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INITIATIVE FOR SOCIAL CHANGES (ISC)



SOCIOLOGICAL RESEARCH ON MINORITY RIGHTS IN PRISONS



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Possibilities and Challenges for the Protection of Minority Rights in the Penitentiary System of Georgia

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INTRODUCTION

Despite the positive changes in the penitentiary system in recent years, the protection of the minority rights remains a challenge. Despite the special emphasis placed on the rights of persons deprived of their liberty under the 2019-2020 Strategy for the Development of Penitentiary and Crime Prevention Systems, the strategy and action plan do not clearly identify specific steps to protect the rights of ethnic, religious and sexual minorities, foreign nationals and people with disabilities.

The aim of the study is to examine the challenges faced by the abovementioned minority groups in order to address their specific needs. In a long run this will help the penal system of Georgia to get closer to the European standards.

The limitations related to the interviewing specific groups, such as prison staff, minority prisoners, social workers and psychologists working in prisons, had a significant impact on the study itself. In addition, the Special Penitentiary Department did not provide the requested statistics, which would allow the research team to process quantitative data related to the minority groups. Instead an alternative approach a focus group with psychologists and social workers and interviews with field experts were conducted together with in-depth face-to-face interviews with former inmates from different minority groups, who left the penal system during last 3 years.

According to the study, the following factors affect the rights of minorities in the penal system: non-formal governance of the prisons, including sub-culture, capacity of the staff, lack of rehabilitation and resocialization services (in penal system as well as after the release), and other challenges related to the specific minority groups. The fieldwork was carried out in November-December 2019 and was significantly facilitated by the involvement of the National Agency for Crime Prevention, Non-Custodial Sentencing and Probation.

Given the limitations of the study, the identified challenges and key findings do not allow for the dissemination of information across the penitentiary system across minority populations, but it does highlight key trends and foster research hypotheses for further in-depth research.

The document includes information on the methodology used, key findings, results and recommendations. It also describes the limitations and ethical issues that were considered during the fieldwork and analysis.

MAIN FINDINGS

The main findings in terms of opportunities and challenges for the protection of rights of minority groups in the penal system are the following:

- ↪ **Size, informal governance and administration mechanisms of penitentiary institutions**
 - Large sized institutions significantly impede the effective management of the prisons and adversely affect the development of rehabilitation, sports, education and employment opportunities. However, large institutions encourage informal governance in the penitentiary system, which implies the control and oversight of prisoners on the other prisoners. Informal governance affects both the entire prison population and minority groups. This subculture mechanism is used for the settlement of conflicts, requests, complaints, hunger prevention and so on.
- ↪ **Capacity of the prison staff** - In addition, to the lack of human resources within the penal system, the prison staff's professional experience, knowledge, competencies, skills and values are also challenging, which often negatively affects the rights of prisoners, communication with them using sub-cultural approaches. In addition, there is a low level of confidence towards the prison staff, including psychologists and social workers, because prisoners often think that their correspondence, complaints and telephone calls are controlled by prison staff.
- ↪ **Rehabilitation programs and other services** – Generally speaking, the existing risk and needs assessment procedures are formal, recalling the need for risk-based segregation and improvement of needs-oriented work. Rehabilitation, educational, cultural, sport and other types of activities (especially at high-risk and large-scale facilities) are limited and the motivation of the inmates to engage in the offered programs is low. The process of preparation for release is not equally available to all inmates, lacks resilience and, most importantly, does not provide a full and realistic opportunity to prepare for release.
- ↪ **Sexual Minorities in the penal system** - LGBTQ+ group members face the number of obstacles in terms of their legal status, because they are in a particularly stigmatized state due to the subculture and unwritten rules in the penal system. The system is not ready to work with a group of different gender and sex identities. The set of obstacles begin immediately during the first check-in procedures and placement. Then the difficulties are also connected to the lack of communication with other inmates, inadequate interventions needed for LGBTQ+ group, and rehabilitation and other types of services for the community members. The overall situation is aggravated by psychological abuse by prison staff (in identified attitudes), and psychological, physical, and possible sexual abuse by other inmates, which renders members of the LGBTQ + community in a degrading, violent, and hostile environment. This can also provoke self-harm and suicide attempts.
- ↪ **Needs of people with disabilities** – The people with disabilities in prisons have unadapted environment and conditions of detention. Although the prison administration seeks to accommodate needs and accommodate persons with disabilities in a convenient building,

floor and cell, this does not cover their needs. People with disabilities are assisted by other inmates in day-to-day living and in everyday functioning, and the prison administration is less involved in the care process. While inmate support may reinforce a sense of solidarity and trust among inmates, this increases the likelihood and risks of mistreatment. One of the problems in this regard is related to the mental health challenges, both in terms of medication treatment and rehabilitation. Due to a lack of appropriate support, there is a growing likelihood of self-harm, hunger and other forms of protest by this group, and the prison administration uses detention rooms to avoid this situations, which is more punitive.

↪ **Needs of foreign nationals** - A particularly pressing problem is the language barrier and the communication difficulties that arise with regard to the foreign nationals. Due to the cultural and linguistic differences, it is difficult for foreign inmates to communicate with other prisoners and prison staff. The approach used as a proven method (communicating through an inmate who knows the foreign language) jeopardizes the principles of personal data protection and confidentiality. However, alienation and isolation with other inmates and prison staff have a negative impact on inmates' psychosocial condition, especially as they are denied access to rehabilitation and other programs due to language barriers. There is no information (television, press, books) available in their language and it is also difficult to maintain contacts with the family (especially the family visits). In some cases, the problem of receiving foreign remittances is also a problem. According to the Georgian legislation, the video calls cannot be set up from another country other than Georgia. It is also challenging to provide clothing, footwear and hygiene items to the foreign inmates if their family member does not reside in Georgia.

↪ **Ethnic and Religious Minorities** - Along with the language barrier, accused / convicted persons of different religious denominations have difficulty performing religious rituals. It is a matter of fact that Orthodox inmates are more privileged in terms of legal status than other confessionals, who often do not have space for prayer and the special meals. Despite the widespread belief in the penal system that representatives of any religion are treated with respect, the placement of persons of different faiths in a single cell is, in a very rare case, the basis for conflict and confrontation between prisoners.

↪ **The prisoners who work in the penal system** – Employed prisoners' situation is comparable to the situation of sexual minorities, and their well-being is negatively influenced by subculture. The existing subculture categorizes prisoners according to their rules and prisoners who work and especially clean the prison space are ill-treated by others. The subculture is the reason for low motivation of the prisoners when it comes to the prison employment. Prisoners who decide to take the job, first, ask the permission from the authoritative prisoners before they apply for the job. In addition, to the stigma and subculture rules, prisoners working in prison are subject to unfavourable working conditions, as they have to perform difficult jobs.

Based on these main findings, a list of recommendations has been developed that will significantly contribute to the development of human rights approach in the penal system, that will positively impact the situation of each minority group in the end. The recommendations presented are based on the information received under this research, with link to both - secondary sources and recommendations provided by the interviewees themselves.

GENERAL RECOMMENDATIONS:

- ✚ Promote the practice of alternative sentencing and the use of imprisonment as an extreme form of sentencing in all possible cases;
- ✚ Develop an approach based on international standards and dynamic security principles and enhance its application in practice by prison administration;
- ✚ Take all possible measures to reduce the level of informal governance and subculture in penal institutions, including developing a concept for small-scale penitentiary facilities and a long-term staff training;
- ✚ Develop sports and recreational infrastructure on the territory of the facility and equip it with the appropriate equipment;
- ✚ Take into account the risks and needs assessments during placement of the prisoners and imprisonment;
- ✚ Recruit the needed number of staff in the penal system and take appropriate measures in terms of promotion and employment;
- ✚ Provide continuous professional education for prison staff, strengthen internal and external mechanisms for professional supervision and monitoring;
- ✚ Provide capacity building activities for prison staff to increase their knowledge and qualifications in penal system administration, communication and approaches with minority groups;
- ✚ Increase prisoners' access to rehabilitation and other programs. Develop concept of psycho-social rehabilitation, educational, employment, cultural, sports and other types of programs (taking into account the specifics of the penitentiary institutions) and provide those services to all penitentiary institutions with the involvement of qualified staff;
- ✚ Research the needs of the minority groups and provide specific needs-oriented programs and services;
- ✚ Strengthen the role of the social service in providing individual and / or group services to prisoners, by employing the necessary number and qualification staff in penitentiary institutions and by promoting their employment;
- ✚ Develop mechanisms to increase prisoners' motivation to participate in programs and increase their use in practice;
- ✚ Improve the practice of preparation of the prisoners for release and apply this practice to all prisoners regardless of the risk level;

- ↳ Strengthen external support system and coordination capabilities to ensure continuity of rehabilitation and resocialization and crime prevention;
- ↳ Improve qualitative and quantitative data collection and processing system; In addition, data on minority groups should be processed and constantly updated;
- ↳ Consider the recommendations of local and international organizations in the development process of a penal system strategy and action plan.

Recommendations on improving legal status of prisoners who work in prison:

- ↳ Review the employment policy of the prisoners and develop a long-term concept for improving their working conditions and increasing their rehabilitation opportunities;
- ↳ Improve the working conditions of the prisoners taking into account their workload;
- ↳ Develop needs-based rehabilitation and other types of rehabilitation programs and increase the access of prisoners;
- ↳ Take all appropriate measures to reduce the stigma attached to the group and prevent degrading treatment.

Recommendations for improvement of the legal status of sexual minorities:

- ↳ Raise awareness of the prison staff and ensure that stigma and degrading treatment of the prisoners by the prison staff is prevented;
- ↳ Identify the needs of sexual minorities during the placement of prisoners and imprisonment (develop appropriate guidelines for prison staff);
- ↳ Take measures to prevent the ill-treatment and abuse of sexual minorities and increase improve response practices;
- ↳ Increase the number and quality of the rehabilitation programs and other services available for LGBTQ + group representatives, based on their needs.

Recommendations for improving the legal status of persons with disabilities:

- ↳ Ensure that penitentiary institutions are adapted to the special needs of persons with disabilities when developing concepts for small-scale institutions;

- ✚ Take into account the special needs of persons with disabilities during placement and sentencing;
- ✚ Increase the role of prison administration in identifying the needs of people with disabilities and providing appropriate care;
- ✚ Develop a mental health management strategy and reduce the current practice of using de-escalation rooms in case of aggravation.

Recommendations for improving legal status of foreign nationals in the penal system:

- ✚ Ensure translation and delivery of information and materials on rights and responsibilities of prisoners in various languages together with Georgian-language information materials;
- ✚ Provide personal hygiene products to foreign nationals, to research and meet their special needs;
- ✚ Provide opportunities for foreign nationals to receive a video call from a foreign country, initiate advocacy campaigns in coordination with relevant agencies, and review local legislation;
- ✚ Provide foreign nationals with renewable magazines, newspapers, literature and television broadcasting in a language they understand;
- ✚ Provide continuous Georgian language courses to foreign nationals;
- ✚ Increase the access of foreign nationals to psychosocial rehabilitation and other types of programs.

Recommendations for improving the legal status of ethnical and religious minorities:

- ✚ Provide Georgian language courses on a full-time basis for ethnic minorities having a language barrier;
- ✚ Provide a space / cell for different religious groups to perform religious rituals on the territory of the penitentiary institution;
- ✚ Consider specific needs of religious groups during food and prison store supply.

