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ACCESS TO HIGHER EDUCATION AS A MEANS OF REHABILITATION FOR PRISONERS: THE CASE OF GEORGIA

Abstract

Higher education plays a vital role in the development of individuals and increases chances of employment. Proper attention needs to be paid to providing prisoners with the correct facilities to obtain higher education since they represent one of the most marginalized groups and their rehabilitation is of great importance to prevent recidivism, promote their full re-socialization, and strengthen their employment opportunities. This study aims to explore the compatibility of the Georgian legislative framework regarding the prisoners' right to higher education with the international standards as well as the current situation and challenges in Georgian prisons. Based on a combination of qualitative research, more specifically, case studies, and existing scholarship on the topic, as well as reports of the authoritative international and local public and/or third sector organizations, the study shows that access to higher education is an essential need for convicted persons in Georgia. Even though Georgia's legislative framework regulates some aspects of ensuring access to higher education, its availability is restricted only to limited types of institutions. Moreover, there is a scarcity of prisoners engaged in higher educational programs, which indicates the deficiency of practical mechanisms. The study also reveals that the budget allocated by the state for the education of inmates compared to the overall funds envisaged for higher education is substantially meager, which is utterly insufficient to implement high-quality educational programs. The study provided legal research of the existing national legal framework from the perspective of existing international universal and regional standards and obligations, which was provided in the context of a theoretical framework aimed at outlining the importance of higher education in lockups.

Key words: access to higher education, rehabilitation, convicts, prisons, Georgia.

Introduction

The right to education is one of the most essential rights, the realization of which depends not only on the development of the personal and professional capability of an individual, but on the whole of society. It improves the social competence of people and helps them in communicating with others. Obtaining a full and proper education by a person is connected with getting a decent place in society. The higher the level of education of the society as a whole, the better the welfare of each member of society is; however, it is not sufficient just to guarantee the right to education within local legislation, but to put it into practice and give all members of society, who are seeking, access to it. Simultaneously, citizens must have equal opportunities to obtain the level of education upon their will and abilities (Akbar 1952, 89; Jenks 1946, 40–41).

Rotman signifies that imprisonment itself has a rehabilitative, initially correctional goal. Simultaneously, it assists inmates to boost their self-discovery process and awaken their sense of social responsibility, which, eventually, obliges authorities to take care of the well-being of convicts and minimize the unwilling side effects of incarceration (Rotman 1986, 1025–1029; 1034–1035). If prisoners are not provided with rehabilitation opportunities, the goal to reduce crime, will not be achieved as inmates will not be able to self-support themselves and not re-offend (*Ibid.* 1061). The right to education is considered a rehabilitative tool (*Ibid.* 1057). Several studies have shown the importance of prison education, which increases inmates living conditions in

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penitentiaries and diminishes recidivism; however, convicts' educational level is lower than the rest of society (Hetland et al. 2007, 146).

Paragraph 28(1) of European Prison Rules also emphasizes the need for education in prisons, it denotes: "Every prison shall seek to provide all prisoners with access to educational programs which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations." The general comment of this rule highlights the significance to arrange education facilities for young prisoners (CoE 2006, 57).

After release from prison, inmates have to overbear different challenges to successfully reenter society. The main challenge is employment (Nally et al. 2014, 17). They usually undergo difficulty finding a job, as they face stigmatization because of their ex-prisoner status, for certain periods they have the status of a "convicted" person, which, in the case of Georgia, forbids them to work in the public service under this label. Besides public service, the private sector is also not so open to ex-prisoners, which means that they need to find alternative sources of finances, which can lead to committing further crimes (Case and Fasenfest 2004, 25).

Whilst most European countries provide prisoners with access to education, Georgia still faces significant challenges. Although getting a higher education depends on the will and choice of the individual, the Georgian government should take more proactive steps to encourage a dynamic engagement of the inmates in this process; hence, the understanding of this right should shift from its negative connotation into its more positive understanding, where the role of government is substantially increasing in terms of giving the written norms a real life.

Despite the progressive amendments in the Code of Imprisonment of Georgia made in 2017 (Article 1151) – specifically, convicts placed in a pre-release/low-risk/juvenile rehabilitation facilities were entitled to receive education at the first stage of academic higher education (Bachelor's degree), later on, after the changes of 1st November in 2019 Master's degree became attainable as well, noteworthy, they apply to just a defined group of prisoners, under the umbrella of the Constitutional provision Article 27 which guarantees everyone's opportunity to get access to and decide on the form of education.

The central point of this paper is that while everyone deserves and has the right to access to higher education, prisoners should be paid no less attention by the state, since they represent a specific vulnerable group, and access to higher education can raise their chances of successful rehabilitation through increasing their chances of employment.

1. Conceptual and Theoretical Framework

The right to education is one of the most important rights and one of the main tools to heighten and further the development of a society. It is not sufficient just to guarantee the right to education within local legislation, but to put it into practice and give all members of society, who are seeking it, to gain access (Akbar 1952, 89; Jenks 1946, 40–41). Individuals "should be given the best education to which his talents entitle him" (Akbar 1952, 92–93).

The word rehabilitation relates to restoration, improving the state of the prisoners via encouraging them to bring back to the primary lifestyle, where they were without any label of conviction. The right to education is considered a rehabilitative tool (Rotman 1986, 1057). Vacca (2004) denotes that proper prison education improves inmates' attitude towards life, their insight about increased employment chances, prison environment, inmates' physiological condition, and diminishes cases of reoffending (297–299).

Lee suggests that the higher the education person gets, the better they can be (Lee 2013, 2). Education gives convicts hope that they are still human beings, they believe in the prospect to rejoin the public and starting a new life.

1. 1. Philosophy of the Right to Education

In the development of the philosophy of education, a significant role has played an American philosopher, psychologist, and education specialist Robert Dewey. Dewey proposed the term *instrumentalism*, since he

considered knowledge as a means to be the basis of human existence, as it enables humans to solve the problems they face during their lifetime. He believes that “the measure of the worth of any social institution, economic, domestic, political, legal, religious, is its effect in enlarging and improving experience” (Dewey 2001, 10–11). A person living alone has no opportunity to reconsider his past and appreciate its value. (*Ibid.* 9). In his words: “what nutrition and reproduction are to physiological life, education is to social life” (*Ibid.* 13). Education is mainly spreading over communication (*Ibid.*). It is through sharing experience and transferring education that both sides of communication are perceived as one whole (*Ibid.* 14). In this whole, Dewey sees the connection between youth and adults. When a society guides the activities of a young person, it determines its future, as a young person will become a full member of this society soon. A society, which is characterized by free and equal relations, and where progress, development, and education are of great importance, is democratic (*Ibid.* 105). Society is as democratic as it creates the relevant conditions for each of its members to enjoy the public good on the principle of equality. Only through education is it possible to spread innovation, to develop in each individual the ability of personal initiative and adaptation, to give thought and direction to one's actions, and to relate these actions to the others. The individuality of human life lies in the fact that man creates themselves through their will, which can be achieved by education; in which lies the only function of the state (*Ibid.* 100–105). Education does not simply change what we know, it changes what we want to know: our beliefs about the world, our dispositions toward the world, and our habits for engaging the world” (Stoller and Kramer 2018, 6).

After incarceration, prisoners are deprived of various rights, such as the right to vote, liberty, and others (*Ibid.*). In Vorhaus's opinion, one of the judgments for providing prisoners with education is: “... to promote a personal, social, or economic good – employment prospects, for example, or reintegration into society” (*Ibid.*). On the other hand, Vorhaus admits that “[t]he absence of a thorough and robust articulation of the justification of the right to education in prison is, perhaps, one reason why the right is not as secure and consistently upheld in practice as it ought to be” and concludes that comprehensive studies are desirable to elucidate all the queries in this regard (*Ibid.* 172).

2. Legal Framework on the Right to Education

In pursuance of an evaluation as to whether prisoners' right to higher education is protected in the case of Georgia, it is crucial to define if legal sources oblige and impose responsibility for the state authorities to take some steps in this regard. Therefore, without such regulations, it is meaningless and impossible to justify the actions of the government.

2.1. International Legal Basis

The first and most important international regulation that stipulates the right to education is Article 26 of the Universal Declaration of Human Rights (UDHR). Noteworthy that the declaration itself is not a legally binding document, although it has great moral force. Georgia became a member of the United Nations in 1992. The International Covenant on Economic, Social and Cultural Rights (ICESCR) represents another significant source for the right to education and arranges a legal outline of how it should be preserved and secured by the states parties. Article 13 of the ICESCR designates that every human being is entitled to the right to education. According to it, higher education must be available for everybody; simultaneously, it demands from states parties gradually implement free higher education programs (UN 1966a). The International Covenant on Civil and Political Rights (ICCPR) also includes the right to education in Article 18, however, it guarantees the autonomy of parents or legal guardians “to ensure the religious and moral education of their children in conformity with their own convictions” (UN 1966b), which means that the state has an obligation not to interfere in parents'/ legal guardians' freedom of choice while deciding children's religious/moral education's compatibility with their beliefs.

Another significant activity of the Committee on Economic, Social and Cultural Rights (CESCR) is the establishment of General comments on the rights of the ICESCR, which reflects a detailed analysis of specific articles from the view of the Committee. By way of providing such interpretations, states parties are better able to fulfill their obligations under the Covenant and carry out treaty provisions (UN 2020b). In General Comment No. 3, Committee denotes that “the maximum of its available resources” implies not only the obtainable inner

state financial resources, but also the international ones, gained by collaboration and support, especially the technical and economic (para. 13) (OHCHR, n.d. 1990, 1–4).

In General Comment No. 13, the Committee emphasizes the crucial role of education and indicates it as an *empowerment right* (para. 1). Education is one of the beneficial expenditures, any country can give away (*Ibid.*). General Comment No. 13 highpoints the core four features of the right to education for each level, which defines whether this right is fulfilled by the state party. The first and basic requirement is availability, which implies the existence of educational programs and institutions operating across the country. The second feature is accessibility which expects all educational facilities to be non-discriminatory and accessible to everybody. Specifically, for the educational institution to be accessible, should be non-discriminatory, physically, and economically accessible. Non-discrimination is related to the accessible educational tools for the most vulnerable groups, without any differentiation between pupils/students. Physical accessibility relates to both, physical access such as the appropriate location of learning institutions, and distance – e-learning. Thirdly, economic accessibility implies affordable fares. The third factor is acceptability, which refers to the content of the educational process. To finish, the ultimate condition is adaptability. Education should be a living and diversified mechanism, which develops alongside society and corresponds to the modern specifications (OHCHR, n.d. 1999b, 2–3).

In paragraph 46 of the General Comment No. 13, CESCR reiterates the three main obligations from the States parties, to respect, protect, and fulfill the right to education, similarly to other rights. The first matter means the usage of all available vehicles to impede any kind of interference in the realization of the right to education. The second criterion expects from States parties to eliminate any interference from outside, third parties. Whereas fulfillment of the right to education demands from states “to take positive measures that enable and assist individuals and communities to enjoy the right to education” (OHCHR, n.d. 1999b, 10–11).

The abovementioned criteria are considered crucial for the detained people as reported by the Special Rapporteur on the right to education of persons in detention (UN 2009, para. 10) Human dignity, which is the basis of human rights, obliges penal authorities to “respect for the individual, in his actuality and also in his potential” (para. 18). Offering an educational opportunity should not be understood as compensating for the harm caused by detention, but rather, as offering prisoners a prospect that they did not have earlier and that is adjusted to the interests of themselves and the whole society itself (para. 20).

Another significant issue the Rapporteur stresses is countries where participation in the educational process can lead to bail, conditional release (in Peru, Guatemala, Algeria, Mauritius, Poland, the Dominican Republic, and Tunisia), or prison term lessening (Tunisia, Peru). It is pondered that vigorous and progressive involvement of various shareholders, for example, non-governmental organizations, public sector, civil society, and penitentiary structures, will be a much more productive to mend practice (para. 65). In conclusion, the Rapporteur recommends States guarantee the right to education for incarcerated through Constitution and other domestic regulations; simultaneously, “the provision of education for persons in detention should be adequately resourced from public funds” (UN 2009, 24–25).

2.2. Regional Standards

In this section, the main attention will be paid to the standards concerning the right to education elaborated by the Council of Europe as well as of the European Union, due to its relevance for Georgia. While Georgia is a member of the first, it apprehends the so-called new generation Association Agreement with the EU and the declared membership aspirations as its foreign policy priority with the latter.

A historic step was taken in 1948, when the Universal Declaration of Human Rights was adopted, recognizing the universal nature and inviolability of human rights. This was soon followed, in 1950, by the Council of Europe’s readiness to stand up for human rights and to adopt the European Convention on Human Rights (ECHR), which required ratification of the Convention as a necessary precondition for its membership. Its signatory states guarantee that the fundamental rights will be provided to their citizens and all persons subject to their jurisdiction. In 1952, Optional Protocol No.1 to the Convention for the Protection of Human Rights and Fundamental Freedoms was adopted, which states: “No person shall be denied the right to education” (CoE 1952, 3). The Optional Protocol No. 1 entered into force for Georgia on June 07, 2002 (CoE 2020).

Georgia became a signatory of the European Social Charter (ESC) in 2000, and ratified on August 22, 2005, but considers itself bound by Article 7, specifically: “to take all appropriate and necessary measures ... to ensure that children and young persons ... have ... the education ... they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose” (CoE 1996).

The Committee of Ministers of the Council of Europe adopted Recommendation No. R (89) 12 on the prison education, where the preamble declares the right to education as a fundamental one, which is important for the progression of the community and an individual oneself (CoE 1989, 1). The European Prison Rules were adopted by the Committee of Ministers of the Council of Europe on 12 February 1987 and one of the basic principles (6) is that “All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.” On the one hand, paragraph 28(1) reveals the need to provide all the prisoners with educational facilities based on their goals and specific necessities; on the other hand, 28(3) explicitly highlights the importance of education of young prisoners. Moreover, education should be practiced in prisons in that way to be resumed without any complications after discharge 28(7) (CoE 2006).

Another significant step for the improvement of higher education guidelines was taken through the Bologna Declaration, which was signed by the Ministers of Education of 29 European countries on June 19, 1999. By signing this document, the respective states expressed their common readiness to participate in the establishment of the common European Higher Education Area (EHEA). Currently, the EHEA has 48 member states. The precondition to becoming a member is a requirement to be a part of the European Cultural Convention and have an eagerness to make some amendments to the internal higher education system to be in line with the Bologna Process aspirations (EHEA 2020a). The Ministers of Education of the unified 29 countries stressed the main objectives of higher educational institutions which comprise with comprehensive, obvious academic degree system; the adoption of a double-level higher education system – before diploma (undergraduate) and after diploma (graduate). Georgia has officially become part of the Bologna Process in 2005 (EHEA 2020b). A little while after the signature of the Bergen Communiqué, a draft named “Main Directions and Action Plan for Implementing the Bologna Process in Georgia Until 2010” was launched, which reviewed the existing challenges, strengths, weaknesses, opportunities, priority directions, and action plan for the implementation and development Georgian higher education system so, to be associated as a part of “Europe of Knowledge” (Eurasia Foundation 2005, 4). Though, the Bologna Declaration does not refer to the implementation of the higher education system in penitentiaries.

Besides the Bologna Process, improvement of the higher education system is required through the special chapter of the “EU-Georgia Associate Agreement”, which entered into force on July 1, 2016. Under the agreement, Georgia took a responsibility for the establishment of independent, impartial educational institutions focused on the highest quality education and development of young people; as well as cooperation between the education sector and the labor market in terms of increasing student employment; learning throughout life, which is a key aspect of career growth and job security and will enable members of society to actively contribute to public life. Within the framework of the Association Agreement, special attention is paid to the strengthening, encouraging, and active promotion of cooperation in the field of higher education by Georgia, which means implementing various exchange programs for students and academic staff, however, none of the provisions refer to convicts (Association Agenda 2017–2020, 55). Concurrently, according to item 37 of the 2014–2016 Association Agenda, Georgia is committed to pursuing a policy of rehabilitation and re-socialization in the criminal field through encouraging the utilization of non-custodial sentences, community service, probation, parole, diversion, and mediation. Moreover, it aims to carry out effective rehabilitation and re-socialization programs and increase the number of prisoners who are involved in educational programs (Government of Georgia 2015). Moreover, Association Agenda 2017–2020 highlights the state’s obligation to enforce rehabilitation and re-socialization programs in penitentiary systems to preclude re-commitment of crime and in chorus, ensure the balance between public order and security and human rights (Association Agenda 2017–2020, 15).

3. Law and Policy of Georgia on the Higher Education of Prisoners and Statistical Data

According to the Constitution of Georgia, everyone is permitted to get and decide on the form of education he/she/they desire. The Law on Higher Education via Article 43 defines the rights of students, such as, to choose a desirable education program. The same Law allows for the possibility of a prisoner being a student. Besides, the

Code of Imprisonment affirms higher education as a means of re-socialization and to “improve the educational and professional level of convicted persons” (Parliament of Georgia 2019). Therefore, this entitles prisoners to be placed at a preparatory, pre-release facility, or a low-risk detention facility to obtain a Bachelor’s degree from 2017 and a Master’s degree from 2019. Education at the Bachelor’s level is available if a person is placed at a juvenile rehabilitation institution as well. The law also includes faculties, which can be obtained by inmates and they are the followings: Business Administration, Law, Engineering, Social Sciences, Arts, Humanitarian Sciences, and Interdisciplinary Specialties.

Another significant area of progress is the National Strategy for the Protection of Human Rights of Georgia, which aspires to establish a penitentiary and probation system under international standards, improve the conditions in penitentiary and probation institutions, promote the re-socialization of convicts and ex-prisoners, and to implement the targeted programs (Parliament of Georgia 2014). An Interagency Coordinating Council for Criminal Reform aims to involve as many convicts as possible in educational programs (Tabatadze and Qelbaqiani 2019, 5–6). These objectives were stipulated in the 2014–2016 Association Agenda as well.

Moreover, 2018’s joint decree of the Minister of Corrections and Probation of Georgia and the Minister of Education of Georgia, signifies the rules for providing education to prisoners. The decree, within 6 months after the order comes into force, requires the Ministry of Corrections and Probation of Georgia to create a special electronic program for the convict to receive education at the first level of academic higher education (Bachelor’s). Moreover, it defines the courses which can be attained by the convicts and guarantees them the right to receive a quality education (Minister of Corrections 2018).

According to Article 13 of ICESCR (2) (c) “higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education”, which can be practiced through distance learning as well. As it seems, the Georgian legislative framework is in line with this principle, since the Georgian system includes providing inmates with teaching via a special electronic system.

As was cited above in this paper, General Comment No. 13 of CESCR reiterates three main obligations from the States parties, specifically, to respect, protect, and fulfill the right to education. Consequently, states must respect the availability of education, protect the accessibility of education, and fulfill the adaptability of education, otherwise States parties will violate the right to education (OHCHR, n.d. 1999b, 10–11). It was elucidated that Georgian legislation respects and protects prisoners’ right to higher education, however, in part of the obligation of the fulfillment of this right, the practice shows that there is a challenge in this regard. In this context it is important to underline that the CESCR declares the following: “States parties are obliged to fulfill (provide) a specific right in the Covenant when an individual or group is unable, for reasons beyond their control, to realize the right themselves by the means at their disposal” (*Ibid.*) First of all, the law entitles prisoners to obtain higher education on the first and the second cycles just for those who are placed in a pre-release/low-risk/juvenile rehabilitation facilities, which means that inmates placed in other types of the penitentiary are immediately deprived of this right, Furthermore, the examination of various reports have shown that the numbers of inmates who are involved in higher education activities are few and ranges between five to twenty over the years, which indicates that well-written regulations are not enforceable in practice. Although there is no study about the views of the students who are enrolled in higher education programs from penitentiaries, convicts’ level of participation and experience in vocational training (scarce, monotonous courses as well as the working schedule of the library, and outdated literature) gives grounds for assuming that there are various challenges as well, which discourages inmates or makes some barriers for them to enroll at universities.

Surprisingly, the reports have identified that in 2015, there were several students in prisons, who were studying for a Master’s degree, however, this issue needs further exploration, as, officially, only after 2019’s legislative changes became Master’s studies available for inmates.

The statistics show the numbers of prisoners year by year, for example, in 2016 three convicts were enrolled in Bachelor’s program and one in the Master’s program, in 2017 ten inmates and three accused studied for Bachelor’s program, one – for a Master’s program, in 2018 six inmates, while in 2019 ten convicts successfully passed national exams, but how many of them continued studying is unknown. Regarding the female prisoners, it should be mentioned that in 2016 there was none of a student inmate, while in 2017 one convicted and one accused person studied for the Bachelor’s degree. The official sources indicate merely the numbers of convicts

based on their status; however, any further information on how this studying is accomplished, is unknown. The same happens with the NGO's reports, they identify that there are several students, but there is no information about the teaching methods. In the case of the Ombudsman of Georgia, who has direct contact with inmates, nothing is mentioned about higher education at all. The existence of a special electronic platform through which the studying program is conducted is not yet confirmed. Taking into consideration that even at the legislative level, it is not yet regulated what courses may be offered to prisoners under the Master's program, it is unclear how it is realized in practice. Hence, there is a lack of comprehensive and accurate data at the national and local levels on the accessibility and quality of education programs in prisons. Simultaneously, the rationale and the mechanism of allocating funds from the state to prisoners' education is rather unclear and is difficult to compare to the total available higher education resources based on the costs per student inside and outside of the penitentiary, which leads to the unanswered questions on the quality and form of the education provided to prisoners. There is also evidence of contradictory data on enrollment, which might be a result of the fact that, officially, prisoners were students before their arrest and an electronic base still maintains their status, as the inability to accomplish semester registration automatically leads to the suspension of student status for five years. If a person is released during these five years, they can continue their studies.

The study of different resources identified that the number of convicts who are in the potential target group (age of 18-35) to acquire higher education is quite high. Precisely, 77 percent of convicts have secondary education, which is a precondition for enrollment in the Bachelor's program, while 18.6 percent have higher education (General Report of National Statistics Office of Georgia 2019, 41), in which can be included both – Bachelor's and Master's degrees, which means that these group of prisoners are potentially willing to continue their studies at this level. Simultaneously, among the convicts, the unemployment rate before their confinement, unfortunately, is too high, namely 83.6 percent (*Ibid.* 41). All this data emphasizes the necessity to improve higher education for prisoners in Georgia, as the unemployment rate among convicts is extremely high, which can be a precondition for prisoners to commit recidivism since the labor market mostly integrates the ones who have a diploma. Besides, the considerable and successful changes start from serving the small groups' needs and, at the same time, committing a crime does not necessarily mean that the convicts have lost their sense of regret and a right to change their past which leads them to prisons.

3. Recommendations

Even though there are significant and successful steps taken by Georgia in recent years to provide education to prisoners (in particular in terms of legislative amendments aimed at ensuring international standards), there is a problem with proper enforcement: the lack of curricula, opaque information on undergraduate/graduate prisoners, low rates of inmate engagement, is still a challenge. If inmates are not engaged in any activities, there is a high probability that they will become offenders and asocial. It should be noted that persons in penitentiary institutions are those, who have committed crimes precisely because of difficult social conditions. Some of them do not have the proper education, skills, and knowledge that will be useful after being released from prison. Accordingly:

1. The state should do its utmost to encourage prisoners' craving for higher education, offer them a variety of programs, and give them access to literature to ensure greater involvement in these activities, for instance, countries like Algeria, Guatemala, Poland, Peru, Tunisia, the Dominican Republic, are using a conditional release, bail, or prison term lessening (Tunisia, Peru) (UN 2009, 24–25).

2. It is welcomed to give the right to higher education to a prisoner in a penitentiary institution, however, it would be better to grant such right to persons not only the ones placed in particular institutions but to have several penitentiaries where the education system is established and to give education facilities to all willing prisoners, taking into account their behavior and other circumstances albeit the length and severity of their crimes. This means that a special unit should be set up which will organize surveys to determine the prisoners' desire to receive higher education, after which they will be transferred to the appropriate penitentiaries, which will be properly equipped and where they will have the opportunity to prepare for national exams and begin their higher education as well.

3. Moreover, as the recent COVID-19 pandemic situation has emerged, it provided new possibilities as well, namely, educational institutions all over the world have been shifted to distance learning, including in Georgia.

Consequently, the months of experience have refined curricula and made it possible to access education even in different parts of the country, which created new opportunities for the inmates themselves. In particular, it is possible to purchase necessary software and equipment, record lectures, and then send records to penitentiaries, or even conduct online lectures in the presence of appropriate persons for ensuring security. The use of this technological advancement in prisons will ensure that prisoners are provided with education within minimum financial resources and will guarantee their physical accessibility to higher education.

4. The state and the Ministry of Education must ponder the public interest in budgeting for prison education when it comes to adequate allocation of the costs for prisoners to provide them with quality education programs that will ultimately benefit them economically than gaining financial loss. Consideration should be given to the importance of encouraging prisoners to use their time in prison productively, especially in the case of young prisoners, whose quantity is quite high and the education component is particularly important, because spending the best years and periods of life in prison, later, triggers them to commit a repeated offense, intending to survive. Besides, it is examined that vigorous and progressive involvement of various shareholders, for example, non-governmental organizations, public sector, civil society, and penitentiary structures, will be a much more productive to mend practice, where there is a very small number of prisoners involved in educational activities (para. 65) (UN 2009, 24–25).

Conclusions

The purpose of the paper was to determine the importance of providing incarcerated people with higher education, based on the fact that they represent one of the most marginalized groups, requiring further attention from the state and society, as well to prevent them from returning to penitentiaries after discharge. Once the accused/convict leaves the penitentiary institution, re-socialization and reintegration into society are of special importance for involvement in various educational or social programs while in the institution.

This review of practice has revealed that though Georgia has experienced many positive changes in the establishment of higher education in confinements, access to higher education for prisoners remains a challenge. Firstly, the law entitles prisoners to obtain higher education for the first and second stages just for those who are placed in a pre-release/low-risk/juvenile rehabilitation facility. Besides, there are only a few students who are studying from institutions, however, the form and the means of education they receive are unknown. On the positive side, it should be mentioned that the national legislative framework is impressive, likewise, the dynamic of amendments undertaken, e.g. it is only after 2019 when the Master's studies became legally available. Still, there are challenges: the existence of the tool of distance learning is not verified, even though the law obligates relevant institutions to establish a special platform for it. Hence, in the fulfillment's part, the government does not ensure the availability of Master's programs, as it is still not defined what courses are offered to inmates; while regarding the Bachelor's programs, it fails to guarantee the accessibility of higher education, since, firstly, it distinguishes inmates based on the types of institutions they are placed in, and, secondly, physical access through the distance – e-learning is not conscientiously implemented.

Another major outcome gained from the review of various sources relates to the numbers of prisoners who have higher education, which compared to other levels of education is rather low. One of the issues that emerge is that the number of young prisoners (age of 18–35) who may wish to attend an appropriate higher education course is half of all prisoners. In addition, the current data highlights that the majority of prisoners, according to statistics, were unemployed before their arrest, further emphasizing the importance of the proper establishment of higher education. The State Party's obligation under the General Comment No. 13 of CESCR to respect, protect, and fulfill prisoners' right to higher education is not accomplished. Specifically, Georgia guarantees prisoners' right to higher education, however, does not enforce it, since this right is entitled just to the prisoners from several types of penitentiaries, which means that for the rest of them, higher education is not available at all; besides, the study has found out that the data, which makes it possible to analyze the scarcity or abundance of allocated funds from the government to penitentiary education, is not publicly available. Additionally, the data shows that the efforts undertaken to improve the legislation do not necessarily lead to an improved overall policy: it is not effective as the numbers of prisoners engaged in higher education activities are few.

This is the first study that explores whether the legal framework of Georgia corresponds to the international standards imposed on the prisoners' right to higher education; moreover, this is the first study that has attempted to find out whether the law is properly enforced. Also, these findings enhance our understanding of inmates as a group of people who have the legitimate right to obtain higher education during their confinement and puts the responsibility on the authorities to take care of this vulnerable group for the amended practice and well-being of a country, society, and individual as well. This paper outlines the existing gaps in the legislation and policy on the higher education of inmates as well as specifies the disruptions related to enforcement and finally, specifies several recommendations which can be utilized during the elaboration of the new action plan, which will improve the standing practice.

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