



NON-RECOGNITION, INACTIVITY AND REPRESSION SUBSTITUTING A HOME

An analysis of state policy
and the human rights situation of vulnerable
homeless families occupying state-owned property

ადამიანის უფლებების სწავლებისა
და მონიტორინგის ცენტრი

EMC

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Policy, Advocacy, and Civil Society Development in Georgia (G-PAC)

საგარეო პოლიტიკის, ადვოკატირებისა და სამოქალაქო საზოგადოების განვითარება საქართველოში



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Human Rights Education and Monitoring Center

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PREAMBLE

The purpose of the presented study is to explore the human rights situation of the families willfully occupying state-owned buildings, to analyze the state's policy towards them, and to formulate recommendations to the relevant governmental bodies.

The study describes the human rights situation of the homeless families. Cases of violation of their rights are reviewed in the light of the international human rights standards and are detailed according to different aspects. The study also presents different causes of homelessness. These causes indicate that the problem of homelessness is systematic and is caused by an ineffective social security system and difficult economic conditions.

The study reviews the state's policy towards the homeless families residing in various state-owned buildings and other relevant regulations. The results demonstrate that the state's policy on fighting homelessness is both non-systematic and non-effective. This year, the state defined steps to be taken to realize the right to adequate housing in the National Strategy for Human Rights Protection (for the years 2014-2020), but on the other hand, those measures were not included in the State Strategy for Human Rights Protection. The state does not research or assess the scale of the problem of the homeless or the needs of these persons. Neither does it try to establish the forms of and reasons for homelessness. As a result, it is practically impossible to develop a fair and realistic solution.

Under these conditions, the state's policy towards the persons who occupied state-owned buildings is even stricter and is based on a strategy of non-recognition, inactivity and repression. The analysis shows that the state declares these acts illegal and does not recognize the rights and needs of these families. The families live in inadequate living conditions with no chance of improvement, which poses a real threat to their health and life. Because of the non-recognition from the state, they constantly face the fear of eviction and ending up in the streets. Moreover, the state maintains a repressive policy in order to prevent further occupation and, by willful use of the law, has cancelled social assistance for some of the families. As a result, they were left without even a minimal allowance.

A list of recommendations prepared for the relevant governmental bodies can be found at the end of this research. Some of these need to be addressed immediately, because they are constantly being violated.

1. SIGNIFICANCE OF THE STUDY AND METHODOLOGY

1.1. SIGNIFICANCE

By the end of 2012 a number of cases in Tbilisi¹ and in the regions² where homeless families willfully occupied state-owned buildings were revealed. According to the state³ there are 16 such buildings in Tbilisi, where homeless families live and sometimes work. During the interviews activists of the homeless communities said that the number is higher and that it constitutes 25 buildings. The number of families in these buildings is quite big⁴, but it is hard to establish the exact number because of the lack of registration. The families live in extremely difficult circumstances as these buildings were not intended as residential buildings and often lack sewage and water systems, as well as electricity supply. In some of the buildings the safety risks are high. There are different groups of vulnerable persons among them including persons with disabilities, single mothers and elderly people, and female victims of violence. Because of the fact that it constitutes a willful occupation of the buildings, the state does not recognize their social rights including the right to adequate housing. This leaves them with the risk of eviction and without any hope for legal protection.

There are continuous cases of human rights violations of homeless socially vulnerable persons, including the violation of their right to adequate housing, a safe environment, education, health, food and social security. However, because of the forceful occupation of the buildings, the state does not recognize the rights of this social group and places them outside the legal framework. Consequently, the state shows inactivity and does not take any steps to solve the problem or to meet the needs of these people.

The purpose of the research is to demonstrate the conditions these families are facing in terms of human rights protection and to emphasize the obligations of the state. The study will reveal the ineffective and unfair policy towards these people that is employed by the state and will consequently present recommendations to the relevant governmental bodies.

1 See the video prepared by EMC depicting the situation of squatters at the former public school #68 on Atonelist. and at the so called "Zakvo" Building: <http://www.youtube.com/watch?v=yq2-RQilH1Q>, <http://www.youtube.com/watch?v=haSO5l9oQ-g>

2 There is a big settlement of socially vulnerable homeless people in Khelvachauri, on the territory of the former 52nd military division. More information on this can be found through the web page of Human Rights Education and Monitoring Center (EMC), <http://emc.org.ge/2014/06/02/1610/>

3 National Agency for State Property Management, letter of February 30, 2014 (#15/6527).

4 As it discovered during the research, up to 117 socially vulnerable families lived/live in just 4 buildings.

1.2. RESEARCH METHODOLOGY

During the research, the group of researchers simultaneously used several tools due to the nature and the goals of the study.⁵

1.2.1. TOOLS TO DOCUMENT THE HUMAN RIGHTS SITUATION OF HOMELESS FAMILIES

The descriptive part which explains the human rights situation of the homeless families is based on interviews and questionnaires as well as on the results of site inspection.

The group of researchers was multidisciplinary and consisted of human rights lawyers and sociologists. The researchers employed the monitoring strategy during the survey. The researchers were in active communication with the community activists. They shared the planning and implementation strategy as well as the preliminary findings.

Interviews with families were conducted based on a semi-structured questionnaire that was prepared in advance. The questionnaire included questions that required a detailed description of the social and economic situation of the family, the reasons for the loss of housing, as well as of their current situation regarding adequate housing, education, healthcare, social security and the cases of alleged violation of their right to privacy. The questionnaire provided the opportunity to describe cases of marginalization and discrimination caused by homelessness and social vulnerability. The questionnaire also contained open questions, thus creating the possibility of obtaining narrative material.

The research was carried out at four different sites, so the findings are not sufficient to generalize the socio-economic situation of the homeless families as a social group or the reasons for homelessness. However, the analysis of the current policy and legislation reveals the general attitude of the state and its strategy.

The sites of the research were selected on the basis of two main criteria: 1. **the size of the settlement.** The research group selected the two biggest settlements with a large number of socially vulnerable families. Namely, the building of the former Cardiology Institute on Gudamakari lane N2 which houses up to seventy families and school building N35 on Atoneli Street with 32 families. 2. **Settlements, where government policy and its results are most visible.** Consequently, the researchers studied the cases of the families who were evicted from the school buildings N13 and N142 in August 2013. For this reason, the research was conducted in the medical center “Dioscurias” and the former orphanage in Kojori.

⁵ The research methodology was formulated with the help of group of analysts headed by *Stephen Batalden*. Arizona State University (ASU), The Melikian Center, An instructional and research unit of the college of liberal arts and sciences (with the assistance of the East-West Management Institute (EWMI) program – Policy, Advocacy, and Civil Society Development in Georgia (G-PAC)).

Some of the families evicted from the mentioned school buildings went on to occupy the medical center “Dioscurias” on December 16, 2013 since the government did not provide alternative housing after the eviction and they were forced to find another building. The former residents of schools N13 and N142 were placed in Kojori by the state. The purpose of conducting research in this particular building was to illustrate the state’s policy and its results.

At the same time, the research group studied the living conditions and the services offered by the state to the beneficiaries of the tented camp on Moscow Avenue. The purpose of this was to study the reasons for homelessness and compare these results with the results of the target group.

In total, the researchers recorded individual interviews with 48 families. Among the respondents were 18 families from the Institute of Cardiology, 19 families from the building of the former school N35 and 11 families which were evicted from the buildings of schools N13 and N142. Interviews were held with 22 beneficiaries in the camp as well.

In order to assess their living conditions, the researchers specifically described and documented the existing infrastructure and operation of the building.

During the study, quantitative research was carried out among the families residing in the building of the former Institute of Cardiology as it is the biggest settlement of its kind. The purpose of this was to assess the situation with regards to the status of the families, the reasons for their homelessness and their current living conditions. For these purposes, the researchers acquired statistical information about the families that lived or claimed that they lived in the given building.

The human rights situation in this study is reviewed in the light of the internationally recognized rights to adequate housing, education, healthcare, social security, privacy and ruling out of discrimination.

1.2.2. TOOLS TO RESEARCH STATE POLICY

The review of the state policy and current legislation is based on a review of the current legislation, public information obtained from the relevant bodies, an interview with the Head of Social Protection of the Ministry of Labour, Healthcare and Social Affairs, interviews with homeless families and documents that depict the formal and informal relations between the state and the homeless families.

The study reviews the state’s policy and legislation against the background of the international human rights standards and academic/theoretical literature on homelessness.

2. REVIEW OF LEGAL RIGHTS OF THE HOMELESS FAMILIES

The following chapter reviews the human rights situation of the homeless, socially vulnerable families based on interviews and observations of their living conditions. The results demonstrate that their right to adequate housing is constantly being violated as well as their rights to social security, education and privacy. The result of this is marginalization and self-victimization. This chapter separately reviews the human rights situation of vulnerable women who are facing specific challenges.

It is important to have detailed information on the homeless families in order to start working on the enjoyment of their human rights and on the realization of the state's obligations.

2.1. DESCRIPTION OF LIVING CONDITIONS IN THE STUDIED FACILITIES

2.1.1. A REVIEW OF THE RELEVANT INTERNATIONAL STANDARDS

Appropriate housing conditions is one of the significant components of the field protected by the right to adequate housing. Residents should have adequate space and protection from the cold, moisture, heat, snow, rain, health threats, structural threats, and from the spread of diseases. The Committee on Economic, Social and Cultural Rights urges states to abide by sanitary principles of health, due to the fact that the living environment is most often manifested in diseases and epidemics tests as a causing factor of disease. While defining the standard of living conditions the Committee makes reference to the living principles of health established by the international organization.⁶

In addition, the Committee confirms in its third general comment⁷ that states have an obligation to ensure minimum/essential levels of the rights defined in the covenant, such as the right to primary health care. A parallel interpretation of the aforementioned comment with more modern instruments such as the Alma Ata Declaration of the International Conference on Population Development provides an important guideline concerning the main obligations deriving from Article 12. Accordingly, the minimal standards defined by this Article include ensuring access to shelter, sanitary conditions, and drinking water.⁸

6 ICESCR, General Comment IV, Right to Adequate Housing.

7 Committee on Economic, Social and Cultural Rights, General Comment 3, The nature of States parties' obligations (Fifth session, 1990), U.N. Doc. E/1991/23, annex III at 86 (1991) Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 14 (2003).

8 Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000/4 (2000), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 85 (2003).

Due to the theoretical and psychosocial basis of housing, it has biological, psychological, legal, economic, and social functions. Without the stability of these aforementioned components, threats related to physical and psychological health, hygiene, and personal security will arise. According to Jahiel, «the definition of a house applies to a house as a psychical structure, as well as a life experience which represents part of the memory, ontological identity, emotions, and mental health.” The author notes that the lack of such components may cause a variety of physical and mental damages.⁹

2.1.2. THE FUNCTIONING OF DRINKING WATER SYSTEM

According to the housing principles of the World Health Organization, safe and adequate drinking water systems ensure personal and domestic hygiene, protection against disease, and are the most significant factor in improving housing conditions. Drinking water as a vital component should not be biologically and chemically contaminated and it should be available in sufficient quantities for the safe preparation of food. The same principles emphasize that until a constant supply of safe drinking water is not ensured through the water supply system and the population has to manually carry it from a distance, there will always be the risk of a lack of water, which automatically means that there is a risk of spreading diseases, a risk caused by the failure to meet minimum standards of hygiene and by drinking water contamination. Drinking water and water supply systems are not functioning in two studied facilities (former school #68 located at Atoneli Street and a former Institute of Cardiology) while in the medical centre Dioscurias, despite the fact that communications are well-functioning in the building, medical staff deliberately blocked the water pipes of the homeless people who live on the second floor. The sewer system is operating with delays due to the fact that the water supply has been cut off. Therefore, vulnerable families are forced to manually carry water from 700 meters away.¹⁰

As for the building of former Institute of Cardiology, persons are forced to carry water to their rooms from the yard for hygiene and other needs. The only source of drinking water for the inhabitants of the aforementioned building is the tap in the yard, which they arranged themselves. From October 2012 until summer 2014 a construction and household waste pile was a few meters away from the only source of drinking water, causing a high risk of water pollution. The gradual removal of waste was possible only during the pre-election period.

2.1.3. FUNCTION OF THE SEWAGE SYSTEM

The failure of a sewer system is the first source of contamination of water and food which occurs when a building is encountering problems in the deployment of toilet and sewer drainage. According to the World Health Organization Health Principles of Housing¹¹, living under these conditions is

⁹ THE CULTURE OF HOMELESSNESS- MEGAN RAVENHILL Kingston University, UK.

¹⁰ See the video prepared by EMC: http://emc.org.ge/2014/03/12/saxelmwifosgan_daviwyebuli_usaxlkaaroebi/.

¹¹ World Health Organization Health Principles of Housing http://whqlibdoc.who.int/publications/1989/9241561270_eng.pdf

directly linked to parasitological diseases and the breeding of insects. These threats are more severe in those areas where there is no sewage system.

The sewage system is a problem in every facility studied within the research; however, the most difficult situation is in the building of the former Institute of Cardiology. The residents of this building claim that the blockage of pipes and wells by remnants is the cause of the sewage system failure. Due to this, fecal masses and water discharged into the pipes are going directly to the basement, which leads to the extreme pollution of the building. Fecal material and garbage are thrown out in the yard from the windows of the upper floor. In the situation, when the cleaning service does not perform its cleaning job in this area, this area represents a major source of environmental pollution not only for the residents of the building but also for those medical facilities located in the surrounding area. In the absence of a sewage system, residents use a couple of rooms on the upper floor of the building as toilets where the fecal masses are also piled. Families with younger children are living on that floor and in the neighboring room.

The sewage system is not functioning adequately in the school #68 building located on Atoneli Street. There is only one functioning toilet in the four-story building where a total of 32 families live, which obviously is not enough. Due to the emergency situation in the building, the current toilet is also being pulled down. When it rains the roof leaks due to the age of the roof and the drainage of rain water is not properly arranged, which is causing more damage to the already damaged building.

The sewage system is functioning satisfactorily in the medical center Dioscurias; however, there is still a risk of pollution and anti-sanitary conditions due to the fact that the water is blocked on the second floor of the building and ensuring relevant sanitation and hygiene is impossible due to the toilet water shortage.

2.1.4. PROBLEMS OF ELIMINATION OF WASTE AND SANITATION

Elimination of the waste in the light of health principles is connected to the prophylaxis of disease carrier insects and rodents. This factor also decreases the risk of the spread of diseases, leads to a safer environment for food storage, and protects people from toxic substances as well as from trauma emanating from the different types and composition of solid waste.

The most severe problem in terms of the elimination of waste among the studied facilities is in the building of the former Institute of Cardiology. Families entering these facilities managed to dispose of part of the construction and medical waste on their own. However, household as well as biological waste caused by the absence of a sewage system is constantly being piled in the basement of the building and its surrounding area. Despite the fact that the families living in the building are vulnerable ones and do not have the financial capabilities for large-scale clean-up, security standing on the first floor of the building opposed their initiative to dispose of garbage collected in the vicinity of the building and clean the sewage system. According to the explanation by the residents, this resistance

coming from the security was directed towards creating intolerable living conditions for them. As it was mentioned above, the gradual disposal of the garbage piled near the source of drinking water for the previous couple months was started only during the pre-election period.

Taking superficial preventive measures for the destruction of rodents and insects without neutralizing the pollution source (sewage waste in the basement and garbage around the building) is pointless, and that is why the population does not take these measures. Construction waste also represents a significant threat in the building of the former Institute of Cardiology, which increases the risk of accidents at night in the absence of light.

2.1.5. HYGIENE-RELATED STRUCTURAL PROBLEMS

Adequate living conditions means ensuring hygienic living conditions as well. Personal hygiene and the prevention of diseases are directly connected to the bath and washing sink in a house with relevant water supply and drainage systems. Due to the reasons described in the subsections on the sewage systems and drinking water conditions, these aforementioned conditions are not ensured in the studied facilities. Accordingly, due to the failure of hygienic conditions in the studied facilities, the risk of the spread of diseases is a serious problem in some buildings. Additionally, the hygiene-related problems of the persons living in these studied facilities lead to their marginalization in society, which is especially traumatic.

2.1.6. PROBLEMS RELATED TO FOOD SECURITY

The standards of safe food preparation and conditions of its safe storage are not ensured in any of these studied facilities. The World Health Organization names nutrition as the most significant determinant of human health and specifically identifies the conditions for food preparation¹². Food safety risks are particularly acute in those facilities where the water supply system does not function and the problems related to drinking water pollution and the lack of its use exist. For instance, similar problems exist in the building of the Institute of Cardiology and at medical center Dioscurias. Due to the fact that there is only one functioning toilet in the building of school #68, residents are forced to do their dishes in the toilet tap. Due to the lack of electricity and relevant technology, food is not stored at the proper temperature and therefore its usefulness is constantly under threat.

2.1.7. STRUCTURAL FLAWS OF THE STUDIED FACILITIES

Structural flaws of the building are significant factors in the spread of disease. For instance, in those rooms where there is not enough space or sanitary conditions, a sick person cannot be separated

¹² World Health Organization Health Principles of Housing 1.6 Safe food preparation.

from a healthy person. In those places where it is impossible to lock the doors, residents live under the constant risk of external threats, rodents, and other parasites. For example, a case of a rat attack on a human was revealed in the former building of the Institute of Cardiology (see the Chapter 2.2.4.). Improper ventilation or heat accumulation problems due to the violation of the adequate structure of rooms are also important risk factors.

Structural characteristics might lead to psycho-social problems as well. For instance, there is the problem of the isolation of the rooms in a former orphanage building in Kojori where evicted vulnerable homeless families from school #142 were accommodated. Due to the absence of a dividing wall between the rooms, the daily life of two families includes the elements of intervention in the right to privacy, in addition to the violation of right to adequate housing. Structural deficiencies also apply to unsafe access to recreational and leisure spaces and a lack of exit to the street. This can be a threat of children's home closure and an isolation threat for the elderly and disabled persons. The building of the former Institute of Cardiology serves as an example of these deficiencies: here one side of the staircase is not provided with a protected coating and the elevator compartment is completely open. Construction waste is placed on different floors of the building and a large part of the ceiling in the corridors of the lower floors of the building is pulled down. Due to the structural deficiencies of the building, parents are forced to lock their children at home. Due to the polluted street, children are unable to play outside.

The only means of heat in the winter is a wood stove whose smoke (under the conditions of improper ventilation) affects the indoor air quality of the room and poses a serious threat to people with asthma and other respiratory diseases.

Lia Latsabidze, a resident of the building of school #68 situated on Atoneli Street, lives on the first floor in a room without a window, which does not allow for a wood stove in the winter. None of the studied facilities have wood supplies. As the examined families indicate, the provision of wood by the local government is restricted due to the lack of wood and they are forced to burn various objects and sawdust in order to ensure heating.

The facilities also encounter the problem of electricity supply and meters. After the installation of meters in the building of the former Institute of cardiology, an agreement could not be reached between the residents and Telasi, since Telasi requested permission from the Ministry of Health, Labour and Social Affairs.

2.1.8. BUILDING SUSTAINABILITY-RELATED PROBLEMS

Up to seventy families live in the building of the former Institute of Cardiology located at Gudamakari Street N2 in Tbilisi. The situation is structurally stable at first glance but as local residents say, there is water in the basement of the building which may put the sustainability of the building at serious risk. The ceiling has collapsed on the lower floors of the building and great metal details are

pulled down, which is also a serious threat to local residents-- especially when children are constantly playing in the corridors-- and these details are at high risk of collapse. In fact, some sections of the staircase on some floors are open to the outer façade of the building as well as in the direction of the open slot of the elevator. Thirty-one families live in the former building of school #68 located at Atoneli street #27. The building is in poor condition. The walls of the building are cracked and periodically falling down. A toilet on the second floor of the building, from which two children were coming out of collapsed at the beginning of January 2014, and it was only by accident that the children survived the collapse.

2.1.9. INTERNAL INFRASTRUCTURE OF THE BUILDINGS

While occupying buildings the distribution of rooms and living spaces among families took place according to the principle of agreement, first come – first serve, and conflicts did not occur in that regard. However, there were families who did not get rooms and who were forced to arrange accommodation in the corridor or the basement. For instance, Maia Nijaradze's family of three lives in the territory of a corridor in the building of school #68. They partitioned off a stone floor with gypsum cardboard which makes it impossible to retain heat in the winter. The family of Tsiuri Qavtaradze was forced to live in the former morgue room of the Institute of Cardiology for several months. Natia's (35 years old) family of six was provided with a 15-square-metre room. Due to this fact, Natia's old mother-in-law has to sleep on a mattress in the room next door, which has been arranged as a chapel.

The problems with furniture and room amenities are revealed in these three facilities. The malfunction of windows is the most significant problem in the building of the former Institute of Cardiology. Families residing in these buildings annul the windows with wood and a thick blanket or cover it with cellophane. The loss of function of the windows is associated with heavy winter freezing, anti-sanitary conditions in the yard in summer, and with the spread of parasites and insects.

Part of the furniture was brought to the studied facilities by the families themselves while the rest of it was already at the site. However, bringing furniture to the facilities became a significant cause of conflict and in most cases the security of the building did not allow the possibility. For instance, Olia (who lives in medical centre Dioscurias) recalls that she was forced to leave a large part of her furniture outside prior to entering the building of the polyclinic, since the doctors and security police staff did not allow them to bring in the furniture, and after that the furniture has become unfit. Due to the lack of furniture, the families are forced to alter old school or medical furniture or use furniture brought from the landfill. A single mom with four children residing in the building of school #68 located on Atoneli Street said the following: "[...] I found a bed and a mattress at the landfill and I brought it." Nino (who lives at the same facility) recalled that due to the lack of furniture they are forced to sleep on top of cabinets.

2.1.10. INABILITY TO IMPROVE LIVING CONDITIONS

In addition to the aforementioned conditions and problems, the vulnerable people residing in the buildings of the cardiology clinic and the medical centre Dioscurias constantly encounter resistance from the security staff of the buildings during their attempts to improve their living conditions. For instance, Natia (35 years old) recalls that their initiatives to clean the sewage system, remove construction waste and install electricity were restricted by the owners of the building and the security staff of the Institute of Cardiology. By the time the research was being conducted the building was the property of Infectious Disease Hospital.

The medical centre Dioscurias dealing with the same problem, although here the staff of criminal police is in place instead of security police. Medical personnel are also controlling and imposing restrictions on the residents. Under these conditions, the administration of the building terminated the provision of drinking water and electricity to vulnerable families living of the second floor of the medical centre for several months, and those families were forced to carry water from 700 meters away. The residents arbitrarily opened the pipes of drinking water in the month of May and installed electricity in the building through the extension cords.

2.2. CORRELATION BETWEEN HOMELESSNESS AND THE REALIZATION OF THE PROTECTION OF THE RIGHT TO HEALTH

2.2.1. RELEVANT INTERNATIONAL STANDARD

The right to health is guaranteed by Article 12 of the International Covenant on Economic, Social and Cultural Rights, according to which the states recognize every individual's right to the highest attainable standards of physical and mental health. The right to health is closely linked to the realization of other social rights, as well as to the rights to food, accommodation, education, dignity, and the prohibition of discrimination. The influence of homelessness on the right to health (mental as well as physical) is more large-scale compared to other rights. Adequate housing itself implies specific components which are vital for the realization of the right to health. Every beneficiary who has the right to adequate housing should have appropriate access to natural and public utility resources such as safe drinking water, energy for cooking, heating and light, sanitary and showering facilities, food storage and garbage disposal conditions, drainage systems and emergency services.

Adequate housing should protect individuals from cold, damp, heat, rain, wind and other threats to health as well as from the spread of diseases and communicable diseases. The Committee on Human Rights urges states to adopt the principles of healthy living conditions developed by the World Health Organization, according to which housing is an important environmental factor that is most often associated with epidemic analysis as a condition for the spread of diseases as well as a related factor to mortality and morbidity indicators. Placing housing at or near a contaminated site

is also considered a violation of the right to health, which may have a negative effect on the health conditions of residents.

2.2.2. GENERAL DESCRIPTION OF HEALTH PROBLEMS

Out of 40 families interviewed, 51 members are children, 11 persons are older than 50, and three people have reached the age of retirement. Among respondents, 14 people have been granted the status of a person with disability and 6 of these people are children. It should be noted that in some cases respondents noted the obstacles created for granting the status of a person with disability. Due to these obstacles they were not able to acquire the status and appropriate social services. Among respondents 25 people are suffering from chronic or severe illness (goiter, cardiac diseases, kidney and liver damage, chronic bronchitis, nervous diseases, gynecological problems, psoriasis) and 3 people are suffering from severe health problems such as seizures, severe head pains, and memory impairment. Despite their current insurance, these persons cannot afford a proper diagnosis and treatment due to their difficult social and economic situation.

2.2.3. GAPS IN THE HEALTH SYSTEM AS A CAUSE OF HOMELESSNESS

Problems related to the access to health care system are significant factors among the causes of poverty and homelessness. Gaps in the health system as well as problem related to access to health care services, and only partial funding from the state of severe and urgent cases caused the condition when families were forced to cover expensive treatment by selling their houses or mortgage. Among respondents seven families (17%) stated that gaps in the health care system are the main cause of their homelessness since they made a decision to sell the house or mortgage in order to save the life of a family member.

2.2.4. IMPACT OF HOUSING CONDITIONS ON HEALTH

Homelessness and related conditions have a serious impact on the health conditions of people. Some families were forced to live in the streets. For instance, criminal police staff guarding the building did not allow a 65-year-old man residing in the medical centre Dioscuriasto enter the building to live with his family. Due to this reason he had to live on the street during this time, which led to the complication of tuberculosis.

Inadequate living conditions have a significant impact on treatment and rehabilitation. Freezing cold in winter conditions and summer heat are important contributing factors to the lack of sanitation. Due to the difficult conditions in the facilities children get cold quite often in winter and in the case of illness they are unable to get timely and appropriate rehabilitation. For example, a mother of several children residing in the building of former school N68 located on Atoneli Street stated

that her young children have bronchial diseases and their tonsils were infected due to the fact that their situation gets worse in winter and they are unable to recover completely. A mother of a 7-year old girl who lives in the building of the former Institute of Cardiology links her daughter's bronchial asthma disease to their severe living conditions. According to parents due to frequent cold and ill-treatment conditions several children living in the same building have developed streptococcus. Residents of the medical centre Dioscurias indicate that cold is a significant contributing factor to their health problems. Persons residing in the building of the polyclinic recalled that on the day that they moved to the medical center with their children, it was -8 Celsius there. The administration of the Centre locked the door from the outside and did not allow them to bring fuel facilities, water and food inside for several days. According to the family, inadequate living conditions and stress caused colds in children and their subsequent emotional disorder.

The risk of unsanitary conditions in the summer in the building of the former Institute of cardiology is caused by sewer pipes leading to the basement and garbage around the building. The drinking water system does not function in the building and ensuring hygiene in summer is becoming harder. Rodents are an additional threat to the building. Tsiuri Qavtaradze, who died from gangrene, recalled that during the period when she lived in the basement of the building (in a former morgue room) a rat bit her and as a result of it her already difficult health conditions deteriorated.

Despite the fact that some of these people are being treated for their severe health conditions, due to the difficult housing conditions, their rehabilitation becomes impossible, as they endure physical labor. Among the factors for complications and hindering rehabilitation is water problem, people often have to carry water from a distance. Lack of electricity gravely damages their emotional and psychological state, especially among children who have to do their homework at the candlelight. All three sites have these problems. Electricity supply was restored in school N68 only few months ago. Ac meters was installed but due t economic hardship, resident families often are unable to pay and face the risk of staying without electricity

2.2.5. HOMELESSNESS AS A HEALTH FACTOR CAUSING PSYCHOLOGICAL STRESS

An important factor of health which also derives from homelessness is nervous stress, which is caused by the psychological trauma and fear arising from forced eviction and other threats. The majority of people residing in the researched facilities suffer from severe neurosis, heart diseases, and arrhythmia. Diseases of alcoholism are common in light of the social hardships faced by the residents, which has a chain reaction on the emotional and nervous conditions of family members, especially children. Almost all of the parents note the need for psychological help for their children. They link severe nervous disorders, which cause a range of other diseases, related dynamics to the fear of forced eviction, traumatic memories experienced in the past due to homelessness, and psychological stress caused by inadequate living conditions.

On 29 June 2013, when vulnerable homeless families were evicted from the building of former school #13, the persons left on the street (that group who were not provided with alternative accommodation from the state) were driven around to various possible housing areas for several days by truck drivers hired by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia for the purpose of their accommodation. Eventually these people were left on the street at Didube Station with their luggage. The process of eviction had a severe impact on the children. Parents recalled that children fell into hysteria and it was hard to calm them. Until the police were driving them in trucks in the city to search for housing, an ambulance vehicle was in fact following them.

After the evicted families occupied the second floor of the medical centre Dioscurias, the chief doctor of the polyclinic initiated the deployment of criminal police in the entrance door of the facility. The police permanently impose restrictions on the residents of the facility in terms of their movement and therefore contribute to their additional marginalization and stress. It should be noted that during research, when the EMC staff tried to enter the building, the police staff did not allow them inside until their personal information was verified and the issue was agreed upon with the higher authorities.

2.2.6. HOUSING SECURITY FACTOR AS A HEALTH FACTOR

The emergency situation in the building poses a threat to the residents, especially small children. The railings on the stairs are often outdated in the entrances of the Institute of cardiology and the elevator shaft at the entrance of the building is open. The building of former school N68 located on Atoneli Street is in poor condition: the walls are cracked and parts of the construction of the building occasionally fall down. These factors have led to severe cases which could have been followed by the deprivation of life and serious health injuries. For example, a mother living in the Institute of cardiology stated that her child experienced brain trauma after falling in the staircase cut from the 12th floor of the neurology clinic (the neighboring building to the Institute of cardiology). After the incident, the nervous system of the child was seriously damaged and his/her eyesight worsened. The child became easily excitable and maintaining a stable health condition is only attainable through medical treatment. As for the building of former school N68, residents said that a child only by chance escaped an accident when he/she was coming out of the bathroom which collapsed.

2.2.7. PROBLEMS RELATED TO AWARENESS ON AVAILABLE MEDICAL BENEFITS SERVICES

Vulnerable homeless families rely on the universal health care system covered by the state. Considering the severe living conditions of these families which have a permanent and constant negative impact on their health, their medical needs are intense and long-term. The majority of families under research are not aware of the type of current healthcare and medical services available to them provided by insurance. The majority of vulnerable families are not informed about the insurance

packages which they use and accordingly they do not know what kind of services they can acquire for free. Usually they find this kind of information at medical facilities, once their diseases have worsened. The majority of the families suffer from certain diseases and health problems; however, when a researcher asked them whether they have insurance or not, most of them reply that they are not insured. This implies that they are not aware of the universal health care program and the insurance package for vulnerable people¹³.

2.2.8. FAILURE OF TIMELY AND PROPER DIAGNOSES¹⁴

Homeless vulnerable persons frequently neither respond to their health problems nor apply preventive diagnoses, which can be explained by their difficult economic and social conditions and the fact that ensuring daily accommodation and food is more of a priority for them. When they address medical facilities for consultation and diagnosis, significant procedures are almost always expensive or the share of co-financing is high so that the treatment process is not attainable by them. For instance, 33-year-old Inga residing in the medical center Dioscurias recalled that due to health conditions, she permanently needs to control the level of creatinine in blood in order to prevent the dialysis procedure. Due to the fact that insurance does not cover this service completely, she is forced to take a debt with percent in order to get the analysis.

Consultation with a doctor is mostly free of charge under the framework of universal healthcare; however, persons residing in the facilities researched note that they must pay for specific procedures using medical devices. The majority of the families provide this reason to explain the infrequency of their referrals to a doctor. As a result of the research it turned out that among the respondents six families have children with disabilities, four families have children with chronic diseases, and every single family under the research is dealing with the issue of nervous disorders in children. Due to the fact that the insurance does not cover expensive forms of diagnosis, in most cases parents are not aware of the real conditions of the illnesses of their children and their causes. Nana Kipshidze, who lives in the building of former school #68, said that her child has been suffering from severe headaches since the age of eight. Due to the fact that the insurance only covers emergency operations, a neurologist prescribed treatment without a diagnosis. The child continued to have severe headaches. Tomography of the head was covered by the City Hall only in 2013. Surgery was available as a result of state funding; however, the adult still needs to receive medical treatment and therapy. The child still suffers from nervous disorder and that is why the neurologist advised parents to consult a psychiatrist.

In addition to this, in some cases it is difficult to grant children the status of disabled persons.

¹³ Despite the existence of the state subprogram for the early development of children, families participating in the research were not aware of the services provided by the program. These kinds of children revealed within the framework of the research were connected to the NGO First Step Georgia which engaged these beneficiary children in the aforementioned program.

¹⁴ Note: -2.2.8-2.2.10 Information presented in the subsections is based on the empirical data as a result of interviewing the families and it does not present the evaluation result of state medical programs.

2.2.9. THE PROBLEM OF PROVIDING MEDICINES AND INPATIENT TREATMENT

The results of the survey indicate that the vulnerable families are forced to purchase medicines with their own funds under the framework of current insurance program and in most cases they are not informed about the availability of medication vouchers. This problem is especially significant for those people who constantly need medical treatment and proper treatment is vital for them in most cases.

For instance, Tsiuri Qavtaradze's daughter said that her mother, who lived in the building of the former Institute of cardiology, was unable to get proper medical and inpatient treatment since this was not covered by the insurance package. This aggravated the health conditions of Tsiuri Qavtaradze to the extent that it became impossible to save her life.

The same problems are encountered by those families who have children with epilepsy and who are in constant need of medical treatment. The lack of this treatment causes the worsening of their health conditions. Families, whose members suffer from chronic diseases and constantly need medicines, are forced to spend the majority of the social assistance provided by the state on medicines, which is reflected in their lack of food and other primary needs.

The difficult social and economic conditions of these families have an impact on the physical health of children, which leads to the lack of access to medical services and medicines. Families are unable to afford the treatment for even light forms of a cold or they are forced to cure themselves with cheap/ineffective medicines. A woman living in the building of the Institute of cardiology said that *she is forced to provide her children with ineffective medicine that costs 20 Tetris due to which the recovery process has not progressed* and this has escalated into a chronic form of the disease.

Problems related to the access to proper medical supervision, consultation and medical treatment during pregnancy are also noteworthy. This causes unplanned pregnancy and damage to health. A woman living in the building of former school #68 recalled: "We are provided with medical service but it does not cover medicines. Operations are also financed partially. I am pregnant, I visited the doctor; however, I was unable to purchase medicines with my own finances. Since the first baby every pregnancy was unplanned. I used to find out about pregnancy later and I had to deliver babies. In this case I was 12 weeks pregnant when I found out about it, I had a free consultation with the doctor; however, I could not purchase whatever medicines the doctor prescribed for me."

2.2.10. PROBLEMS RELATED TO THE INEFFICIENCY OF MEDICAL SERVICE AND FACILITIES

Analysis of the protection of the right to health of the families interviewed reveals that the effectiveness and range of the services and treatments offered by the state insurance program are also important issues. The state insurance does not offer freedom to individuals to select doctors and specialists on their own; therefore they are forced to use private clinics in order to get quality medi-

cal care. Insurance does not apply in these kinds of clinics. Due to the fact that vulnerable homeless families do not have enough funds, they are unable to complete all procedures and receive complete treatment.

The psychological care for children in the special centers for epilepsy is mostly expensive and the families interviewed are unable to afford it. According to the evaluation by families interviewed, the neurologist provided by the insurance is available in polyclinics and usually he/she is not qualified. Accordingly, the treatment process of patients with epilepsy is difficult.

The lack of reproductive health care and post-natal assistance in most cases leads to problems with child development and acquired nervous diseases. Pregnant women are unable to get proper treatment in compliance with the prescription due to the lack of funds. In addition, unplanned pregnancies lead to radical changes in their plans. As the results of the survey show, it is hard to rent an apartment for a single mother with several children due to the fact that landlords often refuse to rent out apartments to them because of their status.

2.3. THE IMPACT OF HOMELESSNESS ON THE REALIZATION OF THE RIGHT TO EDUCATION

The negative impacts and results of homelessness is mostly reflected in the realization of the right to education. Due to hard economic conditions parents in vulnerable homeless families are occupied with the search for accommodation and food, thus despite the fact that they are aware of the problems related to their children's education and development, they are unable to allocate the proper time and resources to these problems, and accordingly they are unable to act effectively for the development of their children. The survey revealed the damaging effects of homelessness on the development of school-age children.

2.3.1. THE PROBLEM OF ACCESS TO EDUCATION DUE TO FREQUENT CHANGE OF RESIDENCE

Access to school is one of the significant problems faced by children of vulnerable homeless families in their daily lives. They encounter a problem of access to school. Children from homeless families went to schools near their houses prior to having been left on the streets. After these families were forced to leave their primary accommodation, due to the lack of permanent accommodation and to their living on the streets, they were unable to make a decision about changing schools. Homeless families are often forced to change their residences. They often face the problem of enrolling in a new school due to the lack of available spots in the school.

Children residing in the medical centre Dioscuriasgo to the school located in the Nadzaladevi district from the Koniaki settlement. Children residing in the building of the former Institute of cardiology and the former building of school N68 face the same problems. A pregnant mother with several

children, who lives in the former building of school N68, recalled that she was forced to take her older child to school N132 located in Vazisubani due to the fact that she could not leave her little kids at home. Because of this her child was always late for school and she/he could not attend to the study process properly. Parents explain that the purpose of leaving children in their old schools is to create a stable school environment and the daily intake of an additional load is more acceptable for them than the constant change of schools.

A third-grade girl from a vulnerable family evicted from school N142, who moved to Tbilisi with her single mom to live with her grandmother after the death of her father, could not register in nearby schools because they were over-packed and she is waiting for next year's registration.

A single mom living in the building of the former Institute of Cardiology said that her child changed schools five times, which had a negative impact on her child's nervous and emotional conditions. The mother elaborated that it is impossible for the child to concentrate on studying due to their difficult living conditions and the constant changing of schools.

2.3.2. PSYCHOLOGICAL AND HEALTH CONDITIONS AS FACTORS OF THE RIGHT TO EDUCATION

The majority of children suffer from health problems, they are not adequately fed, and quite often their health conditions are not controlled by preventative measures until the situation gets worse. Even when they consult a doctor, they cannot ensure the treatment prescribed by the doctor and the appropriate medical regime. Therefore academic performance and regular attendance at school become the main problems for these children.

A twelve-year-old child with epilepsy residing in the building of the former Institute of cardiology has not attended school since the second grade, due to the doctor's assessment that the child has limited development opportunities. The child is not engaged in an alternative education process. The child's parent is afraid that in the case of a possible disease attack on the child at school, there will be no adequate response to the child's condition which is vital for the child. The education process of three children with epilepsy residing in the same facility is also difficult. Their emotional stability and calm is significantly damaged. Due to the difficult and unsafe living conditions as well as the dirty yard, they are unable to go outside and communicate with others, which cause their isolation and separation. It is obvious that these conditions have a negative impact on the process of their rehabilitation and social integration. Financial instability is also added to these circumstances. For the purpose of saving the lives of children, providing them with medicine is a bigger priority for parents than their education. According to the parents, the Ministry of Education did not respond to their request to create a special program adapted to students who are lagging behind in terms of the study program. Additionally, psychological assistance for children with epilepsy in the special centers of epilepsy is expensive and this kind of service is not affordable for these families.

A six-year-old child residing in the building of the cardiology clinic is suffering from autism. The child was not accepted at kindergarten and the parents did not try to register him/her at school. It should be noted that the parents do not have information about the state services for their children and the possibility of using the relevant services. The passivity of parents should be explained by their homelessness and poverty, since difficult economic condition and stress cause their weakening and self-victimization.

2.3.3. SOCIAL BARRIERS FACED BY HOMELESS CHILDREN WHILE RECEIVING EDUCATION

The fear of marginalization and isolation also causes the discontinuation of the education process for children from vulnerable homeless families. At school, children feel that they are distinguished as homeless by their lack of school materials, inability to invite friends home, unfixed clothes, and hygiene related problems. A resident of the building of the former Institute of cardiology stated the following: "Wherever I said that I live here, they look at me differently. It is visible that we are vulnerable, not clean and hygienic." A single mom residing in the same building said the following: "When I use the transportation with my child, I feel that clothes smell of smoke."

Marginalization directed towards the parents is also reflected on children. A mother of several children residing in the building of former school N68 on Atoneli Street said the following: "People are looking down on me. I am embarrassed of myself that I depend on somebody else. A teacher at school told me: 'If you are suffering, why do you deliver a baby?' Do you think I want this to happen? When I was pregnant with the previous child, I did not have GEL 40 for ultrasonography, I got a cleaning job in order earn this amount. The same teacher told me: If you do not have good conditions, why do not you occupy a house with good conditions?"

Residents of the former Institute of Cardiology recall the case of conflict with representatives from the Ministry of Labour, Health and Social Affairs. According to the residents, they feel that the Ministry staff is making fun of them by being cynical, which represents a form of psychological violence. "They are constantly repressing us and threatening us that they will kick us out. Children are scared when a stranger comes here, because they think the stranger has come to kick us out from here. We constantly live under this threat," said Ia.

2.3.4. TOUGH ECONOMIC CONDITIONS AS A BARRIER TO THE ACCESS TO EDUCATION

According to parents, the majority of children are lagging behind in terms of their study program due to their health and living conditions, and they are in need of additional preparation and assistance to catch up with the school program. In public schools children usually get into the classes and study programs adapted to those students who do not face the same challenges and programs as homeless children. Children often exhibit problems of behavior deviation (aggression, insularity, alienation, loss of interest in learning process) which is caused by their placement in the wrong class/study program, and which eventually leads to their isolation. It is obvious that solving this

forementioned program should not happen in a way that causes the further isolation and segregation of vulnerable homeless students. Quite the opposite, for the purpose of better integration of these children with their peers and of proper involvement in the study process, the school system should show more effort in terms of offering additional lessons through an adapted program.

Parents see the need for additional tutors, however, due to financial problems they cannot afford to take their kids to different groups. Those of them who decided to enroll in university are able to prepare themselves in only one class due to financial restrictions. Those of them who already entered university are constantly facing the problem of paying the tuition fee and in most cases they are forced to give up studying. The issue of getting an education and acquiring a profession is very sensitive for parents since they see this as the only possible way to get their children out of their difficult social conditions. According to the parents, getting a proper education and a job is a source of hope for them so that their children will not share the same fate as their parents.

Despite the fact that children get the majority of their school books for free, the majority of vulnerable families cannot afford stationery and expensive books.

Living conditions have a significant impact on academic performance and the quality of education. The majority of children are unable to prepare for classes at home since they are forced to complete their assignments by candlelight. According to parents, this situation also affects the quality of eyesight and the nervous systems of children.

Some vulnerable homeless families bring food from the dining hall, however, getting on the list is a problem and sometimes families have to wait for months in order to get on the list for free food. Children are often unable to eat this food, and feeding them constitutes a problem for every family regardless of whether they get assistance for vulnerable families. For instance, Tsiuri Qavtarade, from the former clinic of cardiology, said the following: "Grandchild goes to school and studies well, however, he/she does not have proper conditions and food." In addition, there were families who could not register in the database of vulnerable families after the legislative amendments of 17 May 2013 and accordingly they were unable to get a registration at free dining halls.

Parents noted in the explanations reported within the research that systematic school attendance is not a solution for homeless children due to the fact that getting an education without a stable and safe house is extremely difficult.

2.4. THE RIGHT TO SOCIAL SECURITY

2.4.1. REVIEW OF RELEVANT INTERNATIONAL STANDARDS

According to article 9 of the International Covenant on Economic, Social and Cultural Rights, the state is obliged to provide minimal social security to those who cannot provide for themselves. The

social security system must protect a person from important social risks and unforeseen damage. Article 9 also includes the right to social security. It doesn't specify what kind of social security should be ensured by the state, but according to the notion of social security, it means covering all risks of the absence of minimal income.

The Universal Declaration of Human Rights recognizes the right to social security as a human right. Article 22 states that everyone, as a member of society, has the right to social security. Article 25 of the Declaration states that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and the necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or lack of other livelihood in circumstances beyond his control. The right to social insurance is also included in various international agreements and regional human rights protection agreements.¹⁵

The right to social security is important for ensuring human dignity and for protecting everyone who has no chance of realizing human rights as defined in the Convention. Social security includes access to financial or other benefits without any kind of discrimination. Social security, due to its distributional nature, plays an important role in diminishing and eliminating poverty, with the additional goals of ensuring the prevention of social isolation and of supporting social inclusion. The measures and benefits of social security cannot be defined precisely and comprehensively, but they must guarantee the minimal provision of all of the above enumerated rights. Systems of social security can be classified according to contributory or non-contributory schemes. Contributory schemes include compulsory payments from beneficiaries, employees and, in some cases, from the state. A non-contributory scheme is universal; it provides important benefits for everyone who faces significant risks. Targeted support schemes are also a part of this system, where benefits are for those who have special needs. Non-contributory schemes become necessary when it becomes clear that not everyone can be supported by a contributory system. Regardless of which model is chosen for implementation by the state, the Committee on Economic, Social and Cultural Rights emphasizes its obligations to adjust the system to the essential elements of the social protection that should make sure that social protection is guaranteed.

While the elements of social protection may vary and may be dependent on certain conditions and possibilities, the Covenant identifies general factors, which must be ensured regardless of the system. Considering social risks (healthcare, unemployment, elderly age, support for a child and a family, protecting persons with disabilities etc); adequate system of social assistance and access to the system and the benefits.¹⁶ These factors must be provided despite the system. At the same time, the Committee on Economic, Social and Cultural Rights emphasizes that social security must be defined as public good and not just as an instrument of economic or financial policy. A social security system

¹⁵ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), article 5 (e) (iv); Convention on the Elimination of All Forms of Discrimination against Women, articles 11, para. 1 (e) and 14, para.2 (c); and Convention on the Rights of the Child, article 26.

¹⁶ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS Thirty-ninth session 5-23 November 2007 GENERAL COMMENT NO. 19/E/C.12/GC/19 4 February 2008 The right to social security (art. 9).

must fully cover social risk factors and the spheres that cause them. Such factors include healthcare, age, problems with employment and working conditions, family and child, orphanage and the loss of bread-winner and disabilities.

2.4.2. RISK FACTORS IDENTIFIED IN THE SOCIAL SECURITY SYSTEM

In the General Comment N19 of the Committee on Economic, Social and Cultural Rights it is stated that family benefits should include providing expenses for food, clothing, living space, water, and sanitary needs as social support without any discrimination. Also, the Committee states that a social security system must cover everyone included the most vulnerable and marginalized groups, which in the first place means creating a non-contributory social protection system.

2.4.3. EXCLUDING HOMELESSNESS AS A CRITERION FOR SOCIAL VULNERABILITY

Most of the families who forcefully entered State-owned properties say that they had no home and no means to pay for rent. However, the current social security system doesn't include the risk of losing a home/homelessness as a criterion for social vulnerability and in assessing its economic situation. Inga, who lives in medical center Dioscurias, says that her family of four is paid 240 Gel as social assistance. The family also receives an additional 100 Gel, as her husband has the status of a person with disabilities. Minimal rent minus public utilities is 200 Gel, which makes it impossible for this family to afford a home. This is especially the case because Inga herself has serious health issues and needs regular medical procedures not covered by insurance. In these conditions the family struggles for survival and often accumulates debt at the food store.

46 year-old Esma, who lives in the building of the former Institute of Cardiology, says that together with her 17 year-old pregnant daughter, she gets monthly social allowance of 81 GEL, and she has taken three months amount in advance. As a result, it is impossible for her to afford rent and she uses the social allowance amount for basic, urgent expenses.

The frequent cases of consumer loans secured with social allowances are due to the insufficient amount paid as social allowance; in most cases, loans are used to cover basic needs. The only bank that provides loans secured with social allowance is Liberty Bank. The name of the product is "social advance"; interest per annum is pretty high and constitutes 36%. For the moment the maximum term for the loan is three months and it is covered by cutting 100% of the social allowance. As a result, the borrower has no income for the next three months. This condition is especially unfair as it leaves socially insecure families without minimal income. Socially vulnerable families are often forced to use this product, which becomes a heavy burden for them and for the following few months they struggle to meet basic needs.

For example, Tsiuri Qavtaradze, who lives in the building of the former Institute of Cardiology, needed expensive medications due to her poor health and the medications were not covered

by insurance; as a result, she was forced to get a loan. She explained that for the next few months she was not getting anything from her 108 GEL allowance as the whole amount was used to cover the debt.

2.4.4. INSUFFICIENCY OF SOCIAL SECURITY SYSTEM IN TERMS OF HELPING WITH EMPLOYMENT

In the social security model based on employment factor, those who are employed are excluded from the list of beneficiaries receiving social allowance. The current social security system is not adapted to include cases where a person is employed but his salary is too low to meet his basic needs. Among such types of employment are short-term jobs, half-time jobs etc. The income from such jobs is not equal to the salary of those who work full time but those who work such jobs are still excluded from social allowances or any benefits from the state.

Ia, from the former Institute of Cardiology, says that she sometimes cleans the houses of the people she knows and gets 50 GEL a month. Because of that her family got an inadequately high score and was excluded from the social allowance. Lia, from former building of the N68 school, had the same problem; she once received 1500 Gel yearly honoraria to her bank account, and as a result she received a high score and her social assistance was stopped.

Employment is also an important barrier in the fight against poverty. People are concerned that they may lose social assistance so they stop looking for even a temporary employment, and as a result they are less competitive than others because they have no experience, and their self-esteem becomes lower. There are people who for years have been searching for stable and high-paid jobs that will be worth losing social assistance and this of course decreases their chance for employment.

A pregnant mother of many children from former school building N68 tells us: "I am not employed. In 2011-2012 I was a private tutor of German language. I have a diploma too. I can no longer teach children, I no longer have the nerve for it. I've been treated but my nervous state didn't improve. How it can get better when I have studied so much but I depend on someone else? (she cries). I am ready to take any kind of job, I will be a cleaning lady but it must be worth losing social assistance and I must have the chance to leave the kids with someone." Nana, who lives in the same building, says: "I have high education. I can take any job. We do not get any support in this. The law is inadequate. If I start working, I will lose social assistance."

32 year- old Nino from the former Institute of Cardiology says that she can work and is ready to work and acquire a new profession. But as long as she is concerned, if her income is more than 200 Gel, she will lose her social assistance and that's risky.

As a result, homeless socially vulnerable families depend on the state benefits for life.

2.4.5. UNFAIRNESS OF QUALIFICATION CONDITIONS FOR RECEIVING SOCIAL ASSISTANCE

Qualification circumstances must be rational, proportional and transparent. Cancelling, reducing or limiting benefits must have a rational basis, which must be defined by the law in detail. At the same time, national legislation must include procedures for appeal after the decision of assessment is made.¹⁷

During research into the reasons for the cancellation social assistance, it was revealed that in most cases, socially vulnerable families didn't understand the scores and they seem disproportionate, or the reasons for the cancellation of the assistance were unclear.

Lia from the former Institute of Cardiology doubts the scores that her family received and thinks it was not objective. Her family had previously lived in a relative's house in Kharagauli and their score was 27000. Since she moved to the former Institute of Cardiology, where they live in tiny room in really bad conditions, the social agent increased their score to 59000, and consequently they lost assistance.

Ia Mkheidze, who lives in the same building, received a score of 94000, for some unclear reasons, after they had changed their address.

The procedures of appealing after the rating is very ineffective, says Maia Nijaradze from School building N68, who says that she received a score of 6300 and had no right to appeal for a year.

Bureaucratic procedures were also mentioned as a reason for the cancelling of social assistance. The period for reassessing vulnerable families and establishing new scores, which requires double-checking and processing of new information, often takes up to two months and automatically means that social assistance is stopped, so the family is left without minimal income.

2.4.6. CANCELLING REGISTRATION FOR THE SO-CALLED INTRUDER FAMILIES

The most serious gap in the current social security system is a legislative change made on May 17, 2013 to the state decree N126 of April 24, 2010, according to which, a request to be added to the database of socially vulnerable persons will not be considered if the applicant currently illegally inhabits a state-owned building. This amendment concerns those registered after June 1, 2013. This limitation is justified by the recent frequent cases of forceful occupation of state-owned properties and its prevention.

Based on the mentioned changes, seven families living in the former Institute of Cardiology were removed from the database of socially vulnerable persons and as a result they stopped receiving the minimum requirements for sustenance and other related social services. For example, the mother of

¹⁷ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS Thirty-ninth session 5-23 November 2007 GENERAL COMMENT NO. 19 The right to social security (art. 9)(24).

a three month-old child Tamar Tandashvili (33 years old) was left without minimal sustenance; she says that after she moved into the building of the institute, the social worker stopped visiting her as she occupied the building with force (i.e. was squatting). Tamar says that she often has no money to buy food for her daughter and is always looking for income together with her husband, who has lung disease and is unable to work manually. The mother of a three year-old girl, Inga Injgia is in similar position; she says that social assistance was her only income and after it was stopped, she and her daughter faced hunger.¹⁸

It must be noted that the cancellation of registration results in the loss of other social benefits (e.g. state voucher for feeding children, free canteen etc.), and these benefits are connected with the status of the socially vulnerable.

2.4.7. LACK OF INFORMATION FOR BENEFICIARIES

Beneficiaries must be informed about the services and benefits provided by the social protection system through transparent and comprehensible means. During the research, it was revealed that there are number of state-provided free services such as insulin program, the program of controlling keratin in blood etc., services that are provided by service NGOs and financed by the state, and that these services or benefits are tied to the status of the socially vulnerable. But homeless people, who need these services, are not informed of them.

For example, Irma Naremarshvili, living in clinic Dioscurias, had to borrow from a private person with high interest rate in order to have examination for keratin levels in the blood and other vitally important tests. She didn't know anything about the state-funded service. Ia Mkheidze, from the former Institute of Cardiology, says that despite the fact that she had addressed the Ministry of Labor, Healthcare and Social Protection few times because of her health conditions, she was never told about the insulin program and relevant services. Interviewers cited a lack of communication with the state as one of the major problems. They mention a number of letters that were not acted upon.

2.4.8. EMPLOYMENT ISSUES AND ITS CORRELATION WITH THE SYSTEMS OF SOCIAL ASSISTANCE AND HEALTHCARE

Most of the people participating in the survey are either not employed or have temporary jobs, thus if there is a health problem, compensation depends solely on the good will of an employer. It is important that the social security system doesn't include cases of temporary unemployment caused by short-term health problems; consequently there is no social assistance for cases like this.

¹⁸ See the video prepared by EMC: <http://www.youtube.com/watch?v=DmJHZ83Dnqk&feature=youtu.be&list=PL9DikjDdD2JHoA1DKJbRuqb41Asnqccva>.

As for the cases of long-term illness or disability, they become reasons for firing people who are left without the necessary care and compensation. For example, 30 year-old Lasha had worked at the Ministry of Defense and was fired after being diagnosed with polyneuropathy. After losing his job, he also lost his private insurance, which was vitally important for treating his disease, and he was forced to leave the military hospital. At this stage, his family with two children doesn't receive any kind of assistance from the state, including social assistance. Due to the lack of necessary treatment, his health deteriorated and it was difficult for him to find a new job.

Research indicates various connections between health and employment. Some of the participants had difficult working conditions and as a result their health deteriorated and they had to leave their jobs. Sometimes they had to work at jobs that worsened their health conditions, for example: a 67 year-old woman from school N68 had worked with paint for years and developed bronchitis, as a result her capacity for work had diminished.

Work has negative effect on the health of a father of three from the same building. He has a cyst in his head and he has to work at a height which, according to him, worsens his condition.

A 49 year-old woman from school N67 says that she sometimes conducts surveys and goes from door to door, but she has serious headaches, and this makes her work difficult and she gets very tired.

A 33 year-old woman from the medical center Dioscurias, who had kidney problems, says that she tried to find employment on many occasions (trade, shop assistant), but her health conditions prevent her from working.

Health issues are serious obstacle for employment. These people are less competitive on the employment market since they are more vulnerable to physical or mental hazards and to various diseases, or they stop looking for job. Social agents rarely take these conditions into account and usually give these people high scores. For example, 24 year-old Natia from the Cardiac institute says that she is unhappy with her current rating, as she and her husband received high scores because they were young, but the agent didn't consider their health conditions.

2.5. THE PROBLEM OF MARGINALIZATION OF SOCIALLY VULNERABLE HOMELESS FAMILIES

Both faces of marginalization – poverty and social isolation-- seem to be the form of material insult, but this process is also accompanied by psychosocial and ideological risks. Marginalization can be defined as the identification of characteristics of one group by another group, which results in isolation of this group, by putting it in non-privileged circumstances and limiting its access to public goods.¹⁹

¹⁹ MEGAN RAVENHILL THE CULTURE OF HOMELESSNESS Ashgate 2008 pg. 41.

Homelessness is one of the forms of isolation caused by poverty and it is a cumulative, rather than static.²⁰ Social isolation is associated with social disintegration because of economic factors rather than just poverty.

Marginalization means that a homeless person's situation is considered to be a result of individual responsibility and not the result of the current social and economic system.

Research demonstrates that homelessness causes people to lose social and economic protection. It is painful for these people to lose family members and friends; people also suffer from fear of secondary homelessness caused by eviction or for other reasons (e.g. not paying rent, mortgage, worsening of living conditions). Each of these cases means an extended period of homelessness, and as a result people feel frustrated and victimized. Due to the current social protection system, most socially vulnerable persons are unable to find employment and become totally dependent on the state, and this dependence gets even worse when they have no home. Due to difficult social and economic situation and a lack of employment and of chances for self-improvement, homeless people often have low self-esteem and often become feeble when they are marginalized and humiliated by society.

2.5.1.EVICTION AS A FACTOR FOR MARGINALIZATION

Eviction is a violation of the right to an adequate standards of living and right to private life and it results in the marginalization of homeless persons. The process often includes the use of force by the police and the procedures are inconsistent with international standards, which also encompass the right to an alternative living space. Eviction that results in leaving people without any kind of shelter is an inevitable violence. Eviction must be allowed by state only in extreme cases.²¹ Homeless families evicted from the former building of the school N13 say that the process was humiliating and insulting.

Families evicted from school N13 were forced to move in the building of the former medical center Dioscurias. During interviews they remembered the days when they were forced to leave the building. Maia Khukhunashvili and Rusudan Trapaidze say that police actions were sometimes violent and humiliating.

2.5.2. POSSIBLE CASES OF MARGINALIZATION OF HOMELESS PERSONS FROM STATE OFFICIALS

Marginalization of the families residing in State-owned buildings is caused by the State's attitude as it considers their actions illegal and places them outside the justice system. During the survey,

²⁰ Ibid.

²¹ BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT BASED EVICTIONS AND DISPLACEMENT Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living A/HRC/4/18 <http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx>.

an interview with the Head of Social Protection Department Gia Kakachia was recorded, in which he spoke about the state policies towards these families. He touched upon the issue of people who forcefully occupied some buildings and justified the cancellation of social assistance by saying that they had violated the law and that unlike law-abiding people who live in building entrances in cardboard, they violate the law by forcefully occupying the buildings.

Inhabitants of the former Institute of Cardiology say that the Head of Social Protection Department, Gia Kakachia, posed an ultimatum to certain families. According to him, if families did not leave the building, their social assistance and their medical support would be cancelled. As a result, some of the families left the building and now have very bad living conditions.

For example, one of those families now live in garage in Temqa district, and in the winter they have to paper the walls and ceiling with cardboard. The family has a child with disabilities and in order to not lose their income or the healthcare services that are necessary for him, they decided to leave the building. Ia and Iamze tell a similar story about a woman whose child was born with cerebral palsy and whose elderly parents had Parkinson's disease. In fear of losing the assistance, the family had to leave the building of the former Institute of Cardiology. Normally, homeless persons do not publicly mention cases of threat and pressure from the employees of the Ministry, since they are afraid of additional sanctions.

During the survey one of the interviewers said in a video interview that there was a verbal disagreement between the representatives of the Ministry and the inhabitants of the Institute; later these people were identified and removed from database of the socially vulnerable.²²

2.5.3. THE ALLEGED ILL-TREATMENT BY SECURITY GUARDS

The families now living in the building of the former Institute of Cardiology also spoke about the insulting and sometimes threatening behavior from building's security guards. They say that the behavior of the so-called Mglebi (wolves) was disturbing and that it was traumatic for their children. "There was violence from the private security guards, called Mglebi, they used to guard the building and they were very oppressive, tried to frighten us, complained about us and tried to put on psychological pressure; they wanted us to leave the building," says Nunu (68 years old).

"They brought security guards Mglebi. They treated us badly, they used to come and knock at our doors during the night, and our children are still scared. Most of them are sick, they often scream at night because of what they saw," – tells Esma (46).

The residents also face resistance on the part of the guards of the building in terms of improving living conditions. For example, one of the residents says that the guards do not allow the purging of the sewage well, which would provide minimal decent living conditions for the people in the build-

²² See video prepared by EMC at <http://www.youtube.com/watch?v=DmJHZ83Dnqk>

ing. One of the residents also said that the Head of the Social Welfare Department of the Ministry of Labor, Health and Social Welfare, was trying to intimidate residents. "He hired people to demolish parts of the walls; parts of the sewage system and electric wiring in order to create unbearable living conditions for the socially vulnerable population."

The absence of a sewerage system and, consequently, of toilet facilities affects residents' lives not only because of its medical and health threats, but it also significantly damages people's self-esteem and emotional states, and creates an additional factor that the state and the society use to marginalize them. It discourages people from staying in touch with friends and relatives. "I rarely see my relatives, I can't always visit them and I can't bring them here because of these circumstances, I do not know what to tell them if they need to use toilet. We have no conditions; this environment is insulting for a human being," says a 40-year-old woman residing in the building.

The medical center Dioscurias is protected by criminal police located in the entrance. For months, the socially vulnerable persons living in the building, were locked up inside at night while the building's alternative exit was also locked. Sometimes their movement was limited during the day as well, when a policeman or building guard would lock the door for hours, and it was only possible to leave the building after making an arrangement with them.

Inhabitants of the building remembered the case when journalists tried to talk to them and they were not allowed to leave the building or open the door, they were threatened that they would be forced to leave the building if they tried to talk to the journalists. They also say that the criminal police were brought to protect the building and to leave their family members on the street, a process initiated by the medical center personnel. Rusudan Trapaidze says that her husband (55 years old) has suffered because of that, as he has tuberculosis and had to spend a month on the street in the winter before he was allowed into the building.

Homeless families constantly face pressure and marginalization from either neighboring communities or from the employees of different organizations located in the same building. The situation is pretty tense in medical center Dioscurias, and the inhabitants say that for five months the personnel of the clinic and their Head Doctor didn't allow them to open water tubes and they had to carry water from 700 meters away. At the same time, they didn't manage to reach an agreement on installing a meter, and the families had to live without electricity and heating.

Every inhabitant talks about the cases of aggressive behavior and verbal insults from the personnel of the clinic: "the doctors are verbally abusive. They call us dirty and insult us," says Olia Patuashvili.

2.5.4. SELF-MARGINALIZATION AMONG HOMELESS PERSONS

Most of those interviewed lost relatives and friends because of their living conditions. Their low self-esteem is also caused by the lack of employment, which is the basis of status and recognition in society. Interviewees justify their radical actions by saying that they were trying to protect their children from being homeless, and they are especially sensitive when children are being marginalized for being poor and homeless. These people are victims of not being acknowledged by both the state and by society. The state doesn't recognize the status of people who forcefully entered the buildings and often considers them to be criminals. Society treats them as unwanted neighbors and they are often criticized. This attitude is caused by the fact that society blames homeless persons for their problems and thinks that their homelessness was caused by their own irresponsibility. In both cases, this stigma results in isolation. The quotes listed below illustrate the conditions and their self-reflection caused by society.

- "We cannot go anywhere because of all our problems. I do not have normal sanitary conditions so I stay in. We are messy. We lost friends." (Inga, 33.)
- "I have not seen many of my relatives for a long time. I lost touch with them. Sometimes my nieces come and bring me food. My situation is humiliating. My life was different, I worked and was not poor and now there are people who look down on me. My children are always fighting with me; they do not want me to appear anywhere as homeless including television" (Maia, 44.)
- "I feel very insecure, we are not very clean and the society sees us differently. They see us as beggars. I feel humiliated and devastated. My nervous system is damaged." (Ia, 40)
- "Whenever I mention I live here, people start looking differently. It is obvious that we are socially vulnerable. Our cloths are messy, unhygienic. I try to hide my hands, I am ashamed." (Maia, 44.)
- « I try not to show the conditions I live in, but I can't follow simple hygiene rules. When I'm in public transport, I can feel the smell of smoke on my cloths. » (Natia, 24)
- « Of course, since I have no home people see me as incomplete and unsuccessful. » (Lia, 49.)
- « No one wants to hire people in my condition (I can't afford visit to dentist). Society is looking down on me. I am ashamed of myself for being dependent on others. » (Mariam, 36.)
- "I do not tell others that I entered this building by force and that I take food from a canteen. I didn't study to find myself in this situation. I'm suffering but I can't say that anyone makes me feel different and that anyone has offended me" (Nana, 37.)

2.6. CASES OF VIOLATION OF THE RIGHT TO PRIVACY AND FAMILY LIFE

Participants of the survey talk about the cases when the employees of the Ministry of Labor, Health-care and Social Protection made inappropriate propositions ignoring the wholeness of families. Instead of studying individual cases, especially when the situation concerns homeless families, officials make unacceptable, superficial conclusions and offers.

For example, Bela (27 years old) from the former Institute of Cardiology, who is married, says that after the legislative changes on May 17, 2013, the Head of Social Protection Department offered to move her to a Mother and Infant shelter, which would mean she would be separated from her husband. Other women from the medical center Dioscurias tell similar stories: Larisa was offered to be moved to the same shelter although she has an adult son who couldn't stay in the shelter. A homeless grandmother with two grandchildren was offered to leave the children at an orphanage.

Another case of the violation of the right to privacy was revealed in the process: there is a camera in the entrance of the building. The camera records whoever enters or leaves the building; the reason for this is unknown. In the same building, a security service controls the entrance and records the names of those who come in and out. It must be mentioned that the former Institute of Cardiology is not an institutionalized body, such as shelter which may allow the establishment of such control.

2.7. REVIEW OF GENDER ISSUES IN RELATION TO BEING HOMELESS

2.7.1 PREAMBLE

The problem of homelessness is especially acute among women, since in patriarchal system women possess less economic independence and women are not always perceived as equal, autonomous persons. Out of 49 interviewed women, 14 are single mothers, and 24 are married and live with their husbands and children. It must be noted that for women, being single is often closely linked with becoming homeless. Studies on homeless women²³ indicate that in spaces occupied forcefully or in so-called "squatting" conditions with no adequate living conditions, gender roles and needs demonstrate interesting patterns. Men have an interest in having a woman/wife who will take care of the family. On the other hand, women living in difficult conditions and under the fear of aggression feel better protected when living with a man.²⁴ This theory was confirmed during research. Namely, it was revealed that women are more likely to take low-paying jobs and so they work in difficult circumstances, some of which are cases of self-employment. Apart from their work, women have to take care of the family, which sometimes includes finding and cutting firewood and carrying water. Even in the families where no one is working, women are responsible for all housework, which becomes a heavy burden in insufficient conditions.

²³ Megan Ravenhill Culture of Homelessness 2008.

²⁴ Ibid.

The study revealed two kinds of family violence: family violence that causes a woman to lose her home, and ongoing violence during homelessness where they are under double-oppression. But in order to protect themselves from outside risks, including the stereotypes of society, women often choose to tolerate violence and remain in the marriage.

Poverty and the absence of private property are the dominant factors of homelessness. These can be cited as common problems for other members of families, but if we take into consideration women's rights to property in patriarchal society and the high level of dependency on a father/husband, we will find gender is also a factor and an additional negative trend. Among the reasons for homelessness for women is family violence and it often causes single mothers to stay on the street. While economic and psychological independence is problematic, women face even more difficulties in terms of social adaptation and gender-based vulnerability both economically and socially.

Homeless women are especially vulnerable in terms of psychological disorders. Physical living space has a social function as well. In the patriarchal society, the home is often the only place for social interaction. The home ensures their physical and psychological autonomy and represents shelter from suppression and attack.

Understandably, the right to adequate living conditions for women in the first place means a better chance at independence, self-development, and integration in any sphere.

2.7.2. LOW LEVEL OF PARTICIPATION IN THE DECISION-MAKING PROCESS

Frequently, women do not take equal part in the decision-making process either within the family or the community. The prevailing stereotype that woman cannot make independent decisions about her life, family, or social environment, is an important factor among the reasons for homelessness. It was revealed during a study that women are not well-informed and are excluded from the process of making decisions about private property. 50 year-old Nino from school building N68 says that her husband didn't take her opinion into account when he decided to secure the bank loan with their apartment. The same problem was mentioned by 40 year-old Nino from the same building.

2.7.3. EVICTION AND INADEQUATE LIVING CONDITIONS

Women are frequently subjected to violence and intense emotional stress in the process of eviction from their homes and because of their attachment to their families and their role as caretaker. The family atmosphere of instability and psychological stress can cause emotional trauma to the family before eviction. Often the pressure is intentional and is aimed at damaging their integrity. 48 year-old Ia, a resident of the building of the former Institute of Cardiology recalls that the guards from a private security service often threatened and insulted women by knocking on their doors in order to make their lives unbearable. During an eviction or invasion, women take the initiative to enter or

to resist. Women living in Medical Center Dioscurias forced their way into the building alone with their children; thus they alone faced pressure, intimidation and marginalization and deliberately “protected” their husbands in the process.

Evicted women face the fear of losing space as well social interactions, which are leverage for their protection. Eviction destroys spaces women use for interaction.²⁵ Women evicted from school N13 who are now living in Medical Center Dioscurias became more integrated and as a result their fight for their rights became more effective. They are stronger and more mobilized than woman in other buildings.

Eviction affects women more than men, because of the traditional role of women in preserving the fair living conditions for the family. Worsening of living conditions leaves women without the necessary support and appliances. The first special speaker on women’s rights indicates²⁶ that women are the most affected parties during eviction, as they are forced to cope with the new environment and to keep playing their traditional role with limited possibilities and increased efforts. The study shows that most buildings have water supply problems and women are forced to bring water from a distance; lifting heavy vessels also has a negative effect on their health. These conditions deprive women of time for other activities that would make them more independent.

The absence of an adequate sewage system becomes an additional burden for women as they are responsible for taking care of the hygiene of their family members. Sanitary problems also cause stigma and isolation.

Eviction and displacement cause additional economic problems for women who had some kind of work at their former residence. Among them there are women who worked before but after displacement they either face constant transportation problems or lose their jobs.

2.7.4. PROBLEMS OF WOMEN VIOLENCE AND ITS CORRELATION WITH HOMELESSNESS

Violence against women is defined as violence caused by the fact that the victim is a woman, or is disproportional against woman. It includes physical, psychological or sexual oppression, or the threat to use such oppression to force them do something or deprive them of their freedom.²⁷

Most of the participant women do not talk about acts of family violence against them; it is a subject that is not discussed. Several women residing in the former Institute of Cardiology mention facts of family violence, but the only woman to talk openly about violence is a 40 year-old lady residing on Atoneli Street. She said that because her husband is aggressive, she is has neurosis and constant depression.

25 WOMEN AND THE RIGHT TO ADEQUATE HOUSINGHR/PUB/11/02UNITED NATIONS PUBLICATIONpg 66 .

26 56th session 24/02/2000 Violence against women - Economic and social policy and its impact on violence against women E/CN.4/2000/68/Add.5, para. 55.

27 Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992), paras.6 and 23; and preamble to General Assembly resolution 48/104.

The reason behind this conformism is a lack of economic independence and the stereotypes that society exercises. Women are dependent on their aggressors economically and socially, and as a result the situation does not change and violent behavior is continuous. Women cannot afford rent and are forced to put up with violent behavior. Attitudes and perceptions towards women with a career and financial independence make them even more vulnerable. A 44 year-old woman from Atoneli Street says that her husband forbade her to work for a very long time, and now it is practically impossible for her to find work with an average income as she has no skills.

While facing aggression women have a choice to either leave the home with their children or stay and tolerate the physical and psychological violence. A 31 year-old woman residing in the former building of the Institute of Cardiology says that her husband was very jealous and didn't allow her to work, he was constantly cheating on her and abusing her, and as a result she left the house with her children: "We've been apart for three years and he never once helped his children. We were left on the street, I lived with friends for a while, then we rented an apartment, it was very hard for me to pay rent so we ended up here."

Since there are not enough state shelters for women who are victims of abuse,²⁸ a woman who leaves her husband becomes homeless and is in danger of further violence because of the inadequate living conditions or being left on the street. After a divorce, women rarely have the chance to go back to their parents' house. 31 year-old Nino from the Institute of Cardiology says that after she had left her husband's house and was left on the street with her two children, her parents didn't forgive her for divorcing her husband and stopped talking to her. 44 year-old Maia from the same building couldn't go back to her parents' house after divorce, as they had had conflict.

The attitude from society and the community often depends on whether women are married and have children, and often becomes reason for their marginalization and insecurity. Communities usually treat married women with children with more sympathy and respect than single ones. This makes women feel insecure and hopeless. A mother with several children from the same building says that she has a boyfriend in order to survive.

2.7.5. ISSUES OF LOW SELF-ESTEEM AND SELF-DEVELOPMENT

Public attitudes towards women are largely defined by the fact of homelessness as a form of poverty and lack of economic and social status. For example, Natela (47 years old) from the former building of the Institute of Cardiology says that she was homeless in her childhood and youth; her father had abandoned her and she was raised by her mother, so her husband's family did not receive her well as she was from a poor family. Her brother-in-law made her and her family leave the house. Natela was temporarily sheltered by her friend in Poti. Her husband couldn't put up with being homeless and left the family.

28 Georgia 2013 Human Rights Report, available at: <http://www.state.gov/documents/organization/220492.pdf>

Due to inadequate living conditions, women cannot perform all the necessary hygienic procedures and cannot take care of their looks, and as a result their self-esteem is very low. Maia Chincharauli from the former Institute of Cardiology says: “we are untidy. I hide my hands, I feel embarrassed.” This affects human interaction as well; they have low self-esteem, which complicates the job search and makes their financial independence even less likely. Stress and psychological conditions that is hard to cope with further affects their self-esteem and the possibility of finding work. For example, Fatman (56) from Dioscurias says that despite her professional experience “after all the stress and anxiety, I no longer know anything.” Iamze from the same building mentions the same reasons.

Sometimes husbands resist their wives’ desire to work. For example, a lady from school N68 says that her husband didn’t want her to work, so she didn’t have chance to develop and learn and now she has less of a chance of finding employment.

Despite the fact that some women have the necessary qualifications and education, they can’t find relevant jobs because of marginalization due to homelessness.

2.7.6. RESTRICTION OF THE RIGHT OF INHERITANCE AS A FACTOR FOR HOMELESSNESS

Women’s homelessness is often caused by the inheritance problems characteristic of this society. As soon as they leave their homes, they are as a rule excluded from any inheritance. This is especially problematic if woman gets divorced. After a divorce women are forced to leave the house as they have no ownership rights. Often this is caused by having only religious marriage, which causes women to lose their property rights and it is also due to the lack of knowledge on the use of legal measures and the inability to act. If a woman demands her share, she may become isolated from her family and relatives, thus it can be said that women are left without inheritance because of society has certain expectations. Even in cases where women have the legal the right to an inheritance, social stigmatization and pressure from family often forces them to renounce their share in favor of a brother or a husband. Fear of violence and social exclusion, lack of support from their parents, spouse, and relatives often prevents women from pursuing their legal rights. In addition, there is a deficit of knowledge about their existing rights and possible legal actions.

46 year-old Esma from the building the former Institute of Cardiology, says that after she divorced her husband, her father-in-law gave their apartment to his daughter, so she was left homeless with her two children. 31 year-old Nino from the same building says that after she divorced her husband, there was not even a discussion of her getting her share, instead her husband sometimes visits and bullies her. A large part of the interviewed women connect the fact of leaving parents’ house to getting married and therefore they do not understanding heritance rights; moreover, in many cases there is small are of residence and parents choose to leave their property to their son. For example Inga, a resident of Dioscurias, says that before getting married, she lived in a one-room apartment, where her brother now lives with his family.

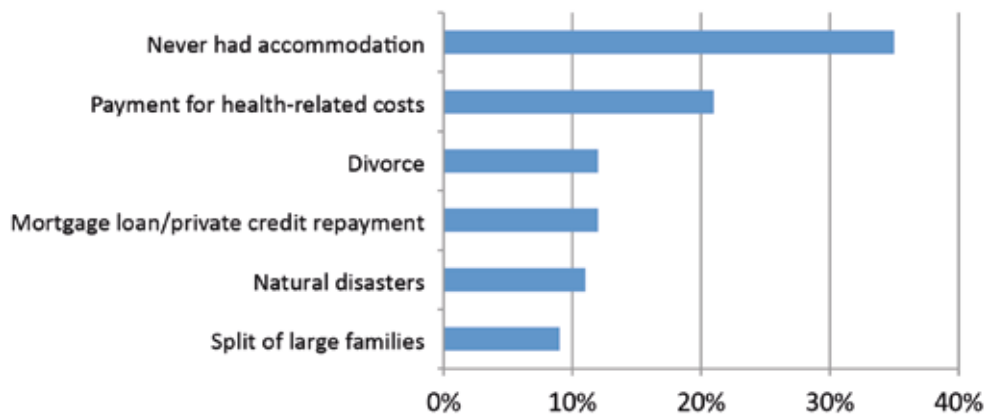
3. REVIEW OF REASONS FOR HOMELESSNESS WITH INTERVIEWED FAMILIES

Homelessness is caused by structural factors of social and economic systems as well as by psychological/individual reasons. Homelessness is directly connected to severe economic conditions as well as to migration in urban areas, to current processes related to the housing market and to the inefficiency of the state system of health and social rehabilitation. Unjust and patriarchal social structures also lead to the suppression and marginalization of vulnerable groups. Along with structural factors, homelessness may be caused by individual factors which are connected to health conditions, drug and alcohol dependence as well as to domestic violence.

The research results show that the reasons for homelessness of the interviewed families should be found in the current economic and social system. Homelessness is directly connected to economic insecurity and poverty. Difficult economic conditions are reflected in the realization of the right to adequate housing and it often leads to homelessness. Due to a lack of economic resources, persons are unable to support their families with accommodation, food, health and education. Solving the problems related to housing becomes impossible for poor families facing the urgency to satisfy their basic needs. In addition, surrendering permanent residence is a way to meet other social needs which forces them to sell their house or land.

The following diagram shows the gradation of reasons for the loss of accommodation which was revealed in the interviews.

Reasons for the loss of the housing in the interviewed families



The following diagram shows that among the causes of homelessness one factor dominates (35%), namely, that interviewed vulnerable families have never had accommodation. The analysis of age and education variables of these families is also interesting. Families consisting of people between the ages of 30 and 45 belong to this category and the majority of them have a secondary education degree.

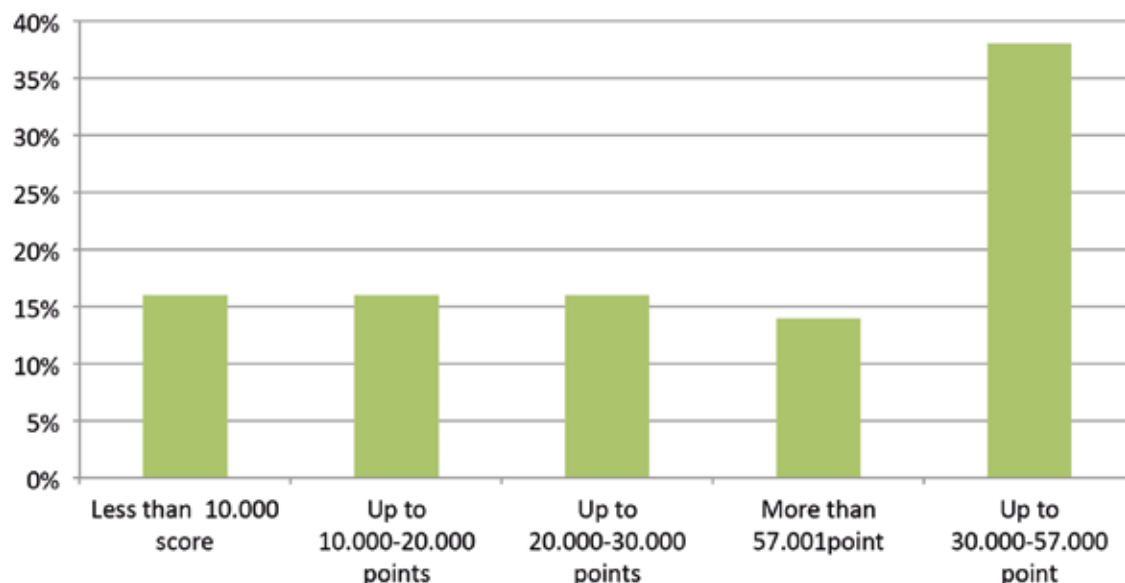
Considering the difficult economic conditions of the country²⁹, it becomes impossible for newly established families to purchase a house which forces them to constantly rent new places to live.

The explanations of the interviewed families prove the validity of the abovementioned evaluation.

An analysis of the social and economic conditions of the interviewed families is interesting in this regard. The majority of them live below the poverty line and they have been granted an extremely low score on the assessment of vulnerable persons.

²⁹ Results of the research « Economic and Social Vulnerability in Georgia”- conducted by UNDP in 2013 show that the indicator of extreme poverty in Georgia is equal to 10%, while 45% of population live below the poverty line. 36% of the population lives in such families whose average consumption is lower than the minimum wage, 61% of population is unable to have savings at the end of the month. In addition, 22% does not have a stable salary or pension.

Assigned rating scores for the registration in the database of vulnerable persons



According to the survey results, respondents often (21%) refer to covering health related costs and problems as a reason for the loss of accommodation and the sale of their houses. Under the conditions of expensive healthcare and ineffective state insurance, health-related risks and costs constitute a burden for individuals which lead to an unexpected deterioration of their economic and social conditions.

Cases of forced selling of houses or selling them on their own initiatives (12 %) to cover a mortgage loan/private loan are also among the reasons for loss of housing. The interviewed families stated that due to the difficult economic condition, they are forced to mortgage their houses for various reasons (starting a private business, covering the accumulated private loans). It is due to the non-payment, however, they lost their real estate.³⁰ The families interviewed refer to the problem of high interest rate of the banks as well as to the unjust execution procedures of the microfinance institutions.

Among the reasons for loss of accommodation the problem of economic independence and homelessness for single women after divorce is particularly problematic. Obtaining property from a former spouse becomes a problem for women after the divorce and/or domestic violence due to various subjective and objective reasons. In addition, due to the traditions existing in patriarchal societies, a divorced woman can no longer afford to return to her father's family or receive an inheritance which leaves her with loneliness, economic hardship and a life on the streets. Women constitute 12% of the interviewed vulnerable homeless families who lost their accommodation as a result of divorce or domestic violence.

³⁰ According to the UNDP research, 22% of the population has a bank debt or a loan from another person.

Further, the problem of dividing large families (12%) was revealed among the reasons of homelessness. Many families with a small capital do not have the opportunity to provide every single family member with accommodation. This forces them to rent a place and constantly face the problem of changing the accommodation.³¹

Within the research, EMC studied the problems related to homelessness of the beneficiaries living in the tents on Moscow Avenue. The persons residing in the tents face a much higher level of severe exclusion and marginalization than the families residing in the state-owned facilities. The persons residing in various facilities manage to organize domestic economy, maintain a family life-style and traditions which facilitates the maintenance of social stability and integration. The beneficiaries from the tented camp consist of lonely people who have broken ties with their families, relatives and who are forced to live on the streets. In most cases their physical and psychological health conditions are severe and they are in need of special and urgent assistance. Among them, the number of disabled persons as well as alcohol addicts is high. Considering the specific social and economic past of these aforementioned social groups, various factors are revealed among the reasons for homelessness of persons residing in the tents such as psychological disorders and the problem of homelessness after deinstitutionalization, exclusion from the families due to alcohol dependence and disability, former prisoners. The survey in the camp showed that selling the house because of a mortgage or private loan dominates among the reasons for loss of accommodation (37%).

The respondents living in the state-owned facilities stated that prior to moving to these places, they paid rent which constituted the main part of their subsistence income and they were forced to refuse a number of social needs. Due to their low income they were renting such places that do not meet the minimum standards of adequate housing. Because they depended on the will of their landlord, they were forced to change their rented places quite often. Interviewed families stated that in some cases they were living in their relatives' houses.

Thus, the description of reasons for homelessness shows that structural factors cause homelessness. In order to plan an effective policy against homelessness, it is important that the state studies the systemic reasons of homelessness and takes appropriate measures for its prevention.

³¹ Vulnerable homeless families living on the territory of the former 53th military part in the District of Khelvachauri explain the homelessness problem through the scarcity of land in the mountainous Adjara, poverty and the division of big families. See: <http://emc.org.ge/2014/06/02/1610/>

4. REVIEW OF THE GAPS IN CURRENT LEGISLATION REGARDING HOMELESSNESS AND HUMAN RIGHTS PROTECTION

The analysis of the current legislation on homelessness and social security shows that it contains significant gaps which contradict international standards of human rights protection. It is obvious, that mentioned legislative gaps are the result and are illustrative of the current social policy, but reviewing them in the lights human rights, puts emphasis on the issues of governmental shortcomings and the need to fulfill these commitments.

4.1. THE POSITION OF THE RIGHT TO ADEQUATE HOUSING IN THE NATIONAL LEGISLATION

The national legislation does not sufficiently protect the right to adequate housing. In this respect, the main law³² of the country is the law on social assistance; it provides incomplete definition of a homeless person and states that the only obligation the State has is to provide shelter and this is the responsibility of local municipalities.³³

The most relevant and effective legal basis for realizing the right to adequate housing, is Article 11 of the International Covenant on Economic, Social and Cultural Rights, which was ratified by Georgia on May 3, 1994 and the State didn't make reservation on the mentioned article. According to article 11, The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

According to the Committee on Economic, Social and Cultural Rights (CESCR), the right to housing should not be viewed too narrowly; for example, it shouldn't be limited to providing shelter. It must be viewed as the right to safe, peaceful and worthy living conditions. According to the criteria set by the committee with regards to housing, the right to housing and housing policy must fully encompass the special housing needs of the socially vulnerable groups (including children, persons with disabilities, persons with serious illness, persons with mental disorders etc.).³⁴

32 Note: the right to adequate housing for the internally displaced persons is subject of a separate regulation, and is well-regulated by national legislation.

33 Article 18 of the Law on Social Assistance.

34 The Human Right to Adequate Housing, Leckie Scott, Economic, Social and Cultural Rights, Second Edition.

It is noteworthy, that together with other social rights, Georgia made reservation on article 31 of the European Social Charter (the right to housing), which means that the State doesn't recognize the positive and negative obligations defined by this article. Article 31 states that with a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; 3. to make the price of housing accessible to those without adequate resources.

Thus according, to the European Social Charter, the right to adequate housing comprises of the following basic elements: 1. access to accessible and adequate housing. 2. minimizing homelessness and including all vulnerable groups in the housing policy. 3. limiting the procedures of eviction. 4. providing equal access to housing for non-citizens. 5. modifying construction and usage of the living space according to the needs of a family. Removing the reservation from the given article, would provide significant guarantees for realizing the right to housing and implementing effective policy for minimizing homelessness in Georgia.

Using article 31 would ensure not only material and legal basis for realizing the right to adequate housing, but would also become an effective mechanism for the fulfillment of the State obligations by using the tools provided by the Charter.

4.2. PROBLEM OF THE DEFINITION OF “HOMELESS PERSON” IN THE LEGISLATION

According to the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to adequate housing, States have obligations to immediately respond to the fact of homelessness by effective monitoring of the situation of homeless persons/families.³⁵ The state has the obligation to, either individually or through international assistance and cooperation, reveal all forms and scale of homelessness and inadequate living conditions of the people under its jurisdiction. For this purpose, a number of guidelines and decrees exist in which it is emphasized that it is necessary to collect detailed information on homeless persons and socially vulnerable groups facing the danger of losing their homes.³⁶ The General Comment of the International Covenant on Economic, Social and Cultural Rights mentions those homeless persons and families who have inadequate access to minimal comfort, those who occupy buildings or were evicted as well as persons with a low income.³⁷

The registration of homeless persons plays an important role in the process of solving the problem and creating a financial plan. Also, it makes society more aware of the issue.

³⁵ The right to adequate housing (Art.11 (1)) : . 13.12.1991. CESCR General comment 4. (General Comments) 13.

³⁶ (E/C.12/1991/1).

³⁷ The right to adequate housing (Art.11 (1)) : . 13.12.1991.CESCR General comment 4. (General Comments) 13«They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in «illegal» settlements, those subject to forced evictions and low-income groups.”

The situation of homeless people is not static, it is changeable. Their living situation, their needs and the forms of homelessness change continually, and thus, it is essential for the definition of homeless persons as well as the registration procedures to be flexible so it gives room to identify the changing forms of homelessness.

Consequently, the state's commitment to effectively monitor the cases of homeless persons is closely linked to the definition of a homeless person in the legislation. In general, it must be noted that there is no approved definition of a homeless person and it is the subject of theoretical discussion.³⁸ The definition of a homeless person depends on the social policy of a state and usually reflects the scale of homelessness in the country and the state's readiness to solve any related problems. In general, the definition includes at least the persons who have no living space or those who live in special shelters. However, the definition also includes persons who have no home and are sheltered by the relatives or persons who are forcefully occupying different buildings or pieces of land, or live in specialized institutions (e.g. hospitals, prisons) or rent a room in a hotel-like institute.

For example, the McKinney-Vento Homeless Assistance Act provides the following definition: 1. an individual or family who lacks a fixed, regular, and adequate nighttime residence. 2. An individual or family with a primary nighttime residence that is: a) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements b) an individual who resided in a temporary shelter and who are ready to be institutionalized. c) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings. This given definition implies that people with different social needs may face different forms of homelessness. Namely, on the one hand, it includes people with no regular and permanent home and on the other hand, people, with inadequate living conditions facing a fear of losing their home.

The definition of a homeless person as given in Georgia's Law on Social Assistance is incomplete and does not include the different forms of homelessness which exist in social reality. According to the law, *a homeless person is a person without permanent place of residence which is registered as homeless by the local administrative body*. Thus, this legislative definition defines both a material and procedural criterion: 1. the fact of absence of a permanent home and 2. the registration by the local administration.

The existing definition does not include those groups of homeless people who have no home on their own but live with relatives or in specialized institutions (medical institution, prison), occupied buildings or those who live in inadequate conditions according to the minimal standards.

The research findings indicate that the families currently living in state-owned buildings often moved before, lived with relatives or rented a different place for longer periods of time. Economic hardship and a low income forced them to rent very small spaces with often inad-

38 Anne B. Shlay & Peter H. Rossi, Social Science Research and Contemporary Studies of Homelessness, 18 Ann. Rev. Soc. 129 (1992).

equate living conditions, they were also dependent on the will of the owner and constantly faced the fear of having to leave and find another place to live. Some of the families had to move eight or ten times which is a source of constant stress and insecurity. The non-recognition of other forms of homelessness makes the social security system ineffective so it needs to be reviewed.

Together with an incomplete definition, which does not even reflect the magnitude of the problem of homelessness in the country in theory, the lack of an adequate registration methodology or non-existence of the person responsible for it is another problem. According to the existing legislation there is no special body that would be responsible for registering and collecting data on homeless people. Article 18 of the Law on Social Security entitles very reserved obligations to the local self-government bodies and requires them to register only the sheltered homeless. The law states that the Social Service Agency has to be responsible for running a common registry for homeless people, underpinning it by the information provided to it by the local administrations.

In the circumstances when the local administrations do not provide shelters for homeless people and respectively don't keep their registry, we can say that the homeless people are never registered within the given social security system.³⁹ Consequently, there is no document/guideline that would define the procedures for identifying and registering homeless persons. In this regard, it is important that the approach is based on the principle of fair distribution of the burden of proof in the methodologies of registration; the approach must be broad and proactive and include complex needs. It is important for the effective monitoring of the homeless persons considering their social and economic vulnerability.

4.3. ISSUES REGARDING THE RIGHT TO SOCIAL SECURITY FOR HOMELESS PERSONS IN CURRENT LEGISLATION

4.3.1. THE AREA AND SCALE OF THE RIGHT TO SOCIAL SECURITY

The current legislation on the right to social security comprises the Constitution, international treaties and agreements, the Law on Social Security, and other legislative and normative acts.

Social rights, including the right to adequate housing, are not well protected in the Constitution of Georgia. However, the Constitutional Court reviewed the issue of social rights and highlighted the state's minimal obligations in this respect. In order to define the guarantees for social rights, the court inquired about the status of vulnerable groups and put an emphasis on social conditions.

³⁹ Note: The given assessment is based on the formal communication established between state agencies and Human Rights Education and Monitoring Center (EMC). Despite several inquiries sent by EMC, no information has been provided about the registry and statistics on homeless people, neither by the Ministry of Labour, Health and Social Affairs, nor by Tbilisi City Hall.

Namely, on the fact that these people are not able to provide for themselves and are in need of the state's special attention from the state.⁴⁰

The Constitutional Court clarified that each state is responsible to take steps, to the maximum of its available resources, in terms of protecting its population's social rights to guarantee at least a minimum level of protection. Otherwise, the state's international legal obligations make no sense; these obligations mean that the state's measures in this respect must be stable, evolutionary and positively dynamic.⁴¹ The Constitutional Court defined the state obligation of protecting social rights according to the principles of 1) available resources 2) stable evolution and 3) full realization. In addition, the social benefits provided by the government should be satisfying the needs by at least the minimal standards.⁴²

For assessing the scale of the protection of social rights it is interesting to see the decision of August 27 of the Constitutional Court in the case of The Public Defender of Georgia against The Parliament of Georgia was an attempt to place the right to social security within the scope of the right to life.⁴³ The representative of the plaintiff claimed that the state must provide at least a minimum support to guarantee the right to life. These arguments were reflected in the different positions of two judges. They reviewed the right to minimal subsistence in respect to the Constitutional principle of the social state. According to their explanation, this principle provides no guarantee for a minimal allowance by the state to people living in poverty or with disabilities. The explanation said: "In general, the state principle is aimed at preserving security, dignity and freedom of a person."⁴⁴ This principle indicates that on the one hand the social rights must be recognized by legislation and on the other hand, in case of poverty and disability, providing minimum sustenance.⁴⁵

The normative aspect of a minimum subsistence in national legislation was strictly defined by the German Constitutional Court which developed the concept of the right to subsistence allowance based on the principles of protecting human dignity and the social state. The right to subsistence minimum is the right of every person to be provided with the material conditions that are indispensable for his or her physical existence and for a minimum participation in social, cultural, and political life. The German Constitutional Court includes the right to subsistence allowance with the protection of human dignity.⁴⁶ The Canadian Supreme Court is also developing an interesting concept in this respect. In the Gosselin case the Supreme Court ruled that a minimum level of welfare is so closely related to personal health and safety, and to the interest of saving person's life, that it is absolutely necessary to guarantee these positive rights to liberty and security.⁴⁷

40 The decision of the Constitutional Court of Georgia on April 18, 2002. N2/2/416 II. para. 1.

41 The decision of the Constitutional Court of Georgia on April 18, 2002. N2/2/416 II. para. 1.

42 The decision of the Constitutional Court of Georgia on December 30, 2002 #1/3/136, I.8.

43 August 27/2009 Decision #1.2.434 on the case – Ombudsman of Georgia against the Parliament of Georgia 1.p.5.

44 Different opinion of the members of the constitutional court of Georgia (Ketevan Eremadze and Besarion Zoidze) p.9.

45 Ibid.

46 Decision of the constitutional court of Germany BVerfGE 125, 175 - Hartz IV 9.02.2010.

47 Gosselin (2002) 221 DLR (4th) 257, [376] (Arbour J dissenting).

According to Articles 2 and 9 (the Right to Social Protection) of the International Covenant on Economic, Social and Cultural Rights, each state is obliged to take steps, to the maximum of its available resources, with a view to progressively achieve the full realization of the rights recognized in the Covenant by all appropriate means, including housing, support in employment and psycho-social rehabilitation.⁴⁸

4.3.2. FORMS OF INTERFERENCE WITH THE RIGHT TO SOCIAL SECURITY

The results of the research demonstrate that homeless persons/families are often denied the right to social security and this is caused by the methodical shortcomings of the existing social security model.

Two significant problems were identified in this respect, which limit the right to social security. 1. The issue of registration of persons with no household and providing social assistance for them. 2. The State's repressive policy towards socially vulnerable homeless families, implemented after amendments to the legislation on May 17, 2013, according to which the families who forcefully seized the buildings, were deprived of the status of socially vulnerable.

These instances of limiting the right to social security, deprives people of minimal sustenance and further complicates their hard social and economic situations. Leaving people without minimal sustenance necessary for food, shelter and healthcare is a violation of the rights to life, freedom and security.⁴⁹

4.3.3. THE IMPOSSIBILITY OF REGISTRATION OF HOMELESS PERSONS AND RECEIVING SOCIAL ASSISTANCE

As it was described in section 4.1.1, the Law on Social Assistance provides an incomplete definition of a homeless person and does not cover the major forms of homelessness. In addition, there is no relevant methodology/instrument which would determine the procedures and criteria for the identification of homeless persons and their registration. Due to the functional complexity related to the registration of homeless persons, and despite the fact that the Law on Social Assistance provides the obligation to issue social assistance to homeless persons, the state does not register individuals who live on the streets and do not have permanent separate accommodation in a unified database of vulnerable persons. As a result they are left without the benefits designed for vulnerable persons. The results of a survey conducted within the research in the tented camp on Moscow Avenue showed that persons, who have been living on the streets for several years, have not received any social assistance from the state. Moreover, it has been possible to identify them and issue identification

⁴⁸ Homelessness and Human Rights: Regarding and Responding to Homelessness as a Human Rights Violation Lynch, Philip; Cole, Jacquelin/Melbourne Journal of International Law [Vol 4 2003].

⁴⁹ Ibid.

documents since they moved to the camp, however, they are not receiving any social assistance. The state services of ensuring a place to spend the night and food for the beneficiaries cannot be considered as adequate social assistance that satisfies the minimal necessities for social provision and psycho-social rehabilitation of homeless people. In addition to that, such a guardianship approach is not conducive to an individual's socialization as well as social and economic independence and even chains a person to the services offered by the state.

Based on the aforementioned information, the most vulnerable group among the homeless persons who live on the streets and constantly face the risk of physical pressure, damage to life and health, are left behind by the social assistance system currently operating in the country. They do not even have the theoretical possibility of meeting their minimal needs.

4,3,4. LEGAL ANALYSIS OF THE LEGISLATIVE CHANGES OF MAY 17, 2013

➤ Review of legislative changes

The legislative amendment of May 17, 2013 to the Georgian Government's Resolution of April 24, 2010 (N126) about the 'reduction of the poverty level in the country and measures to improve the social security of the population' can be considered as an interference with the right to social security of homeless persons. According to the resolution an application for registration in the database will not be accepted if the applicant is illegally residing in state-owned property or if the legal owner of that property disagrees with these persons living there and notified the agency of this (according to section 5 of Article 5). Accordingly, the agency will not respond (i.e. rejects registration in the database) to the applicant willing to register in the database before the first day of the following month counting from the day the legal owner submitted his data to the agency. The legal owner is responsible for the accuracy of the presented data (addressed of the state-owned properties) which is sent to the agency in an agreed format (section 6 of Article 5). This aforementioned amendment came into force on June 1, 2013. According to the government⁵⁰, the prevention of illegal occupation of state-owned property in the recent period led to this abovementioned amendment.

➤ Practice of the norm

The practice in using this legislative change made on May 17, 2013 is ambiguous and it gives the government the opportunity to interpret it differently and use it arbitrarily. Employees of the Ministry of Health, Labour and Social Affairs note that the restriction provided by the law only applies to those families residing on the abovementioned addresses and who are registering in the database of vulnerable families for the first time. However, practice shows that it also applies to those families who were occupying state-owned properties until June 1, 2013. They were provided with social

⁵⁰ Interview conducted within the research with Gia Kakachia, Head of the Social Security Department at the Ministry of Labour, Health and Social Affairs.

assistance on a different address, however, because of this change in the law social assistance was taken away from them.⁵¹ Moreover, those families residing in the medical centre “Dioscurias”, who occupied this place after they were evicted from the building of school N13 in August 2013, received the status of vulnerable persons without any further difficulties.

As the aforementioned indicates, the state interprets the content of the legislative change of May 17, 2013 differently in relation to several groups of homeless persons. This gives the state the possibility to use the amendment arbitrarily and to repress certain individuals. The latter is also indicated by vulnerable homeless families.⁵²

It is worth mentioning that the application of the new regulation introduced by the legislative change prior to the enactment of the norm or prior to the intrusion facts implemented before June 1, 2013 represents a mean of repression/punishment from the side of the government and is also violating the principle of legality since it is not satisfying the requirement of transparency and has the retrospective effect.⁵³

In addition, it is ambiguous on what grounds the state differentiated vulnerable homeless families who occupied state-owned facilities before and after June 1, 2013. This approach ignores the evidence that homelessness in general is a result of the economic and social system and, as such, requires a complex response from the state.

➤ **Evaluation of the restrictions set by the amendments of May 17, 2013 in light of human rights standards**

The legislative amendment implemented on May 17, 2013 is at odds with international human rights standards as well as with the requirements of the prohibition of inhuman and degrading treatment, non-discrimination and the principle of the social state.

In this case the interest of the exploiting public institutions for public purposes⁵⁴ (during the eviction of the residents from the public schools 142 and 13 the government would claim that it was planning to exploit the given buildings as shelters for internally displaced people; in the case of the former Institute of Cardiology the government was talking about the need of opening a medical center within the given edifice) falls under the legitimate objectives of the protection of public order and therefore, it can be assessed as a legitimate ground for the interference in the right. However, in this respect the issue of

51 Letter to the Ministry of Labour, Health and Social Affairs regarding the case of Tamar Tandashvili, 09.07.14, (#01/58436).

52 See the video prepared by the Human Rights Education and Monitoring Center (EMC), Available at : <http://www.youtube.com/watch?v=DmJHZ83Dnqk&feature=youtu.be&list=PL9DikjDdD2JHoA1DKJbRuqb41Asnqccva>

53 The decision of the Constitutional Court of Georgia on May 13, 2009 on the case Public Defender's Office of Georgia, the citizen of Georgia Elguja Sabauri, the citizen of Russian Federation Zviad Mania against the Parliament of Georgia, case # 1/1/428,447,459.

54 Note: in the cases of unexploited or amortized edifices, when the government has no active and real interest in utilizing them, it will be hard to even prove the existence of a legitimate interest.

proportionality of limiting this right is controversial. The proportionality test requires interference in a protected area in a way that both beneficences, especially the optimal implementation of the right, are ensured. The new legislative regulations do not represent the least restricted means for achieving the legitimate aim since it leads to the absolute restriction of the allowance as the essence of the right and its exclusion. The state did not use less restrictive means for preventing intrusion facts, which would have been a real solution to the problems related to housing for the homeless families (e.g. provision of home for socially vulnerable homeless families, payment stable and adequate rent) and an offer for stable legal expectations regarding housing. Due to this, restriction of the right to social provision should be considered as disproportionate intervention.

Cutting the social aid to socially vulnerable families can be also discussed within the human rights protection context with respect to cruel, inhuman and degrading treatment from the side of the government. Extreme poverty and the absolute indifference of the state towards the severe living conditions and vulnerability of a person represent a violation of the right to protection of a person from severe, inhuman and degrading treatment/punishment. The European Court of Human Rights assessed the issue of violation of Article 3 of the Convention in the case of *M.S.S. v. Belgium and Greece* in respect to a person from Afghanistan who was looking for shelter and lived in severe conditions on the streets of Athens facing the constant risk of starvation and attack. The European Court of Human Rights focused on the status of the applicant, who belonged to an unprivileged and vulnerable group which required social protection. The Court indicated that in a case where the person is completely dependent on state support and s/he faces absolute indifference from the state in case of the serious violation of her/his rights, it is a violation of dignity. According to the assessment of the Court, the situation which the application was facing was extremely serious. The applicant lived in extreme poverty for several months, s/he could not meet her/his basic needs (food, hygiene and accommodation) and lived under constant threat of attack and robbery. Besides that, the applicant was completely deprived of her/his opportunity to improve her/his living conditions. According to the assessment of the Court, the severe living conditions and the situation of continuing uncertainty reached that level of brutality which fell under the protection of Article 3.⁵⁵

The research results showed that depriving vulnerable homeless families residing in state-owned properties of their allowances which cover their basic needs puts them in starving and helpless conditions. Taking into consideration the unprivileged conditions of vulnerable persons (in some cases the vulnerability problem is based on several grounds), the risks deriving from their severe living conditions as well as their absolute economic dependence⁵⁶ on the state's social assistance, the termination of allowance reaches the limit of an unacceptable level of poverty.

Interviews with the residents of the former Institute of Cardiology exactly show the harm and level of vulnerability which was caused by the termination of social assistance and other social benefits to the persons with the status of socially vulnerable (see the chapter 2.4.6. above).

55 *M.S.S. v. Belgium and Greece*, application # 30696/09, Judgment dated on 21 January 2011.

56 Note : Which is provided by a systematic social security arrangement and does not allow the economic independence of a person (see the chapter 2.4.4. above).

The issue of the possible violation of the principle of the social state also needs to be taken into consideration when it comes to the legal analysis of the legislative amendment of May 17. The principle of a social state implies the social inclusion of vulnerable groups, which was completely ignored by the legislative amendment and which leads to the exclusion of vulnerable homeless persons. In the abovementioned Gosselin case, the Supreme Court of Canada explained that the psychological and social results caused by complete exclusion from social security benefits are devastating. The difficulties that come along with it and poverty marginalization pull a person into a spiral of isolation, depression, abuse, low self-esteem and stress.⁵⁷ Obviously, the termination of social assistance for vulnerable homeless families deepens their economic hardship and causes their isolation.

It should be noted that the legislative change represents a regressive step in terms of the Covenant on Economic, Social and Cultural Rights since it opposes the principle of the progressive realization of social rights. According to the Covenant, the regressive steps⁵⁸ of a state include all those acts, inactivity or authority which restricts the right of a person which s/he had previously enjoyed.

According to the Committee on Economic, Social and Cultural Rights, the state should refrain from ceasing subsidies for such significant survival benefits as food, water and energy if this sanction will lead to unjustifiable harm.⁵⁹ The decision of the Constitutional Court of Georgia is also interesting in terms of the principle of prohibition of regression while enjoying social rights. The Court noted that it is not permitted to terminate or deteriorate benefits, privileges, rights and assistance which existed before, unless other equivalent guarantees are taken: “[...] *only stable and fair legislation is a guarantor of human rights recognized by the Constitution. This is the only way through which the normative act can keep its features. Ignoring the aforementioned requirements violates the principles of justice and irreversibility of laws.*”⁶⁰ The fact of illegal intrusion into state-owned facilities is caused by the condition of self-survival and self-assistance. According to the interviews conducted within the scope of the research, in most cases the intrusion was the only solution for homeless families to escape living on the streets. Accordingly, considering their behavior as a violation of the law and implementing repressive policy represents an attempt by the state to cover its obligations.

At the same time, the legislative amendment of May 17, 2013 is discriminatory because it sets different rules of registration in the database of socially unprotected persons for homeless people. Taking into consideration the importance of ensured right (in this regard it is important to mention that receiving subsistence allowance ranks as right, to dignity in the system of constitutional rights and freedoms) and the intensity of violating the right it represents unjustifiable discrimination against homeless people with respect to other socially unprotected people.

⁵⁷ Gosselin (2002) 221 DLR (4th) 257, [376] (Arbour J dissenting).

⁵⁸ CESCR General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant) (9).

⁵⁹ The International Network for Economic, Social and Cultural Rights (ESCR-Net) <http://www.escr-net.org/docs/i/401627>; Housing rights legislation - Review of international and national legal instruments, United Nations Housing Rights Programme Report No. 1; United Nations Human Settlements Programme (UN-HABITAT) Office of the High Commissioner for Human Rights (OHCHR) Nairobi, 2002. page 13.

⁶⁰ The Constitutional Court of Georgia's decision of April 18, 2002 1/ 1/ 126,129,158 Decision, P. IV.

Homelessness is the extreme form of social vulnerability. Intrusion per se is caused by housing issues and economic austerity. In the occasions when the government is not fulfilling its obligation to provide adequate housing, intrusion is a form of survival for homeless families. Respectively, the squatters are in identical/similar situation as other socially unprotected families and the fact of intrusion does not categorize them as substantially different legal or social category. In this context the state policy towards squatters falls into the category and is the continuation of general policies implemented against homeless people.

Taken all the aforementioned into the consideration, the legislative amendment of May 17, 2013 made sure that the Georgian Government's Resolution on the 'reduction of the poverty level in the country and measures to improve the social security of the population' does not comply with the standards protected by the Constitution and relevant international acts. On the contrary, it represents an unjustifiable weapon for the repression of homeless vulnerable families.

5. ANALYSIS OF STATE POLITICS TOWARDS SOCIALLY VULNERABLE HOMELESS PERSONS

5.1. PREAMBLE

The review of state policy towards socially vulnerable persons occupying state-owned buildings is based on the analysis of current legislation, public information obtained from state agencies, explanations from the Head of the Department of Social Affairs of the Ministry of Labor, Health, and Social Affairs of Georgia, and information obtained from homeless families, which describes the informal and formal communications between them and the state.

The state policy towards socially vulnerable families residing in state-owned buildings can be described in terms of non-recognition, inactivity, and repression.

The state tries not to recognize the problems of homelessness in the mentioned group and wants to declare their actions illegal, since they overtook the buildings by force. Consequently, socially vulnerable families live in constant fear of eviction and of being left without shelter, and have no expectation of legal protection.

Due to the lack of support from the state, homeless persons have no chance to improve their living conditions and are forced to live in circumstances that pose threats to their health and life, an existence unworthy of human dignity. Moreover, there were cases of interference in their attempts to improve their living conditions, which deepens their social and economic insecurity and increases their marginalization.

It is noteworthy that the state's policy towards homeless families is not based on the principles of human rights protection. The difficult economic and social circumstances of vulnerable homeless families are a continuous violation of their fundamental human rights. The state, however, doesn't regard their issues as violation of human rights, and thus breaches its own commitments.

Moreover, the state views the problems of homelessness not as the result of an unfair social and economic policy, but as a result of individual/private responsibility, and as a result the problem is not addressed as a complex issue and there is no aim to prevent homelessness.

Together with its policy of non-recognition, the state tries to use its repressive mechanisms against these families and deprives them of social assistance and other benefits in order to prevent the infringement of its property rights. Cancelling social assistance, while these families are totally dependent on it, deepens their economic vulnerability.

5.2. REVIEW OF THE RELEVANT INTERNATIONAL STANDARDS ON THE STATE'S HOUSING OBLIGATIONS

According to Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, the state should take steps towards the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including the adoption of legislative measures. Even when there is a recognized shortage of available resources, states must work on full realization of rights and must demonstrate that they make every effort to use all available resources to meet these minimum liabilities.⁶¹

Limited resources do not free a state from certain minimal obligations in terms of implementing economic, social and cultural rights.⁶²

In accordance with the concept of the progressive realization of rights, the state's obligation to ensure the protection of social rights is not dependent on any increase in available resources. The Covenant requires an effective, fair and immediate use of resources. Every state has its minimum core obligations based on the Covenant, which requires meeting each of the essential requirements at a minimal level.

According to the Committee on Economic, Social and Cultural Rights, when significant number of people do not have shelter or apartment, the state *prima facie* fails to fulfill its obligations under the Covenant.

According to Article 11 on adequate housing right of the Covenant, the state must have a housing strategy which will be planned with the participation of all the beneficiaries and which will prioritize among them based on inadequate living conditions, social status, and discrimination.

5.3. REVIEW OF THE STATE'S GENERAL POLICY ON THE FIGHT AGAINST HOMELESSNESS

The state policy towards socially vulnerable homeless families occupying state-owned buildings must be reviewed in terms of the general state policy towards homelessness. The state took several positive steps towards solving this problem, but these measures are not enough and don't provide a systematic approach.

61 International Covenant on Economic, Social and Cultural Rights, General Comment N3.

62 *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 1998.*

5.3.1. THE RIGHT TO ADEQUATE LIVING SPACE AS DEFINED IN THE STATE STRATEGY ON HUMAN RIGHTS (2014-2020)

Until 2014 the State didn't have any kind of strategy/policy or plan for dealing with homelessness. After adopting the State Strategy on Human Rights, (for the years 2014-2020) the right to housing was recognized as a State responsibility. Namely, article 21 of the strategy defines the State's obligations for solving the problem of homelessness; a) the maximum concentration of existing State resources; b) ensuring the right to housing without any kind of discrimination; c) implementing effective measures for providing adequate housing for vulnerable groups; d) creating relevant legislation corresponding to international standards and the State housing strategy, which will include all groups ; e) registering homeless persons and creating a database; f) ensuring minimal housing conditions.

Despite recognizing the right to housing in the strategy, the Action Plan for the years 2014-2020 doesn't reflect the strategy plans and doesn't mention specific measures to be taken against homelessness.

5.3.2. THE TENT IN TBILISI AND PROBLEMS IN FUNCTIONING

In December 2013, in response to the fact that people were freezing to death, the Georgian government opened a tent on Moscow Avenue; the goal was to create a temporary, emergency shelter.⁶³ The government created a provisional interagency commission, which consists of representatives of The Ministries of Regional Development and Infrastructure, Economics and Sustainable Development, Finance, Defense, Internal Affairs and the Tbilisi Mayor's office.⁶⁴

At its largest, the number of beneficiaries reached 200. These measures by the government aimed at protecting homeless people from freezing must be cited as positive. However, after the winter, due to insufficient infrastructure (tarpaulin tents, absence of sewage, water and heating systems and thermoregulation) and the difficult living conditions (lack of control of hygienic conditions, anti-sanitary conditions, risk of spreading diseases) leaving these people in the same tent was unjustifiable.⁶⁵

At the same time, psycho-social analysis of the tent residents shows that medical services offered to them by the State are not comprehensive and doesn't provide real support for the medical and economic needs of homeless people. The State provided registration and issued IDs for the tent beneficiaries. However, the issues of acquiring the status of a person with disabilities and including them in the relevant programs and services are still undecided. There are persons with disabilities

63 See video prepared by Human Rights Monitoring and Education Center (EMC) : <http://www.youtube.com/watch?v=phsepyM4cxE>

64 Resolution of the Government of Georgia (March 13, 2014, #416) on introducing the amendments to the Resolution #1946 (December 13, 2013) of the Government of Georgia „on the urgent activities to be undertaken for supporting homeless persons during the 2013 -2014 winter .“

65 See the video prepared by the human rights education and monitoring center (EMC), which describes the grave conditions in the tent: http://emc.org.ge/2014/04/23/karvebis_qalaqis_binadarni/

among the inhabitants of the tent, as well as palliative patients who shouldn't be in the tent and this equates to ill-treatment. There is the serious problem of people with mental disorders who are not registered anywhere and have no access to relevant services. Among the medical personnel serving the tent there were no psychiatrists who would identify such problems and provide monitoring of the treatment process. There was no assigned group of social workers who could provide bio-psycho-social assessment, as well as needs assessment and provide access to outside services.

On February 7, 2014 the Georgian government adopted a decree (N131) on minimal standards for temporary shelters. According to the statement by the government, before the end of this year, a new shelter in a building will be organized for homeless persons in accordance to minimal standards defined in the decree. This kind of shelter will be positive step forward, although the tent concept needs further processing and development. Decree N131 only establishes the standards of physical and structural arrangements, and it doesn't define the medical or social model of a shelter. Thus it is important for the State to work out a comprehensive concept for psycho-social services and rehabilitation of homeless people. It must be mentioned that this kind of shelter should be opened in other parts of Georgia as well, since the number of homeless persons is also high in regions outside of Tbilisi.

5.3.3. THE ABSENCE OF A UNIFIED STRATEGY AND PROGRESSIVE POLICY IN DEALING WITH HOMELESSNESS

A large number of people today face housing problems, and the government must work out a unified and methodical approach towards this issue.

According to current legislation, local municipalities are responsible for registering and providing housing for homeless persons. No agency within the central government is committed to addressing the issue; none of the agencies are responsible for the issues of homeless families who have overtaken state buildings. Formal communication with these agencies illustrates that none of them are taking responsibility and that they are trying to redirect these issues to local municipalities. This approach is inadequate since the enormity of housing problems and the existence of the systematic reasons behind it make it very hard for local municipalities with limited resources to deal with this issue.

In the information provided to EMC, the Ministry of Labor, Healthcare and Social Affairs indicates that the State has only started working on regulating the short-term or long-term problems of homelessness. However, there has been no research on the scale of the problem, its forms and reasons, the needs of homeless families, or the variety of reasons for their socio-economic vulnerability, and all of these must be the basis of planning the relevant policy for solving and preventing homelessness. Consequently, it is vital for the State to extend its policy to include a comprehensive and systemic analysis of the problem.

The right to housing requires the State to demonstrate sustainable progress in solving the issues of homelessness. Together with creating a long-term strategy, the State must take specific steps to address the current situation and work on improving the human rights situation for the most vulnerable and discriminated-against groups. It must be mentioned that according to the Ministry of Labor, Healthcare and Social Affairs, there are no special budgetary appropriations included in the State-funded programs, which means that there will not be any improvements in this sphere.

5.4. THE PROBLEM OF NOT RECOGNIZING THE RIGHTS OF SOCIALLY VULNERABLE HOMELESS SQUATTER FAMILIES

There are few aspects characteristic to the State policy of non-recognition of homeless families occupying vacant buildings: not recognizing these families as homeless and socially and economically vulnerable and identifying them as unlawful residents; not recognizing their rights to adequate living space; and not recognizing that homelessness is a result of systematic faults of the existing economic and social policy.

5.4.1. AN ATTEMPT TO COVER UP THE PROBLEM OF HOMELESS FAMILIES

Statements from government officials as well as analysis of public information from State agencies demonstrate that the State tries to employ various conspiracy theories in order to marginalize socially vulnerable homeless families.

The first of these theories is connected with the elections of 2012 and the transition of power, a process seen as orchestrated by the political powers. G. Kakachia spoke about this during the interview. The second theory is used to marginalize homeless families is illustrated in the way that during public discussions, State officials often point out that among the families who forcefully occupy buildings, many are not homeless and they are only trying to gain additional income from the State.

The information requested from the Ministry of Labor, Healthcare and Social Affairs constantly emphasizes that it is impossible to state the exact number and circumstances of the families, as there is constant movement in and out of the buildings.⁶⁶ With this approach the State covers up the social and economic problems of these families, who are living below the poverty line and have no shelter.

Interviewed families say that the tendency of occupying buildings is connected with the change of government of October 2013 and the new expectations for the social policy of the new government. Interviewed persons stated that they hoped that the new government would make timely and relevant decisions in addressing the issues of homelessness, so the forceful entry into the buildings was directed at increasing their visibility. They say they dared to take this step because the new gov-

⁶⁶ The letter, #01/25614 of the Ministry of Labour, Health and Social Affairs of Georgia, 27.03.2014.

ernment was more loyal. They also say that the acts of occupation were self-organized and that the families met while protesting in front of buildings of different governmental agencies (mostly the Mayor's office). During this kind of communication, it was decided to collectively occupy the buildings after the October elections. Later they were joined by other people as well, who learned about the process through the media. The governmental argument about the political reasons behind the process was proved groundless as there was no organized, large-scale political process. Also, the survey demonstrates that they are loyal to the new government.

As for the second main argument used by the State, that a large number of the families are just trying to get additional compensation from the State by occupying these spaces and that these families do not really live there, it was revealed during the survey that there are spaces in the researched buildings that are empty and locked, despite the fact that most of the interviewed families reside in the buildings permanently. In order to assess the situation, quantitative research was conducted in the building of the former Institute of Cardiology, which is one of the biggest occupied buildings. 70 families were identified as residing in the building. 18 out of 70 of the families (26%) were not in the building during the survey (judging by the state of their rooms and its infrastructure, as well as by the attitude of the neighbors, it can be concluded that they do not live in the building regularly), but the rest of the families (74%) continually live in the building.⁶⁷ Consequently, a large number of families (the majority) live in the buildings and constantly face the risks caused by inadequate living conditions; this situation can only be explained by the desperate necessity of these families.

5.4.2. THE CONFLICT BETWEEN THE RIGHT TO ADEQUATE HOUSING AND PROPERTY RIGHTS

An argument about illicit invasion and therefore the violation of property rights prevails in the evaluations of government officials and in the discussions of state policies towards vulnerable homeless families accommodated in the studied facilities. This argument, in fact, represents an attempt to leave these families outside of the law.

Requested information from the National Agency for State Property shows that the invasion of families into sixteen state-owned facilities in Tbilisi, where they have been living until now, had been recorded since the October elections of 2012. Additionally, according to the Agency, the building of the former Clinic of Cardiology, which was occupied by the vulnerable families in October 2012, is registered as a co-property of Med expert Ltd, Radiological Clinic Ltd and JSC scientific-research Center of Infectious Pathology, AIDS and Clinical Immunology. According to information by the Ministry of Labour, Health and Social Affairs of Georgia, rehabilitation work has been planned for the building of the former Institute of Cardiology, but this work cannot be implemented due to the fact that the building has been invaded by vulnerable families. Taking this problem into consideration, the state will pay the leasing fee in order to ensure that the Center of Infectious Pathology, AIDS and Clinical Immunology will continue to operate.

⁶⁷ An Observation: obviously, in order to identify socially vulnerable families, the problem of homelessness and their socio-economic needs must be researched separately, this was not possible within this study.

The information requested from the state agencies confirms that most of the facilities occupied by vulnerable families are registered on the state's account and represent state property. The majority of these aforementioned facilities were not used by the state for years, and therefore represent abandoned buildings. It is obvious that the state is interested in using its own property and in giving it a specific function; however, in the case of conflict among various obligations, the state has to ensure their simultaneous and optimal implementation, and that the implementation of one obligation does not exclude or justify the failure of the other obligation.

The state justified the eviction of vulnerable families from the former public school #142 and former school #13 on July 29, 2013 as its priority interest which, in fact, was implemented. It is obvious that the state is obliged to ensure accommodation for internally displaced persons; however, the implementation of this abovementioned obligation should not justify the failure of the implementation of other obligations by the state, which, in this case, is illustrated by the violation of the right to accommodation regarding the homeless families below the poverty line. In the end, under public pressure, the state ensured accommodation for some families evicted from the former schools #142 and #13 in the building of a former children's house in Kojori; however, the eviction process was planned in such a way that the state did not ensure a legal or complex assessment of these families' homelessness and vulnerability and, prior to the eviction⁶⁸, the state did not have a specific plan of measures to take in order to solve problems related to the accommodation of these families.

The unsystematic nature of the state policy aimed at solving the needs of homeless families after the eviction is revealed in the situation of those persons who are occupying the medical centre Dioscurias, and who are forced to live in severe and degrading environment (see the chapters 2.2.3., 2.5.1., 2.5.3 above).

It should be noted that certain facilities are located at places of strategic importance, which increases the risk of eviction for the families living in these buildings. For example, public school #68 is located on Atoneli Street, where the construction of the President's administration is planned, and the families living there are afraid that after the start of the construction they might face the risk of eviction.

Accordingly, through the use of discourse about the violation of property rights, the state is trying to marginalize this group much more and to cover its obligations, since the fact of eviction itself does not abolish the state's responsibilities in terms of solving the problem of homelessness and ensuring effective social protection.

⁶⁸ See the video prepared by EMC: <http://www.youtube.com/watch?v=ItPqB1v-oi8>

5.5. INEFFECTIVENESS OF THE POLICY IMPLEMENTED TOWARDS VULNERABLE HOMELESS FAMILIES

5.5.1. THE ISSUE OF ASSESSMENT OF VULNERABLE HOMELESS FAMILIES

As was stated above, the main problem of the state policy towards families occupying the facilities registered on the state's account is the non-recognition of this social group. The issue of evaluating vulnerable homeless families by the state is connected to this problem of non-recognition. As the official communication with the Ministry of Labour, Health and Social Affairs-- as well as the practice of eviction of families from buildings of former schools #142 and #13—indicate, the state assesses the social-economic conditions and homelessness of vulnerable homeless families through formal criteria and it is not based on a complex and real study of families.

According to the Ministry of Labour, Health and Social Affairs, in order to identify the real needs of families the Ministry collects information from the LEPL Social Services Agency (about allowances), the LEPL Civil Registry Agency (about the ownership of real estate), the LEPL Service Agency of the Ministry of Internal Affairs (about the ownership of vehicles) and the LEPL Revenue Service (about revenues).

The employees of the Ministry of Labour, Health and Social Affairs and the owners of the facilities inspect the facilities with their own resources and collect descriptions of families (without interviews). According to this acquired information, the Ministry determines the list of those families that it considers homeless and recognizes its obligations towards them. It does not recognize obligations towards those families not listed as such.

While assessing the families, the state neither conducted individual interviews of the families nor studied their vulnerabilities, needs, or the reasons and forms of their homelessness in detail. Obviously, under these circumstances it is impossible to identify the real conditions of the families. In most cases, homelessness is a result of factors such as the splitting up of large families, the lack of land, the breakdown of a building, divorce (for single women), or the exclusion/marginalization from families due to illness. Identification of these factors is impossible with the instruments used by the state.

Therefore, the assessment methodology and relevant methods used by the state on intruding families fails to fully identify their social-economic vulnerability and the extent of the homelessness problem.

The eviction process of vulnerable families from the buildings of schools #142 and #13 illustrates that the state neither studied the homelessness problem or the social-economic conditions of these aforementioned families in detail, nor did it plan solutions for solving the needs of these families based on objectively defined criteria.⁶⁹ In addition, the state did not use legal and uniform criteria

⁶⁹ See the video prepared by EMC: <http://bit.ly/XBYwis>

in the selection process of families. As a result, most of the families were left on the streets without accommodation⁷⁰ after the eviction and were forced to occupy the medical centre Dioscurias.

5.5.2. MEASURES IMPLEMENTED BY THE STATE TOWARDS VULNERABLE HOMELESS FAMILIES LIVING IN VARIOUS FACILITIES

➤ One time temporary financial assistance for vulnerable homeless families

By the end of 2012 the government's main reaction to the intrusion of homeless families into the facilities registered on the state's account was to halt and prevent the intrusion process.

For that purpose the Government adopted decree N454 on November 28, 2012 on the *planned activities for ensuring the social welfare of some categories of families*. According to this decree, the Social Services Agency was to issue one-time, temporary financial assistance for six months to those families who met the criteria determined by the decree. The abovementioned assistance was issued on the basis of individual application and the decision to issue it was made by an Inter-agency commission. The Commission collected information by requesting information from different agencies and then verifying it.

The criteria determined by the decree were based on two factors: severe economic conditions and lack of housing. In particular, according to the decree, additional financial assistance was given to families whose members were not living in the collective centers of internally displaced persons (IDP) or in private accommodation for IDPs (1); none of the family members have received financial compensation from the state or a private investor in exchange for their living space, or none of the family members had legalized a residential area through the form of direct sale of privatization (2), a residential area (apartment) was not registered on any of the family members in the LEPL National Agency of Public Registry; a joint revenue of every single member did not exceed on average GEL 193 monthly during 2012. The abovementioned assistance was issued on the basis of individual application and the decision upon it was made by the Inter-agency commission. The Commission was collected information by requesting information from different agencies and then verifying it.

The decree linked the basis of the termination of assistance to the intrusion of families into private or state-owned lands.

The majority of homeless families interviewed within the scope of the research indicated that they refused to accept the assistance offered by the state due to its temporary character. At the same time, taking into account the market value of the rent, the assistance (worth GEL 200) was not enough to solve the housing related problems.

Unfortunately, within the scope of the research the Ministry of Labour, Health and Social Affairs did not present information about the number of families who used the assistance offered by the De-

⁷⁰ See the video prepared by EMC: <http://www.youtube.com/watch?v=ItPqB1v-oi8>

cree and to which type of financial resources it was connected. The interviews collected from those families who used the single financial assistance of GEL 200 indicate that the amount was transferred with delays, which caused problems for the families with the householder.

Thus, the measures determined by the Decree of 28 November 2012 did not substantially solve the homelessness problem of intruded families due to its temporary and ineffective nature.

After the instant response by the state to the intrusion in the form of social assistance, determined by the decree of 28 November 2012, state policy towards solving the homelessness problems of this group became more individual and sporadic in its nature. The state did not adopt a unified strategy or plan to improve the legal status of homeless families or to create legal expectations for them.

Certain measures taken by the state towards the intruded families in order to solve their challenges are reviewed below.

➤ **Results of eviction of homeless families from buildings of school N142 and N13**

In this regard, first we should evaluate the results of eviction from the buildings of former schools N142 and N13. The eviction of these facilities was the first eviction which the state implemented on the intruding families (see the chapter 2.5.1.above). Before the eviction, the state did not have a specific plan for preventing the risk of leaving homeless families on the streets. Before the eviction families were not informed about the possibility of the state satisfying them with alternative housing. Under the conditions of their absolute dependence on the state and their vulnerability, the eviction process had a degrading and inhibitory impact on homeless families. Under the conditions of civic pressure on the government during the eviction process and of the political context created after the elections, the state provided settlements for some evicted families in a former children's house in Kojori. This decision had a positive impact not only on those families who were provided with housing by the state, but also in general on those vulnerable homeless families who had intruded in state facilities, since this action implies that the state recognized their right to adequate housing and that the state is obliged to take a similar approach in other cases of eviction.

Despite the importance of recognizing this right, the state's decision about the settlement of homeless families in Kojori deserves criticism due to two main circumstances: 1. Prior to ensuring accommodation for some families, the state had not studied the real legal status and needs of the families living in the buildings of schools N142 and N13. The state did not have unified or fair criteria during the selection of families, and due to this some families who did not really have housing and who represented a vulnerable group were left on the streets and were forced to intrude into a different facility(see the chapter 2.5.1.above). 2. Interviews with families accommodated in the children's house in Kojori indicated that the living conditions in Kojori are not compatible with adequate living standards (see the chapter 2.1.7 above). Additionally, the government does provide them the opportunity to improve their living conditions. According to the contract, the aforementioned building was given to families accommodated in Kojori for temporary usage for a one-year term, and after this time period they do not know what will happen to them.

➤ **Risks related to the eviction of families from the building of former Institute of Cardiology**

The state is usually passive towards the problems of homeless families who have intruded into state facilities. The families living in these facilities are not given a chance to improve their living conditions and the state does not create legal expectations through its planned measures or agreements.

After the eviction of families from the buildings of schools N142 and N13, the families living in the building of the former Institute of Cardiology face the biggest risk of eviction. According to information provided by the Ministry of Labour, Health and Social Affairs, the aforementioned building is registered as a co-property of Medexpert Ltd, the Radiological Clinic Ltd and the JSC scientific-research Center of Infectious Pathology, AIDS and Clinical Immunology, and in order to operate in the medical center, the issue of the rehabilitation and exploitation of the building is on the agenda.

In order to plan the eviction of the intruded families, the government adopted Decree #1438 on 9 October 2013 *on the measures for the rehabilitation/reconstruction work of the building of JSC scientific-research Center of Infectious Pathology, AIDS and Clinical Immunology*. According to this Decree, those families registered in the database of homeless and vulnerable families as residing in the building of the Center were offered a one-time assistance (GEL 200 for every family a month for three months).

According to information provided by the Ministry, 77 families are recorded as residing in the building of the former Institute of Cardiology as March 2014; however, according to the Ministry, only 25 families (those who do not possess real estate, vehicles, regular income and who do not receive social assistance), were offered the amount of GEL 200.

The result of the interviews illustrate that the aforementioned offer is not acceptable for the families residing in the building due to its temporary and short-term nature. The families believe that problems related to their accommodation cannot be solved in this way.

5.6. REPRESSIVE STATE POLICY TOWARDS FAMILIES RESIDING IN THE STATE FACILITIES

An amendment was made to the Government's Decree N126 of 24 April 2010 on 17 May 2013 *on the reduction of the poverty level and on measures for the improvement of social security* in order to prevent the intrusion of vulnerable homeless families into state-owned facilities. According to the amendment, an application for registry in the database of vulnerable persons will not be accepted if the applicant is illegally residing in a state-owned facility. A legal assessment of this legislative amendment is presented in this chapter. While discussing the state policy, it should be noted that the aforementioned decision is an illustration of the marginalization process of intruded and vulnerable families and it represents a weapon of repression. According to this governmental decision,

the majority of vulnerable homeless families will be left without a minimum allowance and without other social services assigned to vulnerable people. This will be extremely heavily reflected in their economic and social conditions⁷¹ and it violates their right to social assistance.

5.7. THE ABSENCE OF THE VISION-BASED HUMAN RIGHTS POLICY

The results of the research illustrate that the vulnerable homeless families residing in the facilities registered on the state account live in severe conditions and constantly face the risk of damage to life and health. Their rights to food, water, a safe environment, protection of health, and to social assistance are continuously violated; however, under the conditions of non-recognition by the state, they are not given an opportunity to improve their living conditions and they are facing serious obstacles from the security staff stationed in the building (see the chapter 2.5.3. above).

It should be noted that some vulnerable homeless persons are vulnerable for several reasons (for instance, homeless vulnerable disabled persons, children, single women, and the elderly) and suffer from severe social and medical needs. Due to the stress and marginalization deriving from homelessness and poverty, they are in need of special and complex support from the state. However, the state does not have the appropriate methodology and approach which would proactively work on the group of homeless families, identify their psycho-social needs, and facilitate the process of their social rehabilitation and employment.

Intruding families are constantly facing the risk of eviction and under the conditions of the lack of a uniform political document for combating homelessness by the state and an appropriate action plan, these families do not have legal expectations related to their fate. Accordingly, it is important that the state develops its approach towards homeless vulnerable families based on a vision of human rights, and that it plans specific, timely and complex activities while considering its obligations towards them.

5.8. CONCLUSION

As the evaluation of the aforementioned policy indicates, the measures taken by the state towards vulnerable homeless families residing in the facilities registered on the state balance are fragmented and the actualization of these issues usually takes place in the context of eviction. The alternatives offered by the state for eviction do not apply to all families equally, due to the lack of legal criteria of assessment and of adequate assessment instruments. In some cases, offers made by the state are not acceptable due to their temporary character. The state does not offer vulnerable homeless families the opportunity to improve their severe living conditions, nor does it ensure minimum standards of safe housing, which leads to the violation of the fundamental rights of these families. Additionally, in order to prevent the practice of eviction, the state implemented a repressive policy which does not allow intruding vulnerable families to register themselves in the database, and thus leaves them without a minimum income.

⁷¹ See the video prepared by the EMC. Available at: <http://www.youtube.com/watch?v=DmJHZ83Dnqk>

6. RECOMMENDATIONS

- 1. Recommendations regarding legislative changes and additions related to the problem of homelessness**
 - 1.1.** Guarantee the right to adequate housing in national legislation. For this purpose it is necessary to:
 - 1.1.1.** Modify and improve the definition of a homeless person in the Law on Social Assistance so that it covers the various forms of homelessness, including persons who do not have accommodation and live with their relatives, or live in rented accommodation or illegally occupy a living area, or have housing that does not meet the minimum standards of adequate housing;
 - 1.1.2.** Formulate clear regulations of the state's progressive obligations in terms of adequate housing at the legislative level;
 - 1.1.3.** Regulate minimum standards of the right to adequate housing at the legislative level;
 - 1.2.** Article 31 of the European Social Charter which guarantees the right to adequate housing;
 - 1.3.** Annul the legislative amendment of May 17, 2013 made to the Georgian Government's Resolution of April 24, 2010 (N126) on the 'reduction of the poverty level in the country and measures to improve the social security of the population' due to its unconstitutional character.
- 2. Recommendations which are connected to determining an effective and fair policy for combating homelessness**
 - 2.1.** Conduct a complex study of the description of homeless persons in order to effectively solve the current challenges related to homelessness, including research on the reasons of homelessness, the rights of homeless persons and their living conditions, their social, economic, medical needs and vulnerability;
 - 2.2.** Process the obligations described in the National Strategy of Human Rights (2014-2020) regarding the realization of the right to adequate housing and their reflection in the government's human rights action plan, including specific measures that need to be implemented by the state in order to combat homelessness. It is important to ensure that the aforementioned process is inclusive and conducted with the active participation of main actors such as homeless activist persons and organizations working on adequate housing;
 - 2.3.** Adopt a national strategy on accommodation by the government which will raise the distinct marks and timely calculate objectives for the necessary measures of progressive realization of the right to adequate housing;

- 2.4. Integrate measures for combating homelessness in other ongoing reforms in the country, including programs of domestic violence, violence against women as well as current reforms in the context of other vulnerable groups;
- 2.5. Adopt a methodology/guidelines for the registration of homeless persons. Determine which agency is responsible for running the registry on homeless people and developing the methodology/guideline for its functioning .
- 3. **Recommendations related to the accommodation problems of vulnerable homeless families occupying state-owned properties**
 - 3.1. Taking into consideration the high number of squatters, socially vulnerable and homeless families and the scale of their needs, the state needs to determine aliable agency prior to planning substantial strategies to fight the housing issue in the country;
 - 3.2. Conduct a deep and complex evaluation of the social and economic conditions of vulnerable homeless families occupying state-owned properties which is based on interviews with individual families and which reveals the challenges and needs that are connected to accommodation;
 - 3.3. Declare a moratorium on the eviction of vulnerable homeless families occupying state-owned properties until a legal evaluation of their conditions as well as their needs related to housing takes place and solves the problems related to the accommodation of vulnerable homeless persons;
 - 3.4. Adopt a plan to solve the housing-related problems of vulnerable homeless families which is based on the principle of prioritization according to the needs of families and which will minimize the risks of staying on the streets. Ensuring the participation of beneficiaries in the process of the adoption of the plan is important;
 - 3.5. Ensure the immediate improvement of the living conditions in those properties with harsh living conditions where sewage, water supply and electricity systems do not operate in order to comply with the minimum standards of adequate housing. Consequently, ensure the removal of sewers from the building, waste of trash and cleaning is important since they create the risk of spreading diseases.
- 4. **Recommendations which are related to the social problems of vulnerable homeless families occupying state-owned properties**
 - 4.1. Ensure the provision of appropriate information to vulnerable homeless families about the existing social and medical assistance programs;

- 4.2.** Develop special social and medical programs for particularly underprivileged and vulnerable persons among the socially vulnerable homeless groups of people (persons with disabilities, women who victim of violence, single mothers, single elderly people, people with mental disabilities);
- 4.3.** Offer special additional programs to homeless children for the purpose of proper realization of their right to education.

5. Recommendations related to the improvement of the social security system

- 5.1.** Improve the social security system, including the consideration of the risks related to homelessness during the evaluation of social vulnerability while assessing social and economic conditions of families;
- 5.2.** Ensure the issuance of a social assistance system for the homeless persons living on the streets while taking best practices of other countries into consideration;
- 5.3.** Consider the grievance mechanism on granting a rating score while assessing the social and economic conditions of a family;
- 5.4.** Taking into consideration the specific needs of homeless persons and families develop special social programs for the purpose of their social protection, employment and psycho-social rehabilitation, in order to achieve substantive equality in the fight against homelessness;

6. Recommendations for local authorities in the fight against homelessness

- 6.1.** Adhere to the obligations under Article 18 of the Law on Social Assistance which requires the prioritization of a homelessness program at the local level and mobilize local budgetary funds for this purpose;
- 6.2.** Provide shelters and social housing⁷² according to relevant international standards and best practices of other countries.
- 6.3.** Develop a human rights based approach regarding the housing issues that will offer the tent beneficiaries proactive and complex psychosocial and medical services and will support them in rehabilitation and development processes.

⁷² In this regard see the results of the research 'Social housing-Georgian reality in the context of International Experience' conducted with the support of the Swiss Agency for Development and Cooperation (SDC), 2013 ; As well as the research- ' Homelessness, social accommodation and social work' published by the Swiss Agency for Development and Cooperation (SDC) and United Nations Development Program (UNDP), 2014, Author Salome Namicheishvili, Available at : <http://www.ge.undp.org/content/georgia/en/home/library/poverty/homelessness--social-housing-and-social-work/>