

## Strengthening the Protection of Fundamental Human Rights in the Occupied Territories, Among Youth Living in Villages Adjacent to the Separation Line and Among IDP Youth

### Nino Mindiashvili

Head of the Caucasus International University Service of Doctoral Studies, Doctor of Philology, Associate Professor, Expert of Authorization and Accreditation of Higher Education Programs of the National Center for Education Quality Enhancement

### Revaz Berulava

Coordinator of the Caucasus International University Doctoral Programs, Lawyer

### Nia Sadagashvili

Coordinator of the Caucasus International University Organizational Development Service, Sociologist

The Georgian-Ossetian and Georgian-Abkhazian conflicts, the 2008 Russian-Georgian war and subsequent developments have added special value to the understanding of civil rights, among which important are: Inviolability of life, human dignity and honor, freedom and privacy, freedom of movement and choice of residence, right to a free and fair trial, presumption of innocence, etc. Human rights, villages, separation line, IDP youth, Russian-Georgian war.

**Introduction.** Unfortunately, the aforementioned rights are frequently violated in the residents of the occupied territories and villages adjacent to the separation line; their legal protection and moral support is the responsibility of the State and each citizen.

The youth living there, whose university education is supported by the State, need a special approach and support and for their anchoring and settling in place, it is vital to develop and implement long-term projects.

The main essence, purpose and challenge of a **democratic and legal State** is to ensure **human freedom** - to guarantee the possibility of free self-realization through the full use of **fundamental rights** and freedoms. At the same time, a State should represent such a guarantee for society as a whole, for each person, because the idea of freedom will be devalued if it is not essentially of the same content and equally accessible to everyone. The recognition of any right will be senseless without the guaranteed possibility of equal access to it. It is vital for people to feel that they are treated fairly. The fundamental right to equality, unlike other Constitutional rights, does not apply to one specific area of human life. In addition, a State has a limit of discretion, which it should not exceed.

Ensuring the basic human rights and freedoms is a continuous process, which implies both legal, institutional and practical implementation, the arsenal of basic rights enjoyment. The Supreme Law

of the country, the Constitution of Georgia, is presented as the main guarantor of the protection of basic human rights and freedoms. Each Constitutional Right defines the subjects of this right. Not every person can be the subject of every right. At the stage of determining the legal entity, it is necessary to determine to what extent the violation of rights is real and direct. The basic right has a constitutional-legal limit. The limit sets the scope of limitation of the fundamental right by the State. In general, in order to determine the content of a specific Constitutional right within the limits allowed by the Constitution, a legislator is obliged to adopt precise, clear, unambiguous, foreseeable legislation (norms) that meets the requirement of the determination of law. This circumstance is one of the decisive criteria when assessing the Constitutionality of a norm; and the determination of a norm is the guarantor of the legal security of a person.

In Georgia, we find the legal foundation for the protection of children's rights in the Constitution,<sup>1</sup> UN Convention on the Rights of the Child<sup>2</sup> and the Law of Georgia – the Code on the Rights of the Child, together with other international and local normative acts, creates a comprehensive and relevant legal framework for effectively ensuring children's rights.

According to national legislation, the rights of the child apply to a physical person from the moment of birth<sup>3</sup> until reaching adulthood - 18 years of age.<sup>4</sup> Essentially, child rights in virtually all areas of law create a special regulatory regime, regulations tailored to the child's physical and mental development to ensure the child's harmonious development. The aforementioned regulations, despite their different scopes are based on the main guiding principle in the field of children's rights - **ensuring the best interests of the child.**

The answer to the question, what should be considered as the best interest of the child, should be determined individually by the authorized agency in each specific case; although the final result of the action should be the provision of the child's **well-being**. Well-being, in the general sense, means a life provided with physical and mental health, success and happiness.<sup>5</sup> All public and private agencies, as well as individuals, are obliged not to hinder the child's opportunity to live in prosperity. At the same time, the State agencies with their positive action should contribute to the achievement of this goal.

In the aforementioned process, international and local law defines several regulations, which represent the cornerstones of the development of the field of child rights. Along with other human rights and fundamental freedoms, they also function as guiding principles in this area.

The child has **the right to life and development**.<sup>6</sup> Obviously, the mentioned right is also provided to an adult, however, the right to development in relation to a child is understood more widely; it includes physical, mental, spiritual, moral and social components.<sup>7</sup> From practical point of view, the existence of this guiding principle leads to an obligation to develop special provisions for children,

---

<sup>1</sup> Article 30 of the Constitution.

<sup>2</sup> The fact that currently it has the largest number of member countries (196) compared to other documents of international human rights law in the world, shows the importance of the Convention. Source: United Nations Treaty Collection <https://cutt.ly/dw9UYPX6> [ð.ð.: 25.03.2024]

<sup>3</sup> Certain rights are also implied upon conception. For example, according to the Civil Code of Georgia (Article 11), the right to inherit shall arise upon conception.

<sup>4</sup> Kiladze S., Turava P. Guideline comments on the Code on the Rights of the Child, Publishing House World of Lawyers, Tbilisi: 2021, 48-49.

<sup>5</sup> Cambridge Dictionary <https://dictionary.cambridge.org/dictionary/english/welfare> [ð.ð.: 25.03.2024]

<sup>6</sup> Article 6 of the UN Convention on the Rights of the Child and of the Georgian Law – Code on the Rights of the Child.

<sup>7</sup> Article 27, UN Convention on the Rights of the Child.

such as the prohibition of the death penalty and life imprisonment<sup>8</sup>, provision of basic education,<sup>9</sup> raising orphaned children and children deprived of care in family or similar conditions, etc.

Recognition of the child's right to **equality**,<sup>10</sup> which the Second Article of the UN Convention on the Rights of the Child refers to as the prohibition of discrimination, derives from the unwavering dogma of recognizing the child as a subject bearing **dignity**. It instructs everyone to treat the child equally. Here, the State assumes the responsibility to create appropriate conditions for children with disabilities so that they can realize their basic rights.

It is the fundamental right of children to be heard and participate in any decision that directly or indirectly affects them.<sup>11</sup> Based on the given provision, special regulations have been developed in the national legislation. For example, the rule on how a child should be heard in the justice process in order to avoid secondary victimization;<sup>12</sup> obligation to consider the position of a child of over 10 years of age, depending on the degree of maturity, during adoption<sup>13</sup>, and also when changing a last name.<sup>14</sup>

The existence of the guiding principles of the rights of the child acts as a beacon to find the right solution for a variety of private cases. However, the process of their practical application refines the legal content of the guidelines themselves and ensures their viability. This two-way process improves the protection of children's rights permanently and irreversibly.<sup>15</sup>

### **Survey Goals:**

The goal of the survey is to determine the level of awareness of the youth (grades X, XI, XII) living in the villages and settlements of IDPs adjacent to the separation line, as well as in the occupied region, in the direction of protecting and strengthening basic human rights; what they know about the mentioned issues and whether their rights are violated or not. In order to create a general picture, the survey was conducted in 10 schools, as well as with juveniles living in the occupied regions. The schools were selected based on two principles:

- Schools located in the villages adjacent to the separation line
- Schools with IDP students

### **Survey Methodology:**

Qualitative survey was chosen as the survey method, as it can give detailed information about a person's behavior, emotions, characteristics, views and perceptions, which quantitative survey methods do not allow to reveal. A type of in-depth interview was used in the survey process - individual, face-to-face interview method using a pre-developed survey tool (questionnaire). During an individual interview, only two participants are involved - the interviewer and the respondent, which allows to get the necessary information without excessive stress and tension. The target group was selected when working on the methodical i.e. procedural part - in what ways the specific people who would participate in the survey could be selected from the general population. The target group was determined to be X, XI, XII grade students of schools located in the occupied

---

<sup>8</sup> Same as above, 37 (a) clause.

<sup>9</sup> Same as above, Article 28.

<sup>10</sup> Article 7 of the Georgian Law – Code on the Rights of the Child.

<sup>11</sup> Article 12 of the UN Convention on the Rights of the Child and Article 8 of the Georgian Law – Code on the Rights of the Child

<sup>12</sup> Article 52 of the Georgian Law – Juvenile Justice Code.

<sup>13</sup> Article 1255 of the Civil Code of Georgia 1255.

<sup>14</sup> Same as above, Article 1196.

<sup>15</sup> With author's consent, in the article were used materials from training conducted in framework of Vasil Karseladze's project.

territories of Georgia and villages adjacent to the separation line, as well as in IDP settlements. Survey locations (schools located adjacent to IDP settlements and the separation line) are determined in advance. Another survey method used, was the selection method, in particular - targeted selection. The selection criteria of survey participants were defined as:

1. Willingness to participate in the survey; 2. Compliance of the participant with the characteristics of the target group of the survey; 3. Physical and mental health condition, which would allow the respondent to give appropriate answers and participate in the survey process. During the interview, ethical issues were considered - the issue of avoiding harm (guarantee that the survey does not cause them harm), the issue of well-being (the ability of the survey to improve their situation), the rights of the survey participants, in particular, their participation was voluntary and the survey was conducted on the basis of informed consent.

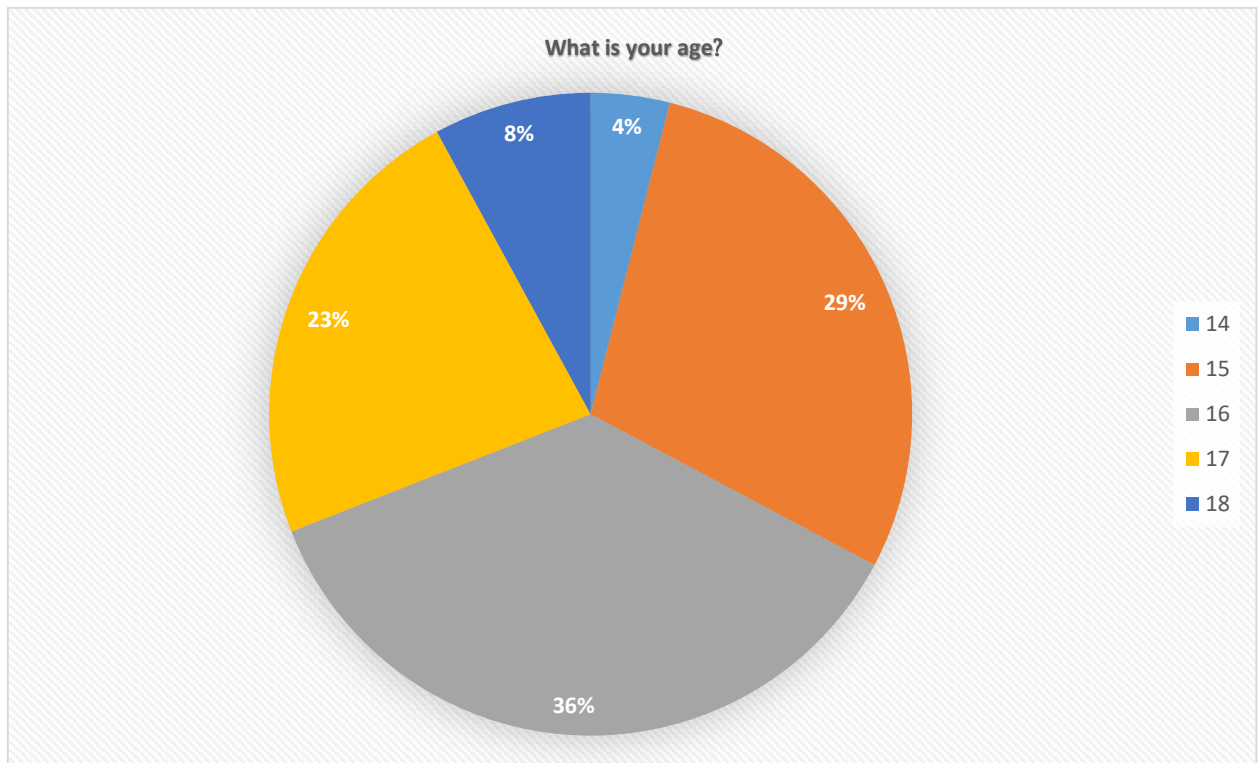
The interviewers informed the respondents in advance about the goals and objectives of the survey, explaining that the questionnaire was anonymous and the respondents' interview data would remain confidential.

### **Survey Description:**

Interviews were conducted in IDP settlements and villages adjacent to the separation line; 10 locations in total:

- Nikozi (Gori municipality) - Zemo Nikozi Public School;
- Ergneti (Gori Municipality) - Ergneti-Mamisaantubani Public School;
- Ditsi (Gori Municipality) - Ditsi Public School;
- Mereti (Gori Municipality) - Mereti Public School;
- Kveshi (Gori Municipality) - Kveshi Public School;
- Mejriskhevi (Gori Municipality) - Mejriskhevi Public School;
- Tserovani (Mtskheta Municipality) - Tserovani #3 Public School;
- Zugdidi (Zugdidi Municipality) – Ilia Vekua #11 Public School of Abkhazia;
- Zugdidi (Zugdidi Municipality) - #12 Public School # XII of Abkhazia;
- Kutaisi (Kutaisi Municipality) – Zhiuli Shartava #6 Public School of Abkhazia.

Introductory questions were to determine the demographic indicators of the respondents (gender, age, actual place of residence).



As mentioned, X, XI, XII grade students were defined as the target group, therefore the age of the respondents ranged from 14 to 18 years. The diagram shows that the largest part of the respondents - 36% - was represented by 16-year-old youth.

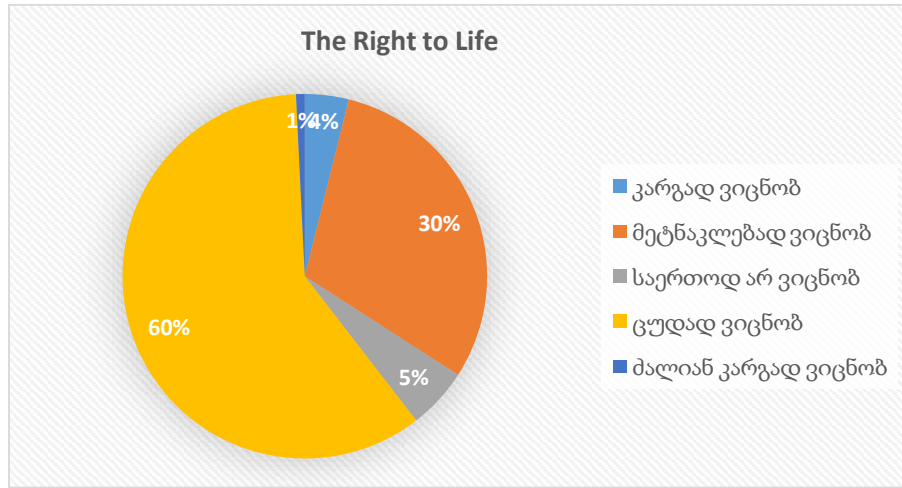
The next question was aimed to determine the level of awareness of the respondents, whether they had information about what basic human rights are and it is noteworthy that the majority of the respondents gave a positive answer, because they thought they knew what basic human rights are. However, when asked which basic rights they have heard about /which 2 rights are the most important for them - 85% of the respondents could not answer, which proves that the positive answers might have been given without understanding.

The next question gave the youth the opportunity to name the person or organization through whom/which they received information about basic human rights and 95% of the respondents answered - school, in particular the subject - civic education; although they believe that the latter still does not provide full knowledge and many issues still remain unclear for them.

In the next question of the survey, the basic human rights were listed. In the mentioned field the respondents gave points on how well they knew the content of a particular right.

Based on the answers, a very low rate of awareness was revealed among the target youth, which is evidenced by the mentioned diagrams, see Diagram 2. - Diagram 2.9;

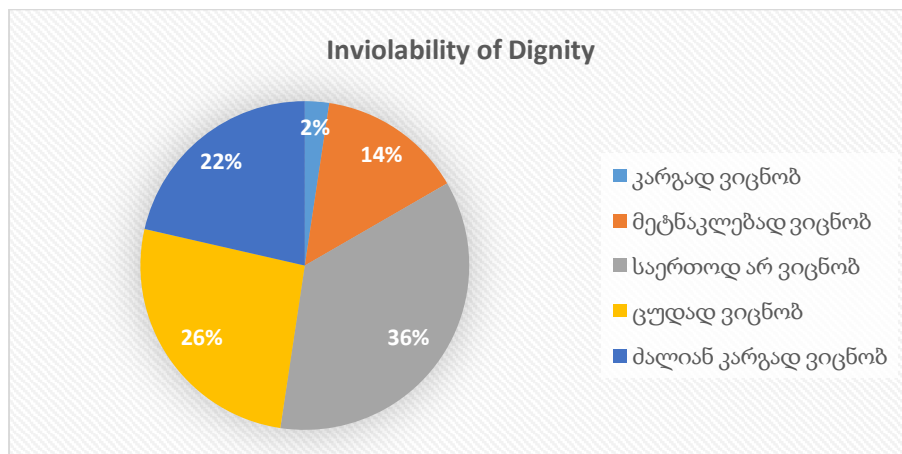
Diagram 2.



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

A very high rate of the respondents - 60%, said that they are poorly familiar with the content of the right to life, while 30% are more or less familiar with it.

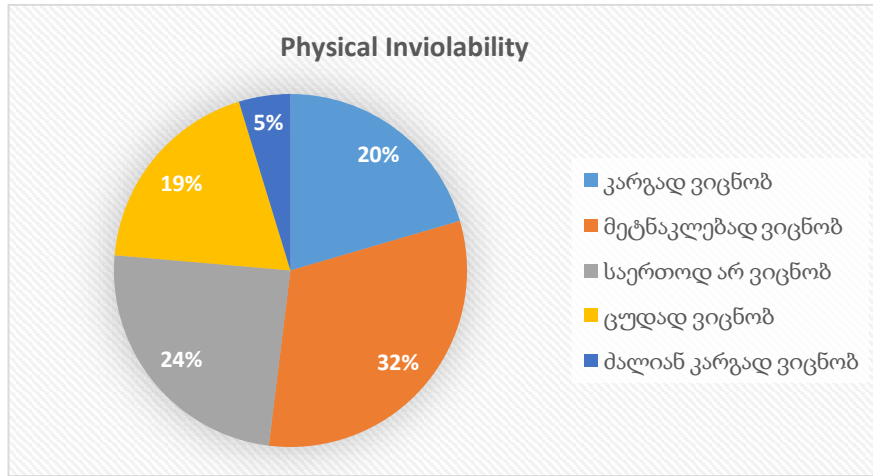
Diagram 2.1



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

36% of the respondents are not familiar with the content of inviolability of dignity at all, 26% know it poorly, 22% know it very well, and 14% know it more or less.

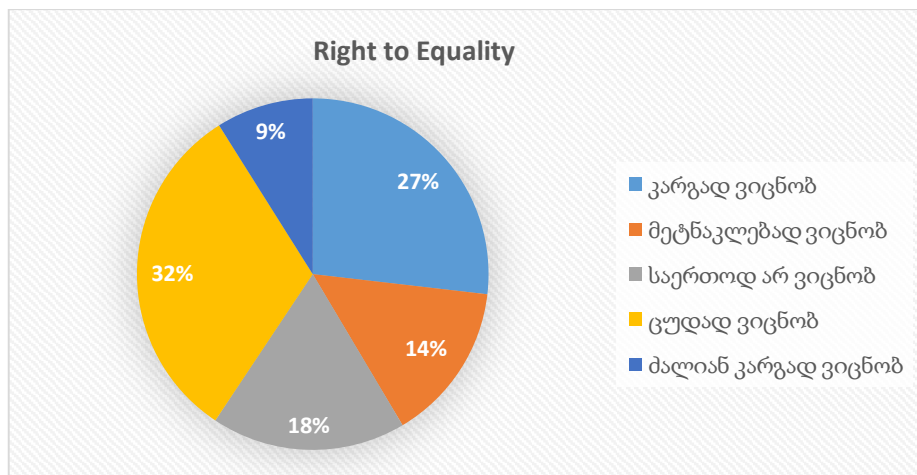
Diagram 2.2



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

32% of the respondents state that they are more or less familiar with the content of physical inviolability as their right, while 24% state that they do not know about it at all.

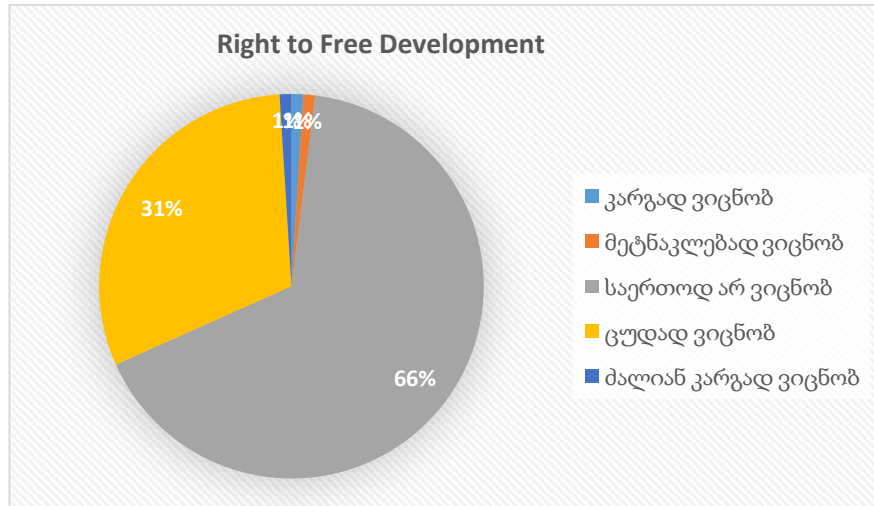
Diagram 2.3



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

32% of the target youth are familiar with the content of the right to equality poorly; 27% well familiar; 18% not familiar at all; 14% are more or less familiar and 9% are very well familiar with it.

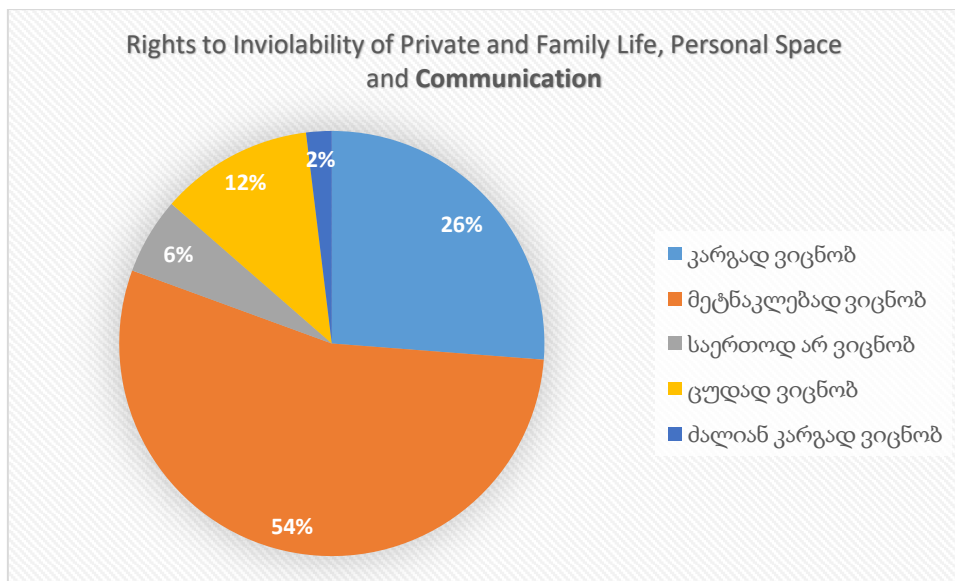
Diagram 2.4



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

A very high rate of the respondents - 66% are not familiar with the content of the right to free development at all and 31% are poorly familiar with it.

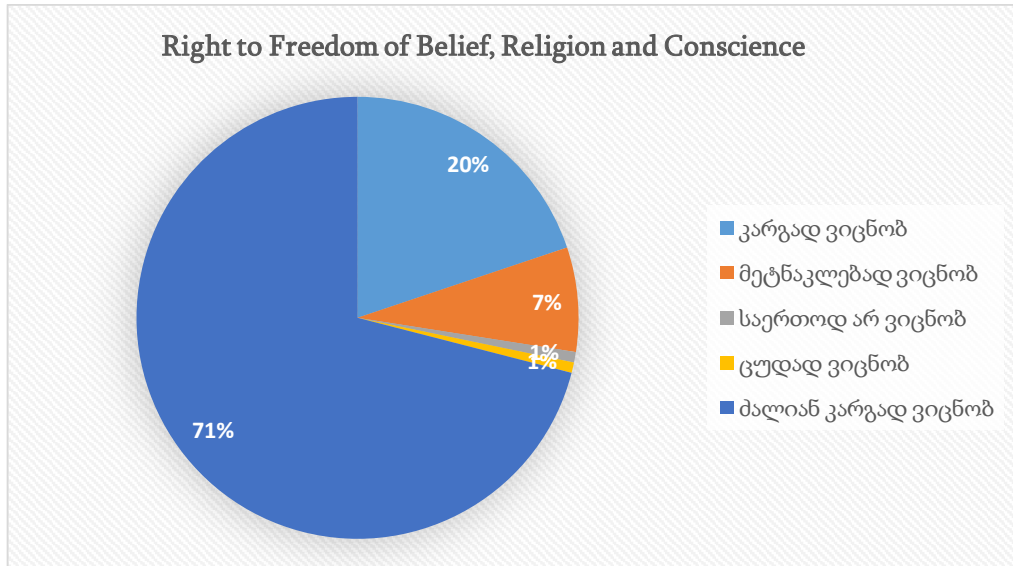
Diagram 2.5



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

According to the diagram, 54% of the respondents are more or less familiar with the content of the right to inviolability of personal and family life, personal space and communication; 26% are familiar with the said right; 12% - poorly and 6% are not familiar with the content of the mentioned right at all.

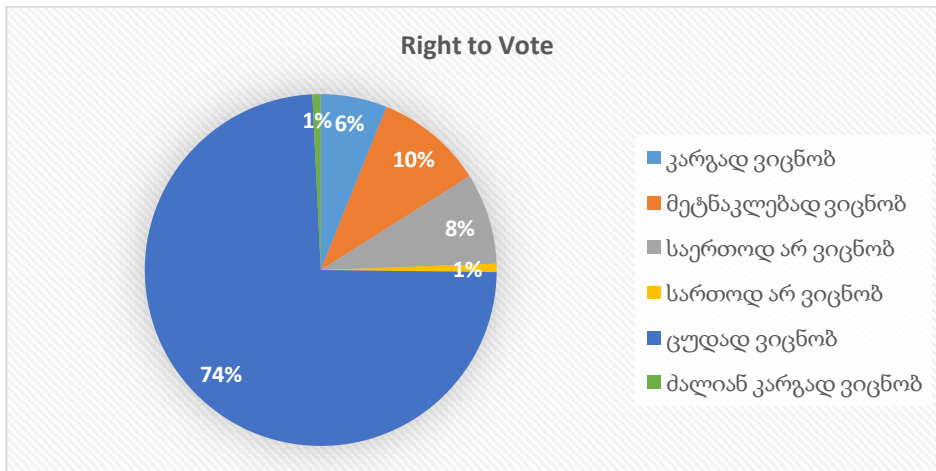
Diagram 2.6



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

It is noteworthy that a fairly high percentage of the respondents - 71% are very familiar with the content of the right to freedom of belief, religion and conscience; 20% are well familiar and 7% are more or less familiar with the content of the said right.

Diagram 2.7

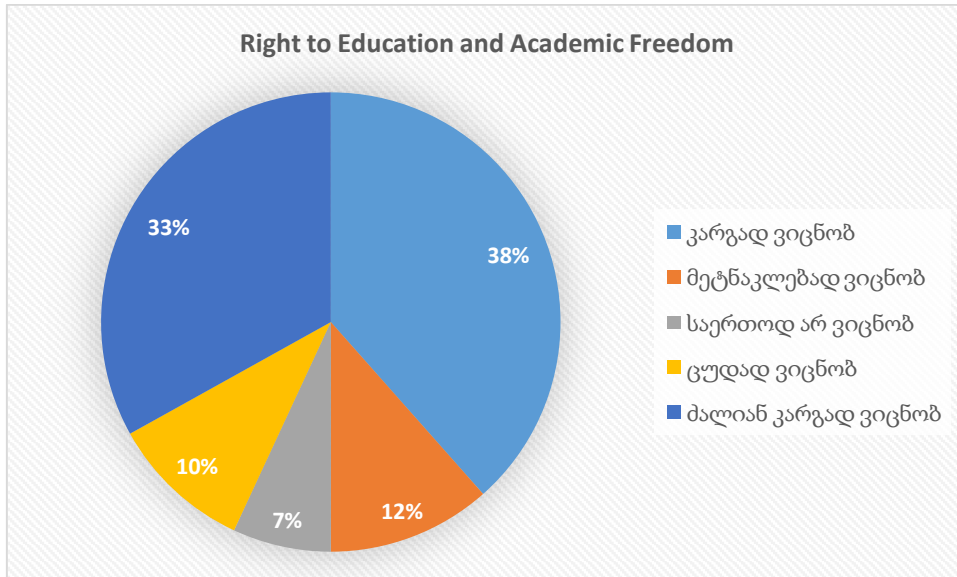


1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

According to the diagram, 74% of the respondents are poorly familiar with the content of the right to vote and 10% are more or less familiar with it.

It is noteworthy that respondents were students of school age, they do not yet have the right to vote, therefore, this indicator may be caused by this fact.

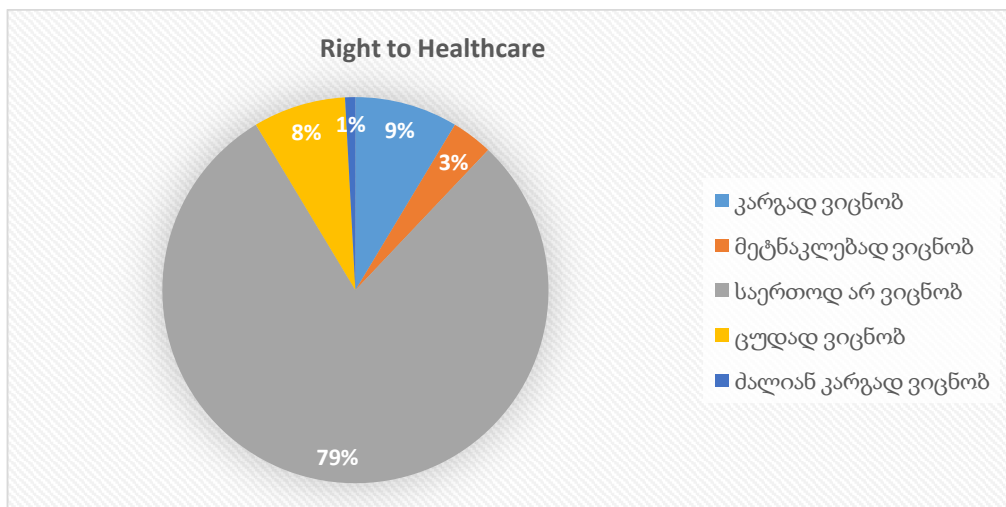
Diagram 2.8



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

38% of the surveyed youth are well familiar with the content of the right to education and academic freedom and 33% - very well familiar; the least - 7%, are not at all familiar with the content of the said right.

Diagram 2.9



1. Well familiar
2. More or less familiar
3. Not familiar
4. Poorly familiar
5. Very well familiar

According to the diagram, a high rate of the respondents - 79% - are not familiar with the content of the right to healthcare at all; 8% are poorly familiar; and 9% know the content of the said right well. By answering the next question of the survey, respondents had the opportunity to recall the fact of violation of the right to freedom of speech of any member of his/her family or surrounding people in case such situation has taken place:

Some of the interviewees believe that their right - freedom of speech has never been violated, although some of them admit that they mainly face the fact of violation of the above-mentioned

right at school, in particular, they do not have the opportunity to express their opinion on this or that defect or shortcoming, as when they do so become objects of reprimand from the teachers. In their opinion, the reason for this, is the age barrier.

By next question of the survey, respondents were asked to recall the fact of violation of the right to freedom of belief/religion of any of his/her family members or surrounding people in case such situation has taken place:

All interviewees claimed that such a fact has never happened. It is noteworthy that individual cases of youth of different religious beliefs have been identified, however, according to them, both peers/classmates and teachers respect their choice and religion - they have never been the object of ridicule or reprimand.

Next question of the survey was if respondents could recall the fact of violation of the right to dignity or physical inviolability of any member of his/her family or surrounding people in case if such situation has taken place:

Based on the stories told by some of the respondents, it was revealed that “hitting their hands with ruler” by teachers in response to bad behavior is a normal response and they did not consider that their dignity or the right to physical inviolability could be considered violated by this fact. The second part of the respondents stated that this particular right of theirs was never violated by the family, school or the people around them, while a part stated that there were single cases during fights with peers. According to the silence, vague answers and interesting stories in response to the specific question, it can be said that the majority of the respondents were not familiar with the content of the above-mentioned right at all; moreover, they gave a complete answer only after the interviewer gave explanation of the right to them.

The next question asked if they had ever been bullied:

Most of the respondents gave a negative answer to this question, however, after being asked whether they knew what bullying was, it became obvious that they did not have complete knowledge about it.

The next question was whether they have full access to education without any restrictions:

The majority of the respondents believe that their schools provide full access to education, however, some believe that they do not receive full education in schools. A certain category does not even have Internet at home, which causes serious problems. They are keen to get relevant organizations to show more interest to schools, provide awareness trainings, public lectures, educational activities, etc.

The next question of the survey was about whether they have access to immediate medical care in case of need:

The majority of the youth - 89% - state that it is possible to get medical help immediately, there is an ambulance service and it goes to any location in a short time, however, they believe that the quality of service and the qualification of doctors are questionable, due to which they go to the hospital if there is a serious health problem. They have to come to other cities or the capital - Tbilisi, in order to receive normal medical services and to keep their health safe.

Part of the survey questions was designed to reveal the infrastructure needs, namely, whether there is a school/kindergarten in their residential area, how travel long distances and whether they have the opportunity to use public transport:

Most of the respondents said that there is both a school and kindergartens in their residence areas.

As far as long-distance travel, transport is available, although this is a very problematic issue for them, as the transport moves according to the schedule, the schedule is constantly messed up, there

are delays, also, the transport is always full of passengers and often even after waiting, they cannot get on the transport and travel, so they have to walk kilometers to reach destination.

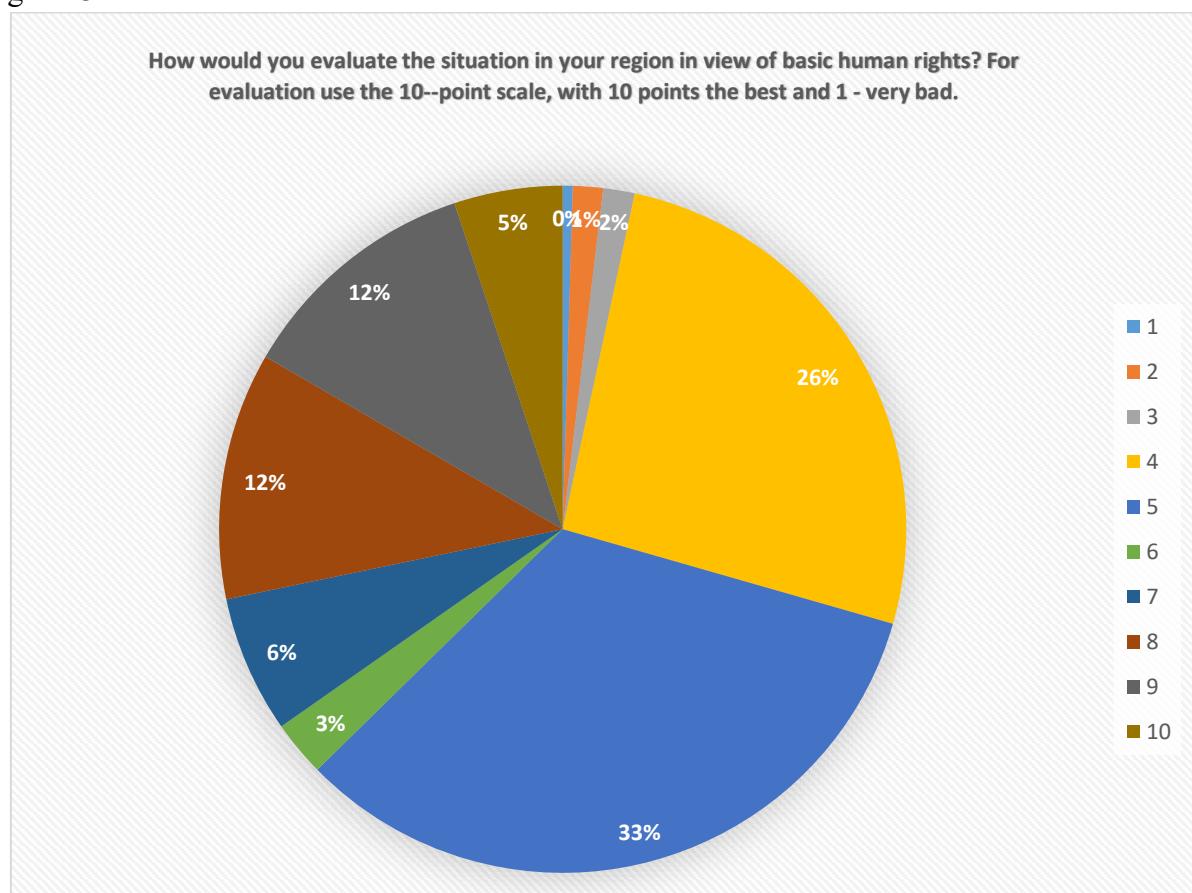
The next question was whether they have noticed a sharp change in the number of permanent residents in their village/region in recent years/what are the causes of population decrease:

The obtained result was alarming; 100% of the respondents said that the number of permanent residents is decreasing day by day, citing economic problems and lack of jobs as the reason. Also, it can be seen that these people mainly move to Tbilisi in the hope of finding a job and better life conditions, while some of them emigrate abroad, away from their families.

The summarizing question of the survey was about how/with what points they would evaluate the human rights situation in their region.

For evaluation we used the 10-point scale – with 10 points the best and 1 – very bad

Diagram 3.



Most of the youth, 33%, believe that the protection of human rights in their region can be evaluated with 5 points; 26% - with 4 points.

The last question of the survey was about what they would like to be done for the situation to improve:

Based on the answers, it was determined that important for them is:

**More opportunities for receiving informal education:**

- **Fun awareness raising activities;**
- **Conferences for future students;**
- **Awareness training for both youth and their parents;**
- **More opportunities to be involved in school-educational projects;**
- **More opportunities for collaboration between organizations working with education issues and schools.**

## **Conclusion**

Following problems have been identified as result of intensive work with the youth living in occupied territories, villages adjacent to the separation line and IDP youth:

- **Lack of information about basic human rights;**
- **Facts of violation of certain rights;**
- **Low access to education;**
- **Unqualified personnel in their residence area, nearby medical facilities;**
- **Inadequate access to transport;**
- **Intensive outflow of permanent residents;**
- **Economic problems;**
- **Unstable environment.**

Based on the conducted survey, it can be concluded that the support of the State and of different institutions is vital for the population living in the occupied territories, adjacent to the separation line in order for them to feel like full-fledged, protected citizens; only the social (undoubtedly, very important and vitally necessary) projects are not enough to resolve the problems. In the natural process of generational change, it is especially important to raise the level of awareness among youth and adults living there, especially in the direction of basic human rights, as the protection of human rights is carried out based on the Constitution and the standards, principles and norms established by the relevant International Acts.

## **Bibliography:**

1. Kiladze S., Turava P. Guideline comments on the Code on the Rights of the Child, Publishing House World of Lawyers, Tbilisi: 2021
2. Mindiashvili N., Tavakarashvili A., Creeping occupation comparative study and its influence on population migration in separation line villages, World Science, ISSN 2413-1032, 2019
3. Karseladze V., Materials of training conducted in framework of the Project
4. Law of Georgia – The Code on the Rights of the Child, Article 7
5. UN Convention on the Rights of the Child, Article 6, Article 12, Article 27
6. Law of Georgia – The Code on the Rights of the Child, Article 6, Article 8
7. Law of Georgia – Juvenile Justice Code, Article 52
8. Civil Code of Georgia, Article 1255, Article
9. Cambridge Dictionary <https://dictionary.cambridge.org/dictionary/english/welfare> [b.n.: 25.03.2024]
10. The Constitution of Georgia, Article 30