</sup> <http://www.mss.am/eng/volort/invalidstat.htm>

referendum in 27 November 2005, the “*Law on the social protection of the disabled in the Republic of Armenia*” adopted on 24 May 1993, as amended in 2002, the Law on “*Prisoners of reprisals*” adopted in 1994 and the Law on “*Veterans of the World War II*” adopted in 1998. The Government of Republic of Armenia also enacted several decrees: N: 254, adopted on March 13, 2003, on “*Approve of the medical - social examination procedure and amendments and additions in the RA Government decree N: 684*”, adopted on November 3, 1998” and decree N: 780 adopted on 02 May 2003 on “*The classificatory used at medical-social expertise and the criteria of defining the disability groups*”<sup>2</sup>. The National Assembly put on agenda the draft law N: 814<sup>3</sup> “*On accessibility of public places and transportation for people with limited mobility*” and the draft law N: 814(1)<sup>4</sup> “*On administrative responsibility for violation of accessibility standards*”. Both draft laws are published on the official website of the National Assembly.

From international treaties and declarations it is also worth to mention the UN General Assembly “*The disabled rights declaration*” adopted in 1975 and UN General Assembly “*On standard rules for maintenance of equal opportunities for disabled*” adopted in 1993. These guidelines serve as a voluntary standard for the national legislation of Member States.

The Committee of Ministers of Council of Europe adopted Disability Action Plan-Recommendation 2006-2015 on 07.04.2006 addressed to all 46 member states on the Council of Europe's “*Action Plan to promote the rights and full participation in society of people with disabilities: improving the quality of life of people with disabilities in Europe 2006-2015*”<sup>5</sup>. Disability Action Plan 2006-2015 is planned to launch out in September 2006 at a European Conference in St. Petersburg, organized under the aegis of the Russian Federation Chairmanship of the Committee of Ministers.

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<sup>2</sup> <http://www.mss.am/eng/volort/invalidlaw.htm>

<sup>3</sup> <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=7660&lang=arm>

<sup>4</sup> <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=7665&lang=arm>

<sup>5</sup> <https://wcd.coe.int/ViewDoc.jsp?id=986865&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

There is also agreement between heads of the governments of the CIS member countries on "*Mutual recognition of the rights privileged to veterans of the World War II and persons equal to them, as well as disabled and persons equal to them*". It is signed on 12-th of March 1993.

Articles 14.1 and 37 of the Constitution provide the main regulations for the "*Law on the social protection of the disabled in the RA and related issues*" (Law). The important provision in the Law is the Article 1 which defines the social, political, legal and personal status of disabled people by Declaration on the Rights of Disabled Persons of 09 December 1975. Chapter 6 of the Law provides the types of social assistance for disable people.

It is also worth to mention that annual program of actions aimed at disability is included in the state budget report. Thus, annual program provides for the mechanisms of implementing specific activities, and it also makes the procedure of investments transparent and controlled<sup>6</sup>.

### 3. Case studies

By the evidence of most disabled and NGO's opinion, whose activities related to vital activity of disabled people, the medico-social expert commissions (MSEC) functioning can be considered as standard performance in spite of some minor problems concerning corruption in order to get the status of disabled person or to get free medical assistance from state medical organizations. The social status of most disabled can be considered as below of average, but this is not the problems that they are complaining for today. The main issue that is on the order of the day for disabled people is the integration into the full life, i.e. to be treated as a full member of a society.

In the opinion of director of NGO "UNISON" Armen Alaverdyan the very first step of integration of the disabled into society must be the creation of accessible environment for disabled people. For a human being with limited mobility, vision or hearing, the accessible environment must be taken into consideration in both public and private buildings and must allow disabled to live independently in their own residences as well as access to the public places and participate in

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<sup>6</sup> [www.disability.am/english/laws.htm](http://www.disability.am/english/laws.htm)

the public activities. The establishment of this surrounding will be practical to use not only for the disabled but also for temporarily disabled, such as pregnant women or elderly people<sup>7</sup>.

The policy behind the creation of accessible environment is not only the establishment of facilities for the movement of the disabled, but also involvement of the disabled in such spheres of social life as political, public and cultural life, education, information and communication, employment and transportation. Another guiding principle is the elimination of discrimination through creation of accessible environment for the disabled.

In accordance with Article 19 of the “*Law on Education*”, disabled child has the same rights compared with other children to go to school and the State must provide equal conditions for their study. At present, the principles of inclusive education are practiced in a number of schools in Yerevan. An inclusive education<sup>8</sup> refers to schools, centers of learning and educational systems that are open to all children, and that ensure that all children learn and participate. For this to happen, teachers, schools and systems may need to change so that they can better adapt the variety of needs that pupils have and that they are included in all aspects of school life. It also means identifying any barriers within and around the school that make difficult learning and participation, and removing these barriers. Inclusion in education is a process of enabling all children, including previously excluded groups, such as the disabled, to learn and participate effectively within mainstream of school systems. Placing excluded children within a mainstream setting does not of itself achieve inclusion. Inclusive education must be underpinned by key principles and practices. This process of education gets difficult because of many architectural and emotional obstacles, lack of proper teaching and educational materials and inexperience of teachers of the majority of high schools. There are also specialized schools for the blind, weak-sighted, deaf children and ones with limited hearing, and also the schools for people with mobility impairments. The legislation of Armenia grants disabled people of the 1st and the 2nd group the

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<sup>7</sup> [www.disability.am/accessibility](http://www.disability.am/accessibility)

<sup>8</sup> David L. Westling and Lise Fox. “Teaching Students with Severe Disabilities” Third Edition

right to obtain scholarships when entering public universities. According to the statement of Misha Vanyan, Head of State MSEC, 83 disabled students entered into public universities in 2004, while in 2005 places for the disabled were limited to 75<sup>9</sup>. Reasons for such decision still remained unclear.

In the Soviet period there were enterprises for the blind, deaf and other people with disabilities in Armenia. After the collapse of the Soviet Union most of these enterprises were closed. Consequently almost all of the disabled lost their jobs. During the first years of its independence Armenia as a heritage from USSR used a law according to which the enterprises, having 50 % of employees with disabilities, took advantage of tax deductions. In 2000 this directive was revoked, and the enterprises with many disabled employees were closed down. In accordance with the above mentioned statistics almost 67,000 of the disabled are in employment age and only 4,700 are employed. According to the head of State Employment Agency Ruzan Arshakyan<sup>10</sup> about 3500 disabled people are registered in the Agency as unemployed. Dress-making courses and computer courses were provided for 56 of them in 2005 and 24 were employed. But with such a slow pace only within the next fifty years only registered disabled will have a chance to find a job.

Another very important issue concerning disabled people is the rehabilitation. According to the Hakob Abrahamyan, President of the Union for Disabled “Pyunic”<sup>11</sup>, there is almost no support from the State budget for the rehabilitation procedures. State provided the Union with the very old building near the Tsitsernakaberd and one-time financial support in amount of \$10,000 USD. The rest financing of the Union was left to the mercy of fate. Only by joint operations of the disabled themselves and some benevolent organizations the Union remained valid and open. The mission of the Union for Disabled “Pyunic” is mainly physical, psychological and social rehabilitation of differently disabled children, development of national sports activities for

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<sup>9</sup> <http://www.medinform.info/2005/february.htm>

<sup>10</sup> <http://www.medinform.am/oficial/socap.htm>

<sup>11</sup> <http://www.pyunic.org.htm>

differently disabled people such as different national games, training camp and participation in international games. Members of the Union even were sent as sportsmen to compete in Paralympic Games.

#### 4. Step-by-step description of the transaction

The highest state organization dealing with the issues of disabled in Armenia is the Ministry of Labor and Social Security (Minister: Aghvan Vardanyan) and within the Ministry, the Department on Disabled and Elderly People functions (Head of Department: Jemma Baghdasaryan).

In order to be recognized of disabled person, one should apply to the local polyclinics, carry out the corresponding medical examination, and obtain a coupon which must be then submitted to a medico-social expert commission (MSEC). If a person is unable to attend the local MSEC personally, the MSEC personnel must make a home visit or visit him/her at the hospital. Disabled status for life is given in cases if nonrecoverable impairment happened to a person and when entering the pension age.

1. The classificatory used at medical-social expertise are the next:

- Disorder of mental function
- Tongue and speech disorders
- Functional disorder of sense perception
- Disorder of musculoskeletal function
- Internal and metabolic disorders
- Disfiguring disorders

Disability is determined with one, two-year term and with no fixed term. Disability of 1st group is defined with two-year term, 2nd and 3rd groups - with one-year term, the "disabled child" status- with one, two-year term or by reaching 18 years old.

Ones disability group is defined with no term limits in cases of:

- a.** aged persons entitled to age pension as defined by the law.
- b.** the absence of perspective rehabilitation steps, which are the results of life activity restriction conditioned by health decay with anatomical defects or irreversible structural abnormalities, function disease of organs or organ systems.



c. insufficiency of taken rehabilitative steps, which brings to necessity of the disabled constant social security (under the conditions of supervision of state bodies authorized in the field of medical-social expertise during 8 years, at the minimum).

There are two types of information that disclose disability group: whether the person worked in the past or not and the level of disability payment received. In theory, anyone who is capable to work should be in group 3 (the lightest disability group), nevertheless, in practice it could be otherwise. There is also possibility that unemployed person with actual disability group 2 could be receiving unemployment compensation income, again causing misunderstanding in the scheme. However, a disability payment interruption also can be used to verify the status of a person.

2. The criteria for defining disability groups are as follows:

| a. Definition criterion of disability 3rd. group  | b. Definition criterion of disability 2nd. Group   | c. Definition criterion of disability 1st. Group   |
|---|--|--|
| <ul style="list-style-type: none"> <li>• 3rd. degree capacity to provide self-service</li> <li>• 3rd. degree capacity to move</li> <li>• 3rd. degree capacity to orient oneself</li> <li>• 3rd. degree capacity to communicate</li> <li>• 3rd. degree capacity to control one's own behavior</li> </ul> | <ul style="list-style-type: none"> <li>• 2nd. degree capacity to provide self-service</li> <li>• 2nd. degree capacity to move</li> <li>• 3rd. and 2nd. degrees capacity to move</li> <li>• 3rd. and 2nd. degrees capacity to participate in working activity</li> <li>• 2nd. degree capacity to orient oneself</li> <li>• 2nd. degree capacity to communicate</li> <li>• 2nd. degree capacity to control one's own behavior</li> </ul> | <ul style="list-style-type: none"> <li>• 1st. degree capacity to provide self-service</li> <li>• 1st. degree capacity to move</li> <li>• 1st. degree capacity to move</li> <li>• 1st. degree capacity to participate in working activity</li> <li>• 1st. degree capacity to orient oneself</li> <li>• 1st. degree capacity to communicate</li> <li>• 1st. degree capacity to control one's own behavior</li> </ul> |

In case of disagreement with the decision of the local MSEC, one can appeal against it in the republican MSEC, and in case of disagreement with the decision of the latter law proceeding or trial can be initiated<sup>12</sup>.

<sup>12</sup> <http://www.disability.am/english/social.htm>

The amount of pensions, including for the disabled, is established by the government regulations, at present, government decree N: 162 of March 18, 1999 on “*The determination of the amount of the basic pension*”. In accordance with this decree the amount of the basic pension come to about 10,000 AMD per month. People within disability group 2 receive this pension. The amount of pension makes up 120 % for the disabled children fewer than 16 and the people with disability group 1, i.e. 12,000 AMD, and 80 % from the basic pension for the people with disability group 3, i.e. 8,000 AMD.

At present, two benefits are available for disabled people:

- 1) the people with disability group 1 and 2 have the right of free pass in the city electric transport
- 2) the treatment of the disabled must be free and provided by the state.

There are two republican medico-social expert commissions located in Yerevan, medico-social expert commissions (psychiatric expert commission and eye-specialist expert commission are included) in every Yerevan community and in regions (marzes). Total number of medico-social examination commissions in the RA is 23<sup>13</sup>.

## 5. International Best Practice (IBP)

In common law jurisdiction such as the United Kingdom after receiving the status of disabled different types of monetary support and privileges are granted to them which depend on things such as income, savings and/or capital the contributions they have made in the past as part of the National Insurance System. Some benefits are only rewarded if they have partial income, savings and/or resources. These benefits consist of income support, housing benefit, council tax benefit and disabled facilities grants. If a person is ill or disabled he/she may be eligible for certain types of benefits that are not affected by their income, savings and/or capital. These types of benefits include disability living allowance, attendance allowance and an incapacity benefit

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<sup>13</sup> <http://www.mss.am/eng/volort/invalidlaw.htm>

which replaces earnings. Disability living allowance<sup>14</sup> is a benefit which disabled can get if he/she needs help getting around and/or looking after itself because he/she is ill, disabled or terminally ill. This type of benefit must be claimed before reaching age 65. Attendance allowance<sup>15</sup> is a tax-free benefit for people aged 65 or over who have an illness or disability and need help with personal care. Incapacity benefit<sup>16</sup> applies to a person who cannot work because of illness or disability. It is paid in three weekly rates depending on how long a person has been unable to work. It is worth mentioning that some goods may meet the criteria for VAT “relief” that is personalized only for a disabled person’s use. This includes some medical appliances, certain regulating beds, hoists and some modified vehicles. Services also may become certified for discount including installation of equipment, adjustment of equipment and certain building modifications.

The legislative framework for social protection of the disabled in the United Kingdom consists of *The Disability Discrimination Act (DDA) of 1995*<sup>17</sup> as amended in April 2005; *Education Act of 1996*<sup>18</sup>, *Special Educational Needs and Disability Act of 2001*<sup>19</sup> and *Careers and Disabled Children Act of 2000*<sup>20</sup>.

The *DDA* gives disabled people rights in the areas of:

- employment
- education
- access to goods, facilities and services
- buying or renting land or property

New *DDA of 2005*<sup>21</sup> which amends the existing requirements in the *DDA 1995* includes:

- making it illegal for drivers of transport vehicles to differentiate disabled people
- making it easier for disabled people to rent property and for tenants to make disability-related adaptations
- making sure that private clubs with 25 or more members cannot keep disabled people out, just because they have a disability

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<sup>14</sup> [http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT\\_ID=10011731&chk=j4gVFM](http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT_ID=10011731&chk=j4gVFM)

<sup>15</sup> [http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT\\_ID=10012425&chk=qVTHEi](http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT_ID=10012425&chk=qVTHEi)

<sup>16</sup> [http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT\\_ID=10016082&chk=Yr2L11](http://www.direct.gov.uk/DisabledPeople/FinancialSupport/FinancialSupportArticles/fs/en?CONTENT_ID=10016082&chk=Yr2L11)

<sup>17</sup> [www.hmso.gov.uk/acts/acts1995/1995050.htm](http://www.hmso.gov.uk/acts/acts1995/1995050.htm)

<sup>18</sup> [www.hmso.gov.uk/acts/acts1996/1996056.htm](http://www.hmso.gov.uk/acts/acts1996/1996056.htm)

<sup>19</sup> [www.hmso.gov.uk/acts/acts2001/20010010.htm](http://www.hmso.gov.uk/acts/acts2001/20010010.htm)

<sup>20</sup> [www.hmso.gov.uk/acts/acts2000/20000016.htm](http://www.hmso.gov.uk/acts/acts2000/20000016.htm)

<sup>21</sup> [www.hmso.gov.uk/acts/acts2005/20050013.htm](http://www.hmso.gov.uk/acts/acts2005/20050013.htm)

- extending protection to cover people who have HIV, cancer and multiple sclerosis from the moment they are diagnosed
- ensuring that discrimination law covers all the activities of the public sector requiring public bodies to promote equality of opportunity for disabled people

The Act allows the government to set minimum standards so that disabled people can use public transport easily and also required businesses and other organizations to take reasonable steps to tackle physical features that act as a barrier to disabled people who want to access their services.

Examples include:

- putting in a ramp to replace steps
- providing larger, well defined signs for people with a visual impairment
- improving access to toilet or washing facilities

In Federal Republic of Germany legislative framework for social protection of the disabled mainly consists of Social Code Book<sup>22</sup> and Labor Law<sup>23</sup>. Disabled in Germany are divided into two categories: persons of old age with severe disabilities and handicapped persons. For old age severe disability pension can apply a person from the 60th birthday after meeting the required period of 35 years if a person is registered as severely disabled, occupationally disabled or disabled when retirement payments are going to set in. In December of 2003, the pension age increase from 60 to 63 (this affected contributors born after 31 December 1940). The increase in pension age does not apply to contributors born on or before 16 December 1950 and are severely disabled, occupationally disabled or disabled as of 16 November 2000. To maintain confidence in the pensions system, the age threshold for this pension will not rise for contributors born before 1 January 1951 and who were registered as severely disabled or as an disabled under the law as it applied on 31 December 2000. Contributors born before 1942 who have paid compulsory contributions for at least 45 years in an insured occupation (excluding any periods during which they have claimed unemployment benefit or unemployment assistance) are likewise exempt.

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<sup>22</sup> <http://www.bmas.bund.de/Englisch/ /social-code-book-ix.html>

<sup>23</sup> <http://www.bmas.bund.de/Englisch/labour-law.html>

Three factors determine the amount of a pension:

- Individual earnings points: insured income for each calendar year, divided by the average income of all insured persons, then totaled over all years during which contributions have been paid, and multiplied by the age factor.
- Pension type factor: a factor depending on the projected purpose of the pension.
- Existing pension rate: The monthly pension that an average earner would receive after paying contributions for one calendar year.

Pension payments are mainly funded out of contributions. Employers and employees each pay half of the current contribution rate (19.1 per cent of the employee's gross monthly pay as of 1 January 2002), up to a contribution assessment limit of EUR 4,500 a month in western Germany or EUR 3,750 in eastern Germany. Pension payments are also partially subsidized by the state. The contribution assessment limit is the maximum amount from which contributions to the state insurance fund are calculated, even if a person earns more. With some exceptions, all white-collar and blue-collar employees pay compulsory contributions to the state pension fund as do trainees, disabled people employed at sheltered workshops, and people on military or civilian service. For disability benefits can apply disabled persons whose level of disability is at least 50 per cent. Person can claim handicap benefits to help compensate disadvantages arising from their disability. These benefits are normally dependent on the existence of specific health conditions and include:

- Severely disabled person's pass
- Tax concessions (in particular, the standard allowance for disabled persons)
- Free public transport
- Reduced vehicle taxes
- Special parking facilities
- Exemption from radio and television license fees

Disabled person can apply for a severely disabled person's pass at the competent War Pension's Office. This pass serves as proof of disability and enables to claim handicap benefits. On application, the War Pension's Office will also ascertain whether a person is entitled to special handicap benefits. If a person is entitled to special handicap benefits, a corresponding entry will be made in his/her pass. For example, a "G" shows that a individual has "significantly restricted

mobility in road traffic" and permitted to use public transport free or with a discount on the means of transportation tax. If a person's disability significantly reduces his/her mobility in road traffic or if a person is incapacitated or deaf, he/she is entitled to free public transport on production of a pass that is marked accordingly. This applies to trams, buses, suburban trains and (second class) railway travel when they are part of an integrated regional transport system and honor this system's tickets.

The key features concerning issues of disabled people in the Russian Federation are regulated by the "*Law on State Pensions in Russian Federation*", "*Law on the Social Protection of the Disabled in the Russian Federation*", Government decree about "*Privileges for Disabled and Families with Disabled Child*" and "*Law on Compulsory Insurance from Accidents*".

The "*Law on State Pensions in Russian Federation*" defines three groups of disability depending on the degree of health injure. Persons who have completely lost regular work capacity are assigned to group 1 if they require permanent care, and to group 2 if they the disability is severe but not inherently permanent. Those with only partial disability, whether or not permanent, are assigned to group 3. A special medical commission determines disability status. It is considered every two years for the first group, and annually for the second and third groups, with the exception for those disabled who have reached retirement age or have incurable illnesses. Disability pensions are set at 75% of income for groups 1 and 2, and at 30% of income for the third group. If information on income is not accessible, the recipient received a minimum disability pension, which is equivalent to the minimum old age pension for groups 1 and 2, and 2/3 of the minimum old age pension for the third group. Anyway, a disability pension cannot transcend the maximum amount of old age pension. Average of Russian disability pensions are about 10% lower than old age pensions. For this reason majority of disabled people at retirement age elect to receive old age pensions, while still enjoying disability benefits. In Russia, in case of the job injury or for the disabled under 20 years of age, the amount of disability pension is

independent of the number of years worked. In all other cases, a minimum employment period is necessary depending on the age. There are exceptions when different calculations applied, including for the servants of the armed forces, for the disabled with imperfect work histories and newcomers. In excess of the pension amount until 2005 there were extra non monetary benefits available to disabled people. These benefits included provisions of free medicines, transportation and discounts on utilities payments. These benefits almost doubled incomes of disabled people. Now these non monetary benefits are excluded from State Pension System with the exception of provision of free medicine.

## 6. Procedure Evaluation

The main problems with Armenia's Social System and Social Care for disabled people are:

- a) There is no separate antidiscrimination disability legislation in Armenia. In contrast in most developed countries such legislation exists (USA, United Kingdom). According to the Constitution of Republic of Armenia all citizens have equal constitutional rights and freedoms and are equal to Law. But most of the articles relating to human rights in the Constitution are simply "protocols of intent", rather than guides to action. It is the constitutionally stated provision that the Republic of Armenia is a "Social State". However, this pretentious statement is neither properly characterized nor supported by implementation mechanisms.
- b) Another disability policy problem is education for disabled citizens. According to the Constitution "everyone shall have the right to education". The Republic of Armenia "*Law on the Rights of a Child*" Article 26 provides the basic rights and privileges of disabled child in almost every sphere. It declares "The State and appropriate state authorities shall afford disabled children and children with physical an mental defects free qualified medical and psychological assistance and an opportunity to receive basic and specialized education, employment opportunities and social rehabilitation consistent with their abilities and aimed at

ensuring their normal life, preservation of self-confidence and facilitation of their integration in the society. Such children may at their wish study in general education institutions. The State and appropriate State Bodies shall establish for disabled children specialized children's homes and boarding schools, and take steps to reduce the number of disabled children by providing treatment and see to the production and supply of the devices and equipment needed by the disabled for leading a normal active life." But disabled children and their parents face difficulties in order to enter into public education system:

- Educational Institutions are inaccessible
- Parents of children in public schools are often openly hostile to having their children study with disabled children
- The majority of staff in public schools and universities have no understanding of disability issues
- Parents of disabled children are anxious to put them in public school
- There is no accessible transportation available in Armenia
- No extra services are provided by universities for students with disabilities (i.e. personal assistants, special materials, accessible environment etc.)

c) Employment is a really big problem for the disabled in Armenia. Article 32 of Armenian Constitution gives guarantees for "Everyone shall have the freedom to choose his/her occupation. Everyone shall have the right to fair remuneration in the amount no less than the minimum set by the law, as well as the right to working conditions in compliance with the safety and hygiene requirements. The employees shall have the right to strike for the protection of their economic, social and employment interests, the procedure and limitations thereof shall be prescribed by the law". Another Article 48(2) states "The basic task of the state in the economic, social and cultural spheres is to contribute to the employment for the population and the improvement of working conditions". However, unemployment remains very high amongst disabled people (the rate of employment for disabled people in Armenia is only 7 per cent) and some laws concerning the rights of disabled people exist on paper only.



d) Creation of accessible environment. Draft law N: 814 “*On accessibility of public places and transportation for people with limited mobility*” and the draft law N: 814(1) “*On administrative responsibility for violation of accessibility standards*” should be considered as the very first step toward creation of this accessible environment for disabled people and creation of the base for antidiscrimination legislation.

It should seem that the rights of disabled people in Armenia are well protected by legislation which offers many potential for the almost every sphere of social life. The “*Law on the social protection of the disabled in the Republic of Armenia*” protects the rights of people with disabilities and establishes disability policy in the area of social protection. Another objective of the Law is to provide equal opportunities for the realization of their civil, economic, political rights and freedoms. However, the Law does not guard the disabled from unjust exclusion. The base of Social System legislation is the idea that society is obliged to provide the disabled with the means needed to integrate them into social life. The main issue is that the Law like the Constitution is mainly a statement of intent and is not supported by executive methods.

## 7. Recommendations for reform.

Taking into account all of the above mentioned aspects, there is significant evidence that disabilities' rights, social security and health care still face difficulties in the Republic of Armenia. There is a lack of interest from society towards disabled people. There is currently no broad national disability policy model for lawmaking development. Present Armenian disability policy is weak for two reasons. First, disability programs did not developed in order to deal with current demands of the disabled. Second, disability law is a part of state social law, which is also weak.

There were no real structural modifications in the disability policy during the transition period for several reasons:

- The government did not take into account disability policy as one of its main concerns

- The lack of appropriate Parliamentary analysis and public interest on important disability issues
- Lack of financing in general
- Lack of coordination between various levels of the government
- Low level of development of civil society resulted in a lack of its competency to contribute in the process of disability policy formation and execution

As a result, disabled people in Armenia are excluded from full enjoyment of their rights as citizens.

In this situation, there is a great need for special approaches for disability policy improvement that would adopt social and disability rights development in the Republic of Armenia. The main responsibility of Armenian state in the disability policy development may be summarized as follows:

- The support of independent living and full social and economic incorporation of disabled people should be one of the primary principles in the Republic of Armenia
- Legislative activity should include not only usual components but also involvement and consultations with disability NGOs at all stages of disability law process
- The government should be responsible for financing disability policy programs
- Employers with the government should participate in the implementation of disability policy projects
- The government should create a special disability policy program on employment for disabled citizens in order to improve the status of the disabled in the labor market.

## 8. Conclusion

Disability policy in Armenia faces lots of fundamental problems. First, the decline of social safety for the disabled happened in the situation of a broad and progressive worsening in the standard of living, which resulted in enlargement of gap between rich and poor. It will be impossible to overcome this gap within the next few years, due to the low level of pensions for disabled people. Nowadays disabled people are comparatively very poor in our country. Second, laying all the responsibility on the government is producing durative discrimination between the

citizens. In our country there are rich and poor classes of society, and the quantity of pensions received by disabled people does not put them into middle level class. Third, many of our prevailing cultural customs and principles about disability are disabling and tyrannical themselves. The experience of disabled people is constantly presented to the society in terms of “individual misfortune”. Such principles found their emphasis in current Armenian disability policy through a prejudice with exclusion, indirect discrimination, exclusive education and distinctiveness. To improve attitudes towards people with disabilities as active and full members of society the society itself needs to be aware of the fact that persons with disabilities have the same human rights as all other people and that there are many obstacles in society which hinder or prevent people with disabilities in the enjoyment of these rights. The elimination of these barriers will not only benefit persons with disabilities but society in general. In addition, it is important to explain the positive contribution that all disabled people, despite of the level of their disability, will make as active and full members of society through a variety of actions.

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