



PREVENTION OF VIOLENCE AGAINST WOMEN
PROBLEMS AND CHALLENGES



2018

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The non-governmental organization, 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 peace building 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 on all levels, increase awareness and respect for human rights among the people in Georgia. Human Rights Center is a member of the following international networks:

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- World Organization against Torture (SOS-Torture – OMCT Network); www.omct.org
- Human Rights House Network; www.humanrightshouse.org
- Coalition for International Criminal Court; www.coalitionfortheicc.org



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INTRODUCTION

This report was prepared within the frameworks of the project – Support to the Prevention of Violence against Women in Georgia – which was implemented with the financial support of the US Embassy in Georgia. The project aimed to promote inclusive dialogue in order to combat violence against women and domestic violence as well as support development of effective mechanisms with the inclusion of the main actors working on this problem, analyze the miscarriages of the legal mechanisms for the prevention of domestic violence, violence against women and femicide and propose legislative amendments and new mechanisms to the authority to make the law and the strategy more successful.

The project envisioned working meetings/discussions in Tbilisi and in the regions of Georgia where different actors spoke out about the problems that they come across in their professional work which hinder the eradication of violence against women in Georgia. The representatives of the government bodies which are obliged to work on the problems of violence against women and domestic violence as well as civil society organizations which have experience of working on these issues participated in the meetings.

The meetings held within the frameworks of this project represented an opportunity to hear the positions of all actors as to what changes are necessary in the legislation, practice and existing mechanisms in order to effectively combat violence against women, including, the changes that are necessary in order to eradicate the problems that the main actors come across in their work. For this aim, 4 meetings were held within the frameworks of this project – in the capital Tbilisi and in the regions of Shida Kartli (Gori), Kvemo Kartli (Rustavi) and Kakheti (Telavi).

The representatives of following government institutions and NGOs working in Tbilisi and in the regions participated in the meetings: The Ministry of Internal Affairs (MIA), Office of Chief Prosecutor of Georgia, National Probation Agency, Public Defender of Georgia (PDO), Tbilisi Probation Bureau, Marneuli Municipality, Kakheti Probation Bureau, Gurjaani City Hall, Telavi Regional Prosecutor's Office, Gori Municipality, Shida Kartli Probation Bureau, Gori shelter of victims of domestic violence and NGOs – Anti-Violence Network of Georgia, Georgian Young Lawyers Association, Civil Development Agency (Cida), Media Institute, Union *Safari*, Rehabilitation Initiative for Vulnerable Groups, Penal Reform International, Educational-Rehabilitation Center *Imedi*, Association *Women of Multilingual Georgia*, *Woman and Development*, *Step to the Future* and World Vision Georgia.

The report analyzes the main issues discussed at the meetings held within the frameworks of the project.

REVIEW OF LEGISLATION

According to the Article 126¹ of Criminal Code of Georgia (CCG), domestic violence is violence, systematic insult, blackmail or humiliation of one family member by another family member which caused physical pain or anguish and which has not entailed the consequences envisaged by the Article 117 (Intentional Infliction of Grave Injury), Article 118 (Intentional Less Grave Bodily Injury) or Article 120 (Intentional Minor Bodily Injury). Domestic crime is a crime committed by one family member against another family member as envisaged by certain articles of Criminal Code of Georgia¹.

On May 25, 2006, the Parliament of Georgia adopted the Law on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence”. The law defines domestic violence and the mechanisms of protection and support for the victims, including the restraining and protective orders which give the police and judiciary possibility to ensure prompt response to the cases of domestic violence, protection of victim and restrict certain actions of the abuser².

According to the Law on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence, in order to ensure prompt response to the cases of violence against women or domestic violence and restrict certain actions of the abuser, an authorized body may issue a restraining or protective order as a temporary measure. A protective order is an act issued by a court (judge) of first instance through an administrative proceeding that determines temporary measures for protecting the victim. A restraining order is an act issued by an authorized police officer that determines temporary measures for protecting a victim of domestic violence³.

According to the Law on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence, the forms of the domestic violence may be physical, psychological, economic and sexual violence or coercion.

¹ Article 11¹, Criminal Code of Georgia:

<https://matsne.gov.ge/ka/document/view/16426>

² Law on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence:

<https://matsne.gov.ge/ka/document/view/26422>

³ Article 10, Law on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence:

<https://matsne.gov.ge/ka/document/view/26422>

In 2012, an amendment was made to the CCG according to which, commission of a crime on the grounds of gender identity constitutes an aggravating circumstance⁴. However, there are rare cases when this provision has been used in practice.

In 2014, Georgia signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter Istanbul Convention). The Convention defines all forms of violence against women and imposes criminal responsibility on crimes which are directed against women, including, stalking, psychological and physical violence, sexual violence, female genital mutilation, forced abortion and forced sterilization.

As a result of ratification of the Istanbul Convention, the CCG introduced the definition of a new crime - stalking. As defined by CCG, stalking means illegal surveillance of an individual, his/her family member or close relative or establishing undesirable communication via telephone, electronic or any other means or any other intentional action which is carried out systematically and causes psychological suffering and/or grounded fear of use of violence and/or destruction of property of an individual or his/her family member that forces the individual to significantly change his/her lifestyle or creates real necessity to do so⁵. As a result of ratification of the Istanbul Convention, the definitions of forced sterilization and genital mutilation were also introduced in CCG⁶.

According to the Istanbul Convention, the state is obliged to introduce criminal or another sanction against the individuals who are committing sexual harassment⁷. In October 2017, the Women's Movement prepared a petition and addressed the Parliament. The signatories of the petition are requesting legislative changes in the Labor Code and Code of Administrative Offenses in order to prohibit sexual harassment both in the workplace, as well as in public space⁸.

⁴ Article 53¹, Amendment of May 27, 2012 to Criminal Code of Georgia:

<https://matsne.gov.ge/ka/document/view/16426>

⁵ Article 151¹, Criminal Code of Georgia:

<https://matsne.gov.ge/ka/document/view/16426>

⁶ Articles 133¹ and Article 133², Criminal Code of Georgia:

<https://matsne.gov.ge/ka/document/view/16426>

⁷ Georgian Young Lawyers Association, Statement – “State must Make Sexual Harassment Punishable”:

<https://www.gyla.ge/en/post/sakhelmtsifom-seqsualuri-shevitsroeba-dasjadi-undagakhados#sthash.hFUOlcBb.dpbs>

⁸ <http://www.tabula.ge/en/story/128394-woman-wins-sexual-harassment-suit-against-former-boss-in-unprecedented-case-in-georgia>

According to the petition, sexual harassment in public places includes “comments of sexual nature, obscene jokes, staring, whistling, persistently demanding a phone number after a woman has refused, touching, and showing genitalia and so on”⁹.

As of now, it is unknown when the Parliament will start to work on the draft law regarding sexual harassment¹⁰.

Despite existing legislation, the effective combating of violence against women and domestic violence faces significant challenges in Georgia. Violence against women often ends with fatal consequences. The statistics of femicide – killing of a woman or a girl on the account of her gender - is alarming. 22 cases of femicide were observed in Georgia during 2017¹¹. Revealing the gender-related motivation by the investigative bodies and prosecutors remains to be a systemic challenge in Georgia (Please, see the chapter “Femicide”).

SHORTCOMINGS FROM THE LAW ENFORCEMENT BODIES WHEN REACTING TO THE FACTS OF DOMESTIC VIOLENCE

According to the information provided by the representatives of Human Rights Center, other NGOs and Office of Public Defender during the working meetings, the practice of usage of the so-called “warnings” instead of the restraining order against the alleged perpetrator continued in 2017. Often, when composing the protocol of the “warning”, the law enforcement officers note about the desire of the victim which does not represent a valid argument. The “warning” is not a measure of response to the facts of violence against women or domestic violence. It does not have any legal consequences and does not ensure the protection of the victim or the restriction of the perpetrator’s actions. The victims are often not informed that a warning does not have any legal consequences. The victims are also not informed about the essence of what a restraining order is. Specifically, victims often do not know that a restraining order does not necessarily mean imprisonment unless there are signs of crime in the case. It is alarming that when reacting to the facts of domestic violence, the instances of using a

⁹ October 24, 2017, “Petition to Outlaw Sexual Harassment Put to Georgia’s Parliament”:

<http://oc-media.org/petition-to-criminalise-sexual-harassment-put-to-georgias-parliament/>

¹⁰ March 22, 2018, Article – “Why the Draft Law on Sexual Harassment is not Yet Prepared”:

<http://netgazeti.ge/news/262089/>

¹¹ 24.11.2017. “Women Killed during 2017 – Statistics and failed draft law”:

<http://netgazeti.ge/news/236199/>

“warning” against the alleged perpetrators still continue. Similar facts were also observed by Human Rights Center during 2016¹².

The Ministry of Internal Affairs must exercise stricter control over the facts of the possible usage of the so-called “warning” against the alleged perpetrators. The above mentioned facts also reveal the necessity of increasing awareness of the victims from the side of the law-enforcement and other authorized bodies.

During 2017, there were instances when the law-enforcement bodies used only restraining orders even though the victim indicated a concrete circumstance which should have been the ground for a criminal investigation¹³.

Another significant problem emphasized by the Human Rights Center and other NGOs are the so-called facts of male solidarity where the policemen verbally support the alleged perpetrator and manifest cynical attitude towards the victim. According to the information of the Human Rights Center and other NGOs, there are instances when the policemen accuse the female victims of the violence perpetrated against them and justify the actions of the abuser. During the meetings held within the frameworks of the project, the NGOs shared information about the facts when the policemen discuss the financial or other matters of the family in the context of expressing solidarity to the perpetrator.

Such attitude from the side of the law-enforcement bodies is one of the factors as to why the victim refrains to give testimony against the perpetrator or why she changes position regarding the guilt of the abuser. Under the conditions of similar treatment by the law enforcement bodies, the victim loses trust and does not have expectation that she will be adequately protected. The solidarity towards the abusers is especially prominent in regions where the abusers manage to gain loyalty, including, through close acquaintances and personal contacts.

According to the 2016 annual report of the PDO, the lack of trust towards the law enforcement bodies as well as the lack of confidence in the existing mechanisms

¹² “Rights of Women, Religions and Ethnic Minorities”:

<http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hridc/HRC%20Report%20-ENG-with%20cover.pdf>

¹³ June 6, 2017. Public Defender Addresses Prosecutor’s Office with Proposal concerning Domestic Violence:

<http://www.ombudsman.ge/ge/recommendations-Proposal/winadadebebi/saxalxo-damcvelma-odjaxshi-dzaladobis-shesaxeb-winadadebit-mimarta-prokuraturas.page>

represents one of the reasons as to why the victim refuses to have the case continued against the perpetrator¹⁴.

In order to effectively respond to the facts of domestic violence and to gain the trust of the victims, it is important to include female patrol officers in the response group. As according to the information provided by the NGOs, as well as the law enforcement bodies, often, the female patrol officers have high sensitivity towards the victims and therefore, they manage to establish a better communication. This factor is especially important when reacting to the facts of domestic violence considering that often the victims fail to make decisions considering different reasons, including the pressure from relatives, public reaction or fear of the perpetrator¹⁵.

According to the information received from the law enforcement bodies, often, women do not express interest to be employed in the police. However, it should be noted that the government bodies must promote dissemination of information and raising awareness regarding the opportunities for the employment of women in the law enforcement bodies, for example through advertisements. This may be one useful way for promoting interest in order to foster employment of women in law enforcement bodies.

Reacting to the facts of violence against women and domestic violence is problematic in the regions inhabited by ethnic minorities where an additional significant problem is the language barrier, particularly, the fact that the employees of the law enforcement bodies do not know the language of the local ethnic minorities. These are the problems in the villages inhabited by ethnic minorities in Kvemo Kartli region. According to information from representative of the Human Rights Center's local office in the Kvemo Kartli region, often, the victim of domestic violence addresses the patrol police, however, the patrol officer does not speak Azeri language and the communication is not translated. Therefore, it is recommended to employ the representatives of ethnic minorities in the patrol police in order to overcome the language barrier. Employment of ethnic minorities in the patrol police will also foster the strengthening of trust with the representatives of ethnic minorities and developing communication.

¹⁴ 2016 Report of Public Defender of Georgia regarding State of Human Rights and Freedoms in Georgia, 2016:

<http://www.ombudsman.ge/uploads/other/4/4494.pdf>

¹⁵ Special Report, "Violence against Women and Domestic Violence in Georgia":

<http://www.ombudsman.ge/uploads/other/3/3361.pdf>

PROBLEM OF FINANCING ALTERNATIVE EXPERTISE

Within the frameworks of the work carried out for the protection of women who are victims of violence, the representatives of NGOs often request the carrying out of alternative expertise in order to comprehensively study the injuries of the victim. According to the representatives of the NGOs, there are instances where the conclusion of the alternative expertise differs from the state expertise – Levan Samkharauli National Forensics Bureau.

Within the frameworks of the project it was also revealed that on a regional level incomprehensive examination of the victims of domestic violence by the medical establishments represents a significant problem. In certain cases, the reason for the incomprehensive medical examination is the power and social status of the perpetrator, as well as determining the level of the injury. According to the information of the NGOs, there are cases where the conclusion adopted by the medical establishments does not correspond to the visible physical injury sustained by the victim of domestic violence.

The above mentioned facts reveal particular importance of the alternative expertise for identifying facts and revealing the truth regarding the facts of violence against women and domestic violence. It should be noted that often, due to severe financial problems, the victims of violence do not have the means for covering the costs of the alternative expertise. When offering different support services to the victims of violence, including from the side of the NGO sector, the possibilities of covering expenses of alternative expertise should be taken into account.

VICTIMS OF DOMESTIC VIOLENCE WITH A DRUG ADDICTION

Another significant problem revealed within the frameworks of this project is the lack of rehabilitative and protective services for the victims of domestic violence who are addicted to drugs. Such victims suffer from a double stigma considering that there is a high stigma in the society and discriminative attitude both towards the people with a drug addiction as well as the victims of domestic violence. According to the information received from the NGOs working on these issues, the facts of violence are often committed against the women with a drug addiction. Considering that there are currently no rehabilitative centers for the people with drug addiction in the country and instead of medical treatment, the state approach is directed towards their punishment, such beneficiaries refrain from talking about the violence implemented against them. They fear that in case they address the law enforcement bodies, their drug dependency may be revealed and they will be criminally prosecuted.

The representative of one of the NGOs who participated in the meeting stated: *“There are rare cases in Georgia for a woman to say that she is that person, just like for an HIV positive person to say that she is that person, considering that the society bears very high stigma-discrimination. Instead of that, people who are providing services are talking. This further complicates the situation because when the problem does not have a face it is very hard to talk about solving this problem”.*

Currently there is no shelter for the victims of domestic violence with a drug addiction which would envisage their special needs and ensure their rehabilitation and medical treatment. The existing shelters for the victims of domestic violence do not envisage such service currently. As a result of the discussions held within the frameworks of the project, the need to establish specialized centers for such beneficiaries was revealed which would ensure their rehabilitation-detoxification and then their redirection to the appropriate shelter. Conducting this work can only be made possible by reforming the existing state policy and changing the repressive drug policy through the medical treatment approach.

REHABILITATION OF THE PERPETRATORS OF DOMESTIC VIOLENCE

One of the significant characteristics of domestic violence is its recurring nature. The problem is complicated by the stigma and taboo existing in the society which is helping the abuser to continue their violent behavior¹⁶. In order to achieve the goal of the prevention of domestic violence, it is essential to promote both the psycho-social rehabilitation of the victims of domestic violence as well as to take care of the behavior and attitudes of the perpetrators¹⁷.

According to the information of the Ministry of Penitentiary and Probation, there are different rehabilitation programs implemented that are directed towards the rehabilitation of the perpetrators of domestic violence, including – Useful Skills Development Group – which represents a rehabilitation program for the victims and perpetrators of domestic violence, as well as the program – Role of Positive Action in the Family relations– which is a module of the group intervention that aims to increase the gender sensitivity amongst the male convicts¹⁸.

¹⁶ January 13, 2011, N55 Decree of Government of Georgia regarding the adoption of Concept of Rehabilitation of Perpetrators of Domestic Violence

¹⁷ Ibid

¹⁸ Ministry of Penitentiary and Probation, Rehabilitation of the Convicts:

<http://www.moc.gov.ge/ka/resocializacia-reabilitacia/msjavrdebulita-reabilitacia>

Also, it should be noted that there is a program within the frameworks of the National Agency of Probation – Rehabilitation Program for Managing Violent Behavior – which targets the individuals on probation. The program envisages helping probationers to understand their violent behavior and acquire new skills in order to be able to manage the conflicts and disputes without the use of violence and aggression. This rehabilitation program which was developed by the support of UN Women, envisages individual or group therapy with the beneficiaries¹⁹. According to the existing information, 79 probationers were included in the rehabilitation programs in 2016²⁰.

It is noteworthy that there are various rehabilitative programs for the convicts, as well as for the probationers in order to promote a change of their violent behavior. However, currently there are no rehabilitation programs for those perpetrators where restraining or protective orders have already been issued. In order to effectively combat domestic violence, it is essential to carry out the programs for behavioral corrections for these individuals as well.

BENEFICIARIES LIVING IN SHELTERS SUSPENDED OF SOCIAL ALLOWANCES

At the meetings organized within the framework of the project, the representatives of Human Rights Center, other non-governmental organizations and Public Defender's Office of Georgia reported that the socially vulnerable victims lose the social allowances after being placed in the shelter. After leaving the shelter, they have to undergo the procedures for receiving the social allowance anew. During these meetings, the participants mentioned cases where victims refused to be placed in the shelter, fearing that they will lose the social allowance and would need several months to get it back

¹⁹ Article – “Rehabilitation Program for Managing Violent Behavior Launched”, April 21, 2016:

<http://georgia.unwomen.org/ka/news/stories/2016/04/gbv-perpetrators-rehabilitation-programme-launched-in-georgia>

²⁰ Monitoring Report on Action Plan for 2016-2017 on the Measures to be Implemented for Combating Violence against Women and Domestic Violence and Protection of Victims:

<http://www.ombudsman.ge/ge/reports/specialuri-angarishebi/qalta-mimart-dzaladobis-da-odjaxshi-dzaladobis-winaagmddeg-brdzolisa-da-msxverplta-dazaralebulta-dasacavad-gasatarebel-gonisdziebata-2016-2017-wlebis-samoqmedo-gegmis-monitoringis-angarishi.page>

after leaving the shelter. In fact, the socially vulnerable persons are left without any income after they leave the shelter.²¹

With regard to the problem, on September 17, 2012, the Public Defender of Georgia recommended the Prime Minister of Georgia “to ensure the revision of the legislative norms that regulate the system of social assistance, taking into consideration the importance of the struggle against domestic violence, so that the tendency to conceal/neglect the existing facts of domestic violence with the aim of maintaining the subsistence allowance is avoided and the safeguards for social protection of victims of domestic violence are strengthened.”²² In his recommendation to the Prime Minister, the Public Defender mentioned a case, where the socially vulnerable victim of domestic violence refused to be placed in the shelter fearing that she would lose the main source of her income – social allowance. The recommendation underlines that victims often refuse to be taken to the shelter for that reason.

The facts identified throughout 2017 reveal that abovementioned tendency is still a significant problem. It is necessary to introduce respective amendments in the law including the in the order of the Minister of Labor, Healthcare and Social Affairs of Georgia, so that victims are protected from losing the social allowance after being placed in the shelters.

MONITORING OF THE ENFORCEMENT OF RESTRAINING AND PROTECTIVE ORDERS

Insufficient monitoring over fulfillment of requirements of restraining and protective orders is a serious problem, which hinders the effective fight against the violence against women and domestic violence. There are multiple examples when restraining orders were issued to protect the victims of femicide from the perpetrators but the latter violated the requirements of the order and this mechanism could not prevent the fatal result.²³ Introduction of the monitoring system is extremely important in order to control how the perpetrator implements the requirements of the restraining

²¹ p. 21 Special Report of the Public Defender of Georgia – Violence Against Women and Domestic Violence in Georgia, 2015:

<http://ombudsman.ge/uploads/other/3/3389.pdf>

²² September 17, 2012 Public Defender’s Recommendation to the Prime Minister:

<http://ombudsman.ge/en/recommendations-Proposal/rekomendaciebi/1648-the-public-defenders-recommendation-to-the-prime-minister.page>

²³ P. 31, Special report of the Public Defender – Women’s Rights and Gender Equality, 2016:

<http://www.ombudsman.ge/uploads/other/3/3722.pdf>

and protective orders including the prohibition of approaching the victim. If he violates the requirements, the monitoring mechanism shall have a respective response measure to ensure the security of the victim.

In the frame of the current mechanism, the family, where a fact of domestic violence was observed, is under monitoring of the district inspector. However, the monitoring procedure by the inspector is not regulated and relies upon the personal initiative of the law enforcement officer.²⁴

During the meetings organized within the frameworks of the HRC project, representatives of the MIA stated that they do not have enough human resources in order to monitor the activities of the perpetrators.

During one of the working meetings, a MIA representative said:

“It is impossible to monitor it. The only thing the police officer can do is to have direct communication with the victim, inform her about her rights and responsibilities and explain that it is her duty to report to the police if her rights are breached. Like the victim needs to warn a teacher that if her husband visits the child, please call the patrol police. This is the scheme how we work. Thus, it will be absolutely impossible that police officers chase the harassers.”

The working meetings showed that in order to improve the monitoring system, introduction of electronic bracelets should be assessed as one of the solutions to the problem, when the perpetrator of domestic violence is obliged to wear it and placed under electronic monitoring. A similar monitoring practice is common in European countries, like in Spain, where the perpetrator of domestic violence carries a special bracelet and he cannot remove it. If the perpetrator approaches the woman closer than allowed, the electronic bracelet is sending a message to the monitoring unit and police is operatively sent to the site.²⁵

It should be noted that the respective state institutions of Georgia, including the MIA, Ministry of Justice and Ministry of Corrections, expressed openness about assessing the possibility to introduce the system of electronic bracelets and find relevant resources in this direction. Establishment of an effective monitoring system is essential to ensure health and security of the women.

²⁴ Ibid

²⁵ Paragraph 60 PACE, Promoting Best Practices in Tackling Violence against Women; <http://website-pace.net/documents/19879/1274427/20150930-ViolenceWomenBestPract-EN.pdf/4c7ecb18-fe6b-48d1-8df3-ccc09f197bd7>

SHELTERS FOR THE VICTIMS OF DOMESTIC VIOLENCE

In accordance to the *Law of Georgia on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence*, a shelter is a temporary place of residence for the victims of violence, which aims to provide the victims with psycho-social rehabilitation, legal and medical assistance and protection.

All victims of domestic violence, who need shelter, shall be accepted in the shelters. In accordance to the *Law of Georgia on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Domestic Violence*, the victim of domestic violence is a family member, who endured physical, psychological, sexual and economic violence or harassment and was granted the victim status by the respective service of the MIA, the court (restraining or protective orders), or the Interagency Group authorized to determine the victim status.²⁶

The working meeting organized in the Kvemo Kartli region in the framework of the project revealed that the absence of a shelter in the region is a significant problem for the victims of domestic violence. Often, the victims from the region refuse to be placed in a shelter because they need to move to another region. Thus, they prefer to find refuge in the homes of their relatives rather than go to a shelter.²⁷ It is essential to have a shelter in Kvemo Kartli region to ensure security of the victims of domestic violence. One of the main functions of the shelter is to protect the victim from the perpetrator of domestic violence. Consequently, absence of a shelter in Kvemo Kartli region is a significant miscarriage for the prevention of the violence against women. The Kvemo Kartli region has one of the highest rates in terms of the domestic violence facts. According to the official data of the MIA, between 2007 and 2014, the Kvemo Kartli region ranked second place with the number of domestic violence facts among all regions of Georgia.²⁸ Thus, it is important to timely open a shelter in the region to ensure defense, safety and other services for the victims of the domestic violence.

²⁶ Article "Shelters for the victims of domestic violence and children beyond the system", 2017: <http://www.humanrights.ge/index.php?a=main&pid=19397&lang=eng>

²⁷ Article "Shelters for the victims of domestic violence and children beyond the system", 2017: <http://www.humanrights.ge/index.php?a=main&pid=19397&lang=eng>

²⁸ Information-analytic department of the MIA: <http://police.ge/files/pdf/9%20%E1%83%9D%E1%83%AF%E1%83%90%E1%83%AE%E1%83%A3%E1%83%A0%E1%83%98%20%E1%83%AB%E1%83%90%E1%83%9A%E1%83%90%E1%83%93%E1%83%9D%E1%83%91%E1%83%90%202007-2014--6%20%E1%83%97%E1%83%95%E1%83%94.pdf>

The experience of the Human Rights Center’s local office in Kvemo Kartli region demonstrates the significance of the problem. A representative of the HRC Kvemo Kartli office stated: *“In the summer of 2017 I worked on a case, where criminal investigation had started into the fact of violence. We could not take the victim of domestic violence to another region because she was supposed to be interrogated with regard to the case. At the same time, she needed medical assistance and had to stay in the Kvemo Kartli region. We resolved the problem by placing her in a monastery in the Kvemo Kartli region for three days. As soon as it became possible, she was taken to a Tbilisi based shelter. Her stay in the monastery was dangerous because everybody could enter the premises of the monastery and besides physical threats the perpetrator or his relatives could visit her in the monastery and convince her to change the testimony in favor of the perpetrator. However, we had no other option because there is no shelter in Kvemo Kartli regardless the fact that big part of domestic violence facts occur in this region. Nowadays, five state shelters function in Georgia. Reportedly, two more shelters will be opened soon but Kvemo Kartli is still left out of the agenda.”*²⁹

The limited place in the shelters for the victims of domestic violence is also significant problem.

*“We had cases when we could not place the victim in the Tbilisi based shelter because there was no place available. The victim was redirected to shelters in the regions. It is problem because the victim needs additional adaptation in another region as well as looking for a job is not easy. At the same time, there is not a big chance of getting employed in the regions. However, none of the victims ever refused to go to the shelter because of this problem. As for the children of the victims, they have to move to different education institutions to continue their education,” - Ana Tchigvaria, psychologist of the non-governmental organization Sapari told the journalist of Human Rights Center.*³⁰

Another significant problem regarding the shelters is the fact that the three-month period, allowed for the victims to spend in the shelters, is not enough for adequate psycho-social rehabilitation. In accordance to the Public Defender’s Report, *“beneficiaries have noted that they feel very comfortable in the shelter, but at the same*

²⁹ Article “Shelters for the victims of domestic violence and children beyond the system”, 2017:

<http://www.humanrights.ge/index.php?a=main&pid=19397&lang=eng>

³⁰ Ibid

time, they are counting the remaining days, as they do not know where to go once the term expires. Often, the sole alternative for them is to return to the abusive husband.”³¹

FEMICIDE

Identification of gender motive in the murder cases of women is a significant challenge for the investigative and prosecutor’s bodies of Georgia. The representatives of different NGOs that provide the victims with free legal aid, once again underlined this problem during the working meetings organized within framework of the project.

The Article 53¹ in the Criminal Code of Georgia, in accordance to which, commission of a crime on the grounds of gender identity shall constitute an aggravating circumstance for all the relevant crimes provided by this code. But, investigative and prosecutor’s bodies rarely identify the gender motive.³² In accordance to the 2016-2017 monitoring of the cases regarding domestic violence and violence against women by the Georgian Young Lawyers’ Association, despite circumstances indicating a gender-based discrimination motive, the prosecution and judges do not address such motives in the consideration of cases.³³ In accordance to the June 2016 report of the UN Special Rapporteur about the causes and consequences of the violence against women, which was prepared on her mission to Georgia, prosecutors and judges are not well informed about the acting standards in regards to the crimes committed based on gender motive.³⁴

It is noteworthy that in accordance to the Georgian legislation, a judge may not change the qualification of the imposed charge into a graver one. Consequently, there are a lot of records which show that when a woman was killed based on gender motive the murderer is not punished in accordance to the adequate law.³⁵

³¹ p. 12 Special Report of the Public Defender of Georgia – Violence Against Women and Domestic Violence in Georgia, 2015:

<http://ombudsman.ge/uploads/other/3/3389.pdf>

³² p. 9 Report TRIAL MONITORING ON THE CASES OF DOMESTIC VIOLENCE, DOMESTIC CRIMES AND VIOLENCE AGAINST WOMEN, 2017:

<https://gyla.ge/en/post/qalta-mimart-dzaladobis-saqmeebi#sthash.0wWby204.dpbs>

³³ Ibid

³⁴ See the Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Georgia, 2016:

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Pages/ListReports.aspx>

³⁵ Article “Femicide – hate crime and alarming statistics”, 2018:

<http://www.humanrights.ge/index.php?a=main&pid=19493&lang=eng>

On May 3, 2016, the Republican Party of Georgia addressed the Parliament of Georgia with the initiative to define the crime of femicide in the CCG. According to the draft law, Article 108¹ was to be added to the CCG which referred to the premeditated murder of a woman by her husband, former husband, partner, former partner or any other family member that is punishable by imprisonment from 11 to 14 years in length. On June 10, 2016 this draft law was rejected – only 48 MPs voted for it and 1 MP was against it; 50 votes were necessary for the approval. The Republican Party addressed the Parliament with the legislative initiative about the femicide in January 2017 too. The amendments included gender-based violence as aggravating circumstances as well but the Committee of Legal Issues did not support the bill.³⁶

Human Rights Center supports the introduction of the femicide definition into the Criminal Code of Georgia and believes that this will be a step forward for the state of Georgia to acknowledge the gravity of the crime of femicide and to make the fight against it stricter.

PROBLEM OF IDENTIFYING PSYCHOLOGICAL HARASSMENT

In accordance to the information collected during the working meetings organized within the framework of the project, law enforcement officers often face problems to identify the facts of psychological violence. Namely, a patrol inspector mentioned one case where he issued a restraining order against the perpetrator to prevent psychological violence but the court annulled the order and concluded that it was not psychological violence. In similar cases, as the police officer said, the court concluded that the case referred to a family conflict originated based on domestic problems and that it was not psychological violence. As the police officer underlined, in order to grant more legitimacy to their decisions regarding the psychological violence facts and to have more arguments in front of the court, it is significant that a relevant specialist – psychologist – gets involved in the evaluation process.

INSUFFICIENT HUMAN RESOURCES TO RESPOND TO FACTS OF DOMESTIC VIOLENCE

In accordance to the information provided by law enforcement officers, insufficient human resources in the law enforcement bodies significantly delay the adequate response to the facts of domestic violence; more precisely, police units do not have enough personnel to respond to the facts of domestic violence.

³⁶ Ibid

According to the collected information, in Tbilisi, only one officer is working on issuing restraining orders in each unit. Considering the statistics of domestic violence facts, it is important to add specialized personnel in police units to ensure effective response to the facts of domestic violence.

In accordance to the information provided by the MIA representatives, law enforcement bodies plan to organize trainings for the personnel about violence against women and domestic violence. However, they do not know yet whether additional personnel will be recruited in the police units.

CHANGED TESTIMONIES OF THE VICTIMS

In accordance to the information provided by the representatives of the prosecutor's offices during the meetings within the framework of the project, they often face cases when victims do not cooperate with the investigation. As the representatives of prosecutor's offices underlined, the victims often give testimonies against the alleged perpetrator but later on they change their position and refuse to give testimonies against family members which is a right guaranteed by Georgian legislation. According to the prosecutor's office representatives, similar facts create problems in their practice in cases where the victim's testimony is the main evidence and without it, it is impossible to continue the case processing.

This problem has many causes. Therefore, its prevention needs a complex approach from different state institutions. Among them are: large-scale campaigns to raise awareness of the victims about their defense mechanisms, more efforts to fight against stigma and stereotypes in the society, to economically empower women and to address the diverse needs of the victims.

In order to prevent changed testimonies, victims should be provided with the consultation of a psychologist. Successful practice of some non-governmental organizations shows that at the initial stage of legal assistance they involve psychologists in order to assist the women to form a clear position.

RECOMMENDATIONS

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

- The so-called “warning” shall not be used when responding to the facts of domestic violence. “Warning” is not a response mechanism to the fact of domestic violence and violence against women in accordance to the law. It does not have follow-up legal consequences, does not ensure protection of the victim and does not restrict perpetrators’ activities;
- To increase control to prevent police officers of using the “warning” mechanism; to identify those facts when law enforcement officers express solidarity towards perpetrators and discriminate the victims;
- Law enforcement officers shall provide the women with full information about the defense and assistance measures including restraining and protective orders and their consequences;
- In order to effectively respond to the facts of domestic violence and to gain trust among victims, number of female patrol officers/inspectors shall be increased;
- The response groups shall be composed of ethnic minority representatives in the regions compactly inhabited by ethnic minority communities;
- To establish practice of evaluation and analysis of violent acts committed on gender motive;
- To involve relevant professional - a psychologist - in the process of evaluating the alleged fact of psychological violence;
- To enhance adequate response to the facts of domestic violence, the number of patrol-inspectors working in this direction shall be increased in police units;

➤ **To the Ministry of Labor, Healthcare and Social Affairs of Georgia**

- Instead of termination, to suspend the social allowance for the socially vulnerable victim when placed in the shelter for the victims of domestic violence in such way that the allowance is automatically restored after leaving the shelter;
- To open a shelter for the victims of domestic violence in the Kvemo Kartli region;
- To create behavior-correction programs for the perpetrators against whom restraining or protective orders are issued;
- A specialized center shall be created for the drug-addicts who are victims of domestic violence, where they will get special rehabilitation-detoxification service and then will be forwarded to the shelter.

- **To the Ministry of Justice, Ministry of Internal Affairs, Ministry of Corrections and Chief Prosecutor’s Office of Georgia**
- Respective state institutions, with the engagement of the MIA, Ministry of Justice and Ministry of Corrections, shall study the system of electronic bracelets and find ways to allocate necessary resources for it.

- **To the Parliament of Georgia**
- To add the definition of femicide in the Criminal Code of Georgia, which is a premeditated murder of a woman by her husband, former husband, partner, former partner or any other family member, on account of her gender.

- **To the Ministry of Education and Science of Georgia**
- To include the issues regarding prevention of domestic violence and violence against women in the curriculum of public schools.

ANNEX

➤ **Articles published in the frame of the project**

The following articles were published in the frame of the project:

- 1) Two restraining orders against the victim of domestic violence – dangerous precedent
<http://humanrights.ge/index.php?a=main&pid=19512&lang=eng>
- 2) Femicide – hate crime and alarming statistics
<http://www.humanrights.ge/index.php?a=main&pid=19493&lang=eng>
- 3) The problems about getting divorced and alimony
<http://humanrights.ge/index.php?a=main&pid=19456&lang=eng>
- 4) Grave outcomes of the domestic violence – traumatized children
<http://humanrights.ge/index.php?a=main&pid=19434&lang=eng>
- 5) Shelters for the victims of domestic violence and children beyond the system
<http://humanrights.ge/index.php?a=main&pid=19397&lang=eng>
- 6) Lost childhood – increasing statistics on early marriages
<http://humanrights.ge/index.php?a=main&pid=19376&lang=eng>
- 7) Victims of domestic violence and their rights
<http://humanrights.ge/index.php?a=main&pid=19341&lang=eng>