



# Rights of Women Religious and Ethnic Minorities



2017



# RIGHTS OF WOMEN, RELIGIOUS AND ETHNIC MINORITIES

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*Kvemo Kartli, Kakheti*



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Non-governmental organization the Human Rights Center, formerly Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate peacebuilding process in Georgia. To achieve this goal it is essential to ensure that authorities respect the rule of law and principles of transparency and separation of powers, to eliminate discrimination at all levels, increase awareness and respect for human rights among the people in Georgia

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## INTRODUCTION

### **About the project**

Human Rights Center implemented the project *“Support to the defense of rights of women, religious and ethnic minorities in the regions of Georgia”* in the frame of the program Promoting Rule of Law in Georgia (PROLoG) of the East West Management Institution (EWMI) with financial support of the United States Agency for International Development (USAID). The project aimed to promote better access to justice for the vulnerable groups, women, religious and ethnic minorities in the regions of Georgia, namely in Kvemo Kartli and Kakheti.

Within framework of the project, Human Rights Center provided 883 beneficiaries with free legal aid in Tbilisi, in Kvemo Kartli and Kakheti regions. The lawyers of the Center litigated 12 strategic cases in the courts. Project team disseminated information brochures in 15 villages of the following municipalities: Rustavi, Gardabani, Marneuli, Tetritskaro, Bolnisi, Gurjaani, Sagarejo, Dedoplistskaro, Akhmeta, Kvareli, Telavi and Lagodekhi. Regional TV-stations raised awareness of local populations about the project activities and problems related with the access to justice in their respective regions. At the same time, social advertisement was aired by national TV-Companies, which raised awareness of target groups about the legal aid services offered within framework of the project.

The strategic cases identified in the frame of the project mostly referred to the facts of violence against women, like domestic violence, early marriage, femicide and problems about property rights. The cases about the discrimination on ethnic grounds referred to the limited access to fair trial, violated property rights and freedom of worship.

### **Major findings and tendencies**

During the implementation of the project activities, concrete problems were identified, which hinder defense of women’s rights, rights of ethnic and religious minorities and their access to justice.

Human Rights Center litigated 20 cases about violence against women in domestic common courts, which revealed professional negligence of police officers and abuse of power by them. It turned out that, in one of the cases, woman was killed because of inadequate reaction from the law enforcement bodies to the fact of domestic violence. Also, in the two cases of rape of underage girls, the victims attempted

suicide because of strong physical and psychological trauma. The harassers in all mentioned cases are not arrested yet.

Commencement of the investigations into the domestic violence facts under special articles of the Criminal Court of Georgia is still a problem. The organization observed cases when investigation was commenced under general provisions, like: Article 125 (beating), Article 118 (premeditated minor damage of body) and Article 120 (minor damage of health) of the CCG. However, based on the petitions of the Human Rights Center, the investigative bodies changed the qualifications of the criminal charges into the article on domestic violence (Article 126<sup>1</sup> of the CCG). Apart to that, granting the victim status to the victim of domestic violence is still a problem.

Gender stereotypes, gender-based discrimination, patriarchal approaches to the women's rights and low awareness of the women about their rights are major triggers of the domestic violence. Also, early marriage and economical dependence on the harasser husbands are other significant triggers for the problem. Harassers in the processed cases had either financial problems or were unemployed.

In relation with ethnic minorities, the main problem is low awareness about the national laws and judiciary institutions due to lack of knowledge of the state language. As a result, ethnic minorities often have limited access to education, property rights, healthcare and social services. Language barrier isolates the minority groups and hinders their integration process. Apart to that, institutionalized stereotypes and partiality from the side of law enforcement bodies result into inadequate approach to the investigation of the cases, where ethnic minority members become victims of hate-motivated crimes.

Religious minority communities still face problems to get permission on the construction of religious or other buildings of worship. Responsible officials often cannot verify their decisions or artificially dragged out process to issue the permission.

## WOMEN'S RIGHTS AND ACCESS TO JUSTICE IN KVEMO KARTLI AND KAKHETI REGIONS

### **Domestic violence**

Within framework of the project, Human Rights Center worked on about 20 cases of domestic violence, where the organization defended legal interests of the victims of violence in national common courts, prosecutor's offices or other institutions. The

project lawyers issued 369 legal consultations specifically on the cases of domestic violence. Different forms of violence were observed in the cases: physical, psychological and economic violence. However, majority of domestic violence cases referred to physical harassment. Mostly the victims were women aged from 26 to 45. The abusers were husbands and/or former husbands.

The analysis of the cases showed that victims of domestic violence endured physical violence from their husbands for years. Part of the beneficiaries had underage children, who were growing up in violent environment. In some cases, after the divorce, the harassers did not allow the victims to communicate with children. Having fled from harassers, the victims had to leave their underage children at homes with the fathers because the mothers did not have shelter. In some cases, the children were divided - one stayed with the father and second went with the mother. The cases processed within framework of the project revealed that best interests of the children were blatantly violated. Often, children eye-witnessed physical harassment of the mothers and spoke about it with the project lawyers. Children described the facts of violence. Two children of domestic violence victims needed assistance of a psychologist. The case analysis showed that children were also victims of psychological violence and oppression from harassers.

Gender stereotypes, gender-based discrimination, patriarchal approaches to the women's rights and low awareness of the women about their rights are major triggers of the domestic violence. Also, early marriage and economical dependence on the harasser husbands are other significant triggers for the problem. Harassers had either financial problems or were unemployed.

The positive tendency is that during the project implementation, after social advertisement was aired by national and regional TV-stations, in particular from September 2016, more victims of domestic violence apply to the organization for help. Most women requested divorce, alimony and determine the place of residence of their children. A few women wanted to appeal the prosecutor's office against the harasser husbands. The victims are cautious to start criminal litigation against husbands and say it will not be welcomed by the society if they sue the fathers of their kids. There were cases when adult children forbade the mothers to appeal the prosecutor's office against their fathers. Nevertheless, the beneficiaries of the Human Rights Center do not think the domestic violence is only their personal problem and generalized it as a common problem.

## **Miscarriages in the investigation of domestic violence cases**

The lawyers of Human Rights Center several times addressed the Ministry of Internal Affairs and Prosecutor's Office about the cases of domestic violence and requested to open investigations into them based on the special articles of the Criminal Code of Georgia: Article 126<sup>1</sup> (domestic violence) and Article 11<sup>1</sup> (responsibility for domestic crime). The lawyers aimed to establish the correct practice in the investigation of domestic violence facts by the investigative bodies and to ensure adequate defense of the victims of violence. During the project implementation, there were cases when investigation commenced under general articles, like Article 125 (beating), Article 118 (premeditated minor damage of body) and Article 120 (minor damage of health) of the CCG. Based on the petitions of the Human Rights Center, the investigative bodies changed the qualifications of the criminal charges into the article on domestic violence (Article 126<sup>1</sup> of the CCG). The analysis of cases processed within framework of the project revealed that investigation of the domestic violence facts under special provisions of the CCG is still a problem.

Granting victim status to the victims of domestic violence is still a challenge. The lawyers of Human Rights Center several times addressed the prosecutor's offices to grant status to the victims of domestic violence. The status is more or less timely granted to the victims of physical violence but victims of psychological, economic violence and intimidation still cannot get the status timely. With the advocacy of Human Rights Center, part of domestic violence victims received the status. It is important because the women may have access to the criminal case materials only with the status. Since part of the victims lack the status, they have no access to the case materials. The victims from the ethnic minority communities face particular problems in this regard, who do not understand the state language and cannot read the case materials.

The analysis of the processed cases showed that the charges are not imposed on the harassers in the cases, even where the victims have status and consequently the court hearings are not held in their cases. There are cases, when the victims request interrogation of the witnesses but in vain. The investigation is not interested to question the witnesses in some cases.

It is a problem that victims are not informed about the investigation results into domestic violence cases; they are not informed about their rights and responsibilities either. With regard to the prolonged investigation into the cases, Human Rights Center plans to appeal the European Court of Human Rights.

Within framework of the project, victims of domestic violence applied Human Rights Center, who requested divorce and alimony for their children. According to the law,



the appeals for the alimony are free from the excise duties but the victims of domestic violence, who appeal the court for divorce, have to pay 50 GEL as excise duty. The cases processed by the Human Rights Center showed that the women could not appeal the court as they could not pay 50 GEL. They had grave social problems; had fled from their homes and were sheltering either relatives or state shelters. They economically depended on the harassers and could not keep themselves and children alone.

There were several cases, when the victim wanted to claim the part of the common property from the former husband but could not appeal the court due to the excise duty on the disputed properties.

Ethnic minority victims of domestic violence are particularly vulnerable in this regard, who, because of language barrier, cannot appeal the court. They are not aware of their rights and responsibilities and human rights defense mechanisms.

The cases processed by Human Rights Center revealed that ethnic Azerbaijani women, victims of domestic violence, did not have information about restraining and protective orders, about possibility to apply to the police or appeal the court to determine the place of residence of their children. According to their clarification, it is not welcomed in their communities when women apply to state institutions (police, court) for help with regard to domestic disputes. They resolve similar problems inside the community.

### **Problems of shelters for the victims of domestic violence**

Within framework of the project, it was impossible to place the victim of domestic violence from Kvemo Kartli region in the shelter because there is no shelter in the region. Also, it was impossible to place her in the Tbilisi based shelter due to overcrowdness. As a result, the woman stayed in the monastery for a few days before moving to the Tbilisi shelter.

The state shelters are only in 4 cities – Tbilisi, Kutaisi, Gori and Signagi. The women from the villages have to flee from their villages and live in shelters in the cities. Lack of shelters in the country is a serious problem. For example, there is no shelter in Kvemo Kartli region.

### **Practice of issuing restraining orders by police officers**

Beneficiaries of the Human Rights Center, who live in the villages, several times applied the police with regard to the domestic violence facts. However, instead

issuing the restraining order, some police officers still use the practice of getting affidavits from the harassers. The affidavit does not have legal power and its violation cannot be punished under the law. Those documents cannot guarantee safety of the victims and often it may result in tragic facts.

Within framework of the project, the Center processed the case of 20-years-old girl who was murdered by her husband in Ponitchala, on July 12, 2016. At about 19:00 pm, the victim and her grandmother called police and reported that the harasser had physically abused them and threatened with murder. The police just warned the harasser. Several hours later, the harasser killed the girl by knife.

Human Rights Center believes it is unjustified to issue the restraining order only for one month term when the fact of domestic violence is observed by the police officer; also it is unreasonable to grant unbalanced discretionary power to a police officer to issue or not issue the restraining order. This problem remains unaddressed in the draft legislative package on ratification of the Istanbul Convention submitted to the Parliament of Georgia.

The Law on Domestic Violence allows the police officers to misuse their discretionary power and regardless observed fact of domestic violence, the officer issues or does not issue restraining order based on his personal views (for example if the harasser is a relative, friend, or other). It must be noted that restraining order is minimal standard to respond to the fact of domestic violence and protect the victim. If the police officer misuses its power and does not issue the restraining order on the harasser, that means the police officers only warn the violator that is not legal mechanism and if it is violated, no legal measures may be taken.

In December 2016, the Human Rights Center lodged constitutional lawsuit to the Constitutional Court of Georgia and requested to abolish the unlimited discretionary power of the police officers to issue the restraining order. Also, the lawsuit argues reasonability of the one-month operational period of the restraining order that disables the mechanism to adequately protect the victims from violence.

### **Sexual violence against underage girls and femicide**

Within framework of the project, the Human Rights Center worked on 2 cases of sexual violence and rape of underage girls and 1 case of femicide.

The cases of sexual violence and rape of underage girls happened in Gurjaani municipality and in Marneuli municipality. The investigation into both cases is dragged out. The victims, who represent ethnic minority communities, do not have

victim status and have no access to the case documents. They do not have information about their rights and responsibilities. The only response from the investigative bodies is that the investigation continues. The cases revealed the tendency that not only concrete violators participate in the violence facts against women but also their neighbor men and women. Although the victims named concrete persons and requested their punishment, the police refrain from carrying out concrete investigative procedures. The harassers are still free and unpunished.

The victims live with grave psychological problems, need rehabilitation though their families cannot afford the service of psychologists. At the same time, as a result of strong stress the underage victims no longer go to school. The victims lack opportunity to communicate with the social workers and get consultations from psychologist. On the one hand, they do not have information about these services, and on the other hand they cannot afford it. In the cases processed by the Human Rights Center, the underage victims attempted suicide several times.

Within framework of the project, Human Rights Center worked on the case of femicide, when the husband killed 20-year-old woman in the presence of her underage brother. On July 12, 2016, at about 19:00 pm, the victim and her grandmother called police and reported that the harasser had physically abused them and threatened with murder. The police just warned the harasser. The professional negligence of the police officer resulted into the murder of the young woman. On the same day, at about 23:00 pm, the harasser killed the girl by knife in front of her underage brother. Based on the petition of Human Rights Center, the Tbilisi Prosecutor's Office commenced criminal investigation against the police officer for alleged professional negligence. The investigation is still ongoing.

### **Initiating divorce claim by the victim of domestic violence in the common court, request of alimony and estimation of place of residence for the child**

Throughout the project, about 7 women, victims of domestic violence, applied the Human Rights Center for legal aid, who requested divorce from the husbands and alimonies for their children. They also requested determination of place of residence for their children. The women complained that they were deprived of the right to take the children with them. The mothers requested determination of the place of residence of their children.

The lawyers prepared and submitted the lawsuits to the common courts on behalf of the victims. They even solicited the court to issue interim order to determine place of residence of mother as residence place of the child until court proceedings are over. The judge satisfied the solicitation and the trials into the cases continue.

## **Police officers as violators**

In the frame of the project, two women applied the Human Rights Center for help, who blame their police officer husbands in the physical and psychological assault. Their statements showed that the violator police officers threatened the women with physical assault and with their duty positions – claiming that if the women had applied to the police for help, they would not have achieved anything as the harassers could use their contacts to stop prosecution against them. In those cases, the women refrained from appealing the MIA and Prosecutor's Office against their husbands because of fear. The victims just appealed the court for divorce and alimony.

## **Problem of female convicts to have access to medical assistance free from gender-based discrimination**

Convicted N.D, with legal assistance of Human Rights Center, lodged constitutional lawsuit to the Constitutional Court of Georgia to declare the April 10, 2014 Decree #55 of the Minister of Corrections unconstitutional.

The constitutional lawsuit prepared by the HRC claims that the rule of placing the convicts in public hospitals, in jail hospitals and medical clinics/rehabilitation centers for the patients with tuberculosis based on the Decree #55 of the Minister of Corrections, which is the only legal act regulating the scheduled medical service for convicted/accused patients, is unconstitutional.

According to the disputed decree, convicted/accused patients are taken to hospitals/medical clinics in accordance to their queue number, which is granted to them in medical program. It is important that women and men convicts are inserted in common electronic referral list that contradicts the gender-specific healthcare principles guaranteed by the Bangkok Rules. In accordance to the Bangkok Rules on Women Prisoners, specific needs of female prisoners shall be taken into account when providing them with gender-specific healthcare service. It is necessary to ensure individual rehabilitation, medical treatment and integration programs for women prisoners. At the same time, the disputed Decree contradicts the equality principle guaranteed under the Article 14 of the Constitution of Georgia that is demonstrated in undifferentiated approach to women prisoners.

More precisely, the Decree # 55 of the Minister does not segregate specific needs and gender-specific approaches to the examination, diagnostic and surgical treatment of women and men. Progressing character of women-specific diseases (ex. Womb, breast and ovary cancers) is not taken into account and health conditions of

women during menses. More precisely, women cannot take medical examinations or surgical operations in this period for they lose their turn in the queue and their surgical operation or other procedures are repeatedly postponed. Another significant factor is ignored – number of female prisoners is much less than of men and consequently the women prisoners have to wait more in the queue than men that place them in substantially discriminative conditions that cannot be justified by any reasonable motives.

Under the Decree # 55 any female prisoner or accused woman may become victim of gender-based discrimination and inhuman treatment. As the September 29, 2016 letter sent by the director of the Prison # 5 reads, 111 inmates in the prison # 5 have gynecologic problems. There are 272 female prisoners in Georgia – that means almost half of them have gender-specific health problems. The disputed decree contradicts the Article 17 Parts I and II of the Constitution of Georgia. Waiting for medical assistance for months, when a woman has quickly progressing diseases; ignoring the fact that number of women prisoners is much lower than men prisoners, for what they have to wait for their turn for months, may be evaluated as inhuman treatment. Very often, due to delayed medical treatment it is necessary to move the patient to hospital urgently. Considering the abovementioned circumstances, Human Rights Center believes the Constitutional Court shall declare the disputed decree as unconstitutional and a separate medical referral system in respect to gender specific needs shall be created.

### **Female Genital Mutilation**

On November 12, 2016 Public Defender of Georgia published a statement to underline the necessity of the state response to the facts of the female genital mutilation observed in Kvareli municipality. The Public Defender stated: “female genital mutilation is an extreme form of violation of rights, which infringes the woman's right to health, safety, physical integrity and prohibition of torture. Such a practice is mainly carried out in order to control the woman and her body.”

Female genital mutilation is unjustified and extremely ruthless violation of human rights, that is equal to torture, inhuman and degrading treatment. Apart to that, similar operations threat health and life of the women.

Justification of the torture with religious traditions is in conflict with the Convention on the Rights of the Child and the international standards of human rights. In accordance to the case law of the European Convention of Human Rights no religious ritual can justify absolute principle of the torture prohibition.

Response to and effective investigation of the facts of torture and inhuman treatment is positive obligation of the State. Investigative bodies are entitled to study each fact of the breached best interests of the child (girls) and adequately respond to them.

Although Georgia has not yet ratified the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence, which includes separate article on the Female Genital Mutilation (Article 38), there are special articles in the Criminal Code of Georgia, which prohibits torture, inhuman treatment and injury of health. Thus, the state can apply those specific articles of the CCG before the ratification of the Convention.

Human Rights Center addressed the Chief Prosecutor's Office of Georgia and MIA and requested to start investigation into the facts of FGM identified in some villages of Kvareli municipality and conduct preventing activities to combat injury of women's (girls) health and control over their bodies.

Also the Center addressed the Parliament of Georgia to timely ratify the Istanbul 2011 CoE Convention on Preventing and Combating Violence against Women and Domestic Violence, which includes special article on Female Genital Mutilation (Article 38).

## RIGHTS OF ETHNIC MINORITIES

In relation with ethnic minorities, the main problem is low awareness about the national laws and judiciary institutions due to lack of knowledge of the state language. As a result, ethnic minorities often have limited access to education, property rights, healthcare and social services. Language barrier isolates the minority groups and hinders their integration process. Apart to that, institutionalized stereotypes and partiality from the side of law enforcement bodies result into inadequate approach to the investigation of the cases, where ethnic minority members become victims of hate-motivated crimes.

### **Hate-motivated crimes against ethnic minorities**

Within framework of the project, Human Rights Center worked on the case of the ethnicity-based discrimination, when police officers physically and verbally assaulted ethnic Kist man. Human Rights Center sent the application to the European Court of Human Rights. The case reveals the ethnicity-based hate-motivated crimes allegedly committed by police officers, like torture, inhuman or/and degrading treatment. It is also noteworthy that in general, the prosecutor's office commences investigation

into similar cases based on very banal Article 333 of the Criminal Code of Georgia (abuse of professional power) that cannot adequately qualify the committed hate-crime. With regard to similar crimes, the prosecutor's office, as a rule, does not open investigation under special articles like Article 144<sup>1</sup> (torture), Article 144<sup>3</sup> (degrading or inhuman treatment) of the Criminal Code of Georgia

Often, the victims of hate-crimes do not get the status or the process is delayed. As a rule, the prosecutor's office replies the investigation continues and if the status is granted, the prosecutor's office replies they will provide information later;

As a rule, the victims of hate-crimes have problems of language and/or other barriers; they have limited access to the criminal case documents. The victims cannot get information about the investigation results and their procedural rights.

### **Rights of the Roma**

Within framework of the project, Human Rights Center worked on six cases with regard to the defense of the rights of the Roma people. As a result of the case analysis, it was identified that the Roma children have problems to get primary education. Public schools do not accept children older than 12. As for class-complexes, its creation is not supported by the Ministry of Education that significantly violates the rights of the children. The Roma children, due to their social problems, go to school later. They are deprived of the possibility to get primary education because the program of the class-complexes is not implemented. The meetings with the Roma communities demonstrated that for the parents and their children it will be more acceptable and comfortable if so-called mobile school programs will be piloted by the Ministry of Education. Within framework of this program the teachers would arrive in the Roma settlements and deliver lessons on the place to teach Georgian alphabet and elementary arithmetic to Roma children. Similar pilot program was successfully implemented by the European Center for Minority Issues (ECMI) in the following Roma settlements: Tbilisi, Gudarekhi street and in Gelauri district of Kobuleti. With the support of this program the Roma children, regardless their age, learned Georgian alphabet.

The Roma children in some villages of Gardabani municipality have problems to be transported to the public school. 10 Roma children go to Rustavi based Russian language school. They are transported by a private mini-bus, and their parents had to pay 40 GEL to the driver for each child per month. The families have financial problems and cannot pay the fee. This fact significantly violates the constitutional right of the children to get education because of geographical location. As a result of the advocacy of Human Rights Center with the Ministry of Education, the Ministry

decided to appoint the free transport for the children from Gachiani to Rustavi and back. During the visit in Tchoeti village, Dedoplistskaro municipality, the representatives of Human Rights Center learned that free transport is necessary for local children too but it is difficult to achieve positive results. So called mobile schools could be more effective for the children in Roma settlements – teachers could arrive in the village and give lessons to the Roma children on the place.

Roma families have problems in the access to healthcare and social programs; within framework of the project, organization processed cases of two Roma boys, who requested status of disabled person. One of them could not pay for the medical examinations necessary to apply for the status. For that reason, the process is suspended. As for the second person, with the legal aid of the Center, the Roma young man received the status of disabled person.

### **Rights of ethnic Ossetians and access to justice**

Within framework of the project, Human Rights Center held several meetings with ethnic Ossetian people. Ossetian citizens are not informed about the Law on Restitution. Neither they nor their acquaintances have ever appealed the court. Being informed about the law by HRC, a lady requested to appeal the court and claim the flat of her husband located in Rustavi back; she said the flat was forcibly seized from her husband in 1990s.

Main problem of the ethnic Ossetian people is connected with the violent accidents originated in parallel to escalated ethno-conflicts in the early 1990s in Georgia. Ossetian families were forced to leave or in better cases sell their houses and move to the Russian Federation, namely in Vladikavkas (Autonomous Republic of Northern Ossetia by that time).

## **RIGHTS OF RELIGIOUS MINORITIES**

Within framework of the project, Human Rights Center worked on the cases of religious minorities. The cases were about breached rights of Muslim community to construct mosques. Construction of religious or other buildings of worship is still a problem in Georgia. Religious minorities often receive ungrounded refusal from the respective state institutions to issue permissions on the construction.

For example, 800 people live in Beitarpchi village of Marneuli municipality but they do not have mosque. The nearest mosque is located 15 kilometers away from the village. Consequently, during Muslim Holidays the population cannot go to the mosque. The villagers have been urging the permission to construct the mosque in



their village from local and central governments for years. As locals clarified, they need to receive a state land based on long-term usufruct agreement, where they will be able to build the mosque with their own resources. Absolute majority of the Beitarpchi village population is Muslim. Similar problem was observed in Tivi village, Kvareli municipality, where Muslim population requests construction of the mosque. The Center advocates the problem of the Muslim communities with the National Agency for Religious Issues and Muslim Department. The decisions on the construction of mosques are not made yet. The local municipalities wait for the recommendation of the National Agency for Religious Issues, though the latter claims active engagement of the Muslim Department in the process. Both local administration and Religions Agency drag out the process.

## PROBLEMS OF ALIEN CONVICTS IN PENITENTIARY ESTABLISHMENTS

Within framework of the project, the lawyers of Human Rights Center visited the penitentiary establishment # 17 in Rustavi,<sup>1</sup> where they met 37 foreign prisoners, who represent ethnic and religious minorities in the penitentiary establishment. Mostly they are citizens of Armenia, Azerbaijan, Turkey, Iran, Bulgaria, Greece and Russia.

The convicts have problems to have access to justice and cannot appeal the court. More precisely, the convicts are not aware of their rights. When placed in the prison, the convicts were not informed or were not adequately informed about their rights. The convicts still are not aware of their rights; More precisely:

- Due to language barrier, the convicts are not properly informed about their criminal cases and court hearings. Often, they do not know under which particular article of the CCG they were convicted, how the trials were conducted. The convicts were either deprived of the possibility or could not properly participate in the court hearings of their cases.
- Majority of the convicts clarified that they were not provided with qualified interpreter during court hearings;
- The convicts stated they still have no access to the defense lawyers. They cannot hire private lawyers and are not informed about free legal aid services;

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<sup>1</sup> The visit was made on April 12, 2016

- The convicts are not informed about the mechanism how to appeal the court. They cannot appeal the prosecutor's office, court, ministries or other institutions;
- The convicts are not well informed about the activities of the Public Defender's Office and nongovernmental organizations. They have never applied to them for help;
- The majority of convicts cannot appeal the President for pardon due to language barrier and limited access to the lawyer's service;
- The convicts stated they cannot appeal the negative decisions of the local councils about their early-release petitions at the court because of language barrier and limited access to the lawyer's defense.

## RECOMMENDATIONS

### Women's Rights

- **To the Ministry of Internal Affairs and Chief Prosecutor's Office**

It is necessary to supervise conscientiously and proper implementation of the requirements of the national and international laws by the police officers and prosecutors in relation to the cases of domestic violence and violence against women;

When the domestic violence fact is identified, the warning letter shall not be used as a victim-defense mechanism, which cannot have legal consequences;

Police officers shall record all those families, where facts of domestic violence were observed; they shall have effective communication with the victim women to identify their needs and to protect them from repeated violence;

A special department shall be created within the MIA and prosecutor's office which will recruit specially-trained investigators and prosecutors, who will specifically work on the investigation of the cases of domestic violence and violence against women;

The district police inspectors of police units shall organize regular meetings with the population of their respective districts to inform and raise awareness of the people about violence against women and domestic violence;

The district police officers shall have permanent communication with the families in their respective districts, where restraining or protective orders were issued for the prevention of future violence facts;

- **To the Ministry of Healthcare and Social Welfare and State Fund for Protection and Assistance of (statutory) Victims of Human Trafficking:**

To open a shelter for the victims of domestic violence in Kvemo Kartli region and one more shelter in Tbilisi, where victims will be able to rescue the harasser;

- **To the Parliament of Georgia**

To create a special separate provision on femicide in the Criminal Code of Georgia;

To introduce relevant amendments to the Law of Georgia on Excise Duties so that the victims of domestic violence were free from paying the court excise duty when claiming divorce, identification of the residence place of their children and claiming the part of the common property from former husbands;

- **To the Supreme Court of Georgia, High School of Justice and High Council of Justice:**

It is important to create and train a specialized group of judges in the judiciary system who will work specifically on the cases of domestic violence and violence against women;

### **Recommendations to the Government and Parliament of Georgia about respective legislative amendments with regard to the Female Genital Mutilation**

to timely ratify the Istanbul 2011 CoE Convention on Preventing and Combating Violence against Women and Domestic Violence, which includes special article on Female Genital Mutilation (Article 38);

to take all necessary measures to implement and enforce the December 18, 2014 Resolution (A/res/69/150) to combat violence against girls in the country.

### **Rights of Minorities**

#### **Recommendations for the investigation of the hate-crimes**

- **To the MIA and Chief Prosecutor’s Office**

When investigating the hate crimes, relevant measures shall be taken to identify the hate motive in the committed crimes;

To train the prosecutors and investigators to ensure more effective investigation of the hate-motivated crimes by them;

#### **Recommendations aiming at the improved defense of the rights of the Roma people**

- **To the Ministry of Education and Science of Georgia:**

To take all necessary measures to ensure that Roma children could get compulsory education and appoint free transport where necessary

To create system of “mobile schools”, that will enable the Roma children to get education in their residential settlements.

#### **Recommendations about the access to justice in the penitentiary system**

- **To the Ministry of Corrections:**

To provide foreign prisoners with complete information about their rights and responsibilities in their native language when they are placed in the penitentiary establishment; they shall be periodically updated about their rights and responsibilities during imprisonment term in the language they understand;

To inform foreign prisoners about the mechanisms and procedures of submitting complaints in the familiar language. To inform them about the activities and mandates of the court, ministries, public defender's office and NGOs;

To hire the interpreters of respective languages in the penitentiary establishments, who will be able to timely and at high quality assist the convicts;

To take measures to ensure access of alien convicts to the free legal aid service or NGOs so that they could get free legal aid; it is necessary that social service of the penitentiary establishment provided the alien convicts with this information in their familiar language;

To prepare information papers (booklets) about the rights and mechanisms of applying different institutions in respective languages for the prisoners,

To ensure that the social workers assisted the foreign prisoners in drafting the applications for pardon

### **Rights of religious minorities**

- **To the Government of Georgia:**

To take necessary measures to enable the minority groups to get permission on the construction of ritual or other religious buildings in their respective settlements;