

LEGAL RIGHTS OF HOMELESS CHILDREN AND SINGLE MOTHERS - GENERAL OVERVIEW

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Abstract

The article includes a review-analysis of the issues of the legal status of children and single mothers. In particular, this concerns legal rights of underprivileged children and single mothers who regularly require the support and contribution of the state. Although international law made an impact on the creation of Georgian legislative defense mechanisms of the children's and women's' rights, some norms are only partly fulfilled. This is the main purpose of the article, based on European legislation, to quickly and effectively implement those rights in Georgia and legally regulate social and moral issues of homeless children and single mothers.

Keywords: Law, homeless children, single mothers

Introduction

The Georgian nation has undergone an almost complete way of human development - including pre-tribal and tribal ones. It also underwent historical path of family development which, in turn, led to further development of its various forms.

"Family has its roots in ancient times and is a major contributor to the development of the society. The power of the society is always conditioned by the strength of the family. There is no better place for upbringing and developing a child than a family" (R. Shengelia, 1999).

In the State, where marriage is a focus, single mothers often feel socially isolated and humiliated, and it is impossible to fulfill their obligations. Strange and extensive word "alone". People are born alone and leave this world alone. The status of being single sounds like a verdict or equals to social status (Iv. Javakhishvili, 1928).

It would be interesting to learn about the status of marriage in the previous centuries. How to protect the interests of children born to unmarried people?

While studying the Georgian Institute of marriage, Ivane Javakhishvili states in his work: "Children born to unmarried people in Georgia were inferior with their dignity and rights, according to the law, compared to those who were born to official families" (Georgian constitution, Article 36).

Georgian law limited the hereditary rights of children born in illegal families based on Vakhtang VI's law book in which directly is stated that "there is no place for illegitimate child in the motherland" (Iv. Javakhishvili, 1984).

In 1645-1676, in Russia, during the reign of Aleksei Mikhailovich (Romanov) there were facts of children's illegal killing due to which mother was punished as she doomed her child to death. This case was considered to be a serious crime and deserved servitude in penal institutions, being a refugee or service in a monastery (O.A. Ruzakova, 2001).

During the reign of Peter the Great, an order was issued according to which, children born illegally were secretly transferred to the designated charity homes to prevent their murder.

In the 18th-century Russia, there was such a concept which combined the two categories of children: "Children who were born out of wedlock and children who were abandoned by their parents; this included the underprivileged children or those from extremely poor families" (Georgian constitution, Article 36).

It is also known that until 1902, the Russian legislation did not equalize the legal rights of children being born illegally or in marriage.

In many countries of Asia, giving birth to a child out of wedlock was banned by law. In Morocco, women were arrested if convicted of having an illegal relationship with a man and for that inappropriate behavior, they were tried, not the abusive man. Unfortunately, many countries in Asia still use this type of punishment.

In Georgian society, different categories of single mothers are still being discussed:

1. Women who gave birth to children out of wedlock, but with the actual consent of the Father (the father or the court officially recognized paternity).

2. Women who are divorced, raising children alone. Former husband is obliged to pay child support for each child.

3. Even when the former husband dies, the family receives annuity as the one who lost bread-winner

4. Women who marry after the birth of a child, but they have a document confirming paternity, although this person is not the biological father.

In this list, there are not mentioned those women who gave birth to children out of wedlock and the father did not recognize the child.

The main goal of the article is to protect the legal status of this category of single mothers, as being in such complicated situation, they have to survive in much tougher conditions and defend their as well as their underprivileged children's rights.

According to Article 36 of constitution, "the state contributes to the prosperity of the family. Mothers and children's rights are recognized, protected by law "- However, in many cases mothers are not able to protect their rights under the law (Sh. Chikhvashvili, 2000).

Based on our traditions and mentality, especially oppressed and isolated from the society is the category of those single mothers who give birth to children out of wedlock. That's when their loved people and family members turn away from them, when they need support most of all.

There are many single mothers in Georgia. According to the National Statistics Office, each year, from the hospital, on average every 3000th baby is taken home only by mother. Experts claim this figure is alarming (Mitropolit Surajelia, 2000).

During the past 20 years single-parent families' number has significantly increased. The main reason is rapid increase in the number of divorced women who have not married again, and also the women who bear children out of wedlock.

The majority of Georgian population is Orthodox Christian; therefore for Georgian society religious wedding ceremony of couples is very important.

The church has its own views about the relationship before marriage; 10 Commandments teach- "Do not commit adultery" - a legitimate child born outside marriage is illegal. Those who create a family against the God will not be sanctified (Chikaval, 2004).

How does the society consider a child out of marriage?

Nowadays, such cases have become quite frequent. A part of people think that the future spouses will get to know each other better and it will become clear if they can get on with each other in the future.

It is understandable that a woman could not start a family, but has a desire to have a baby; the baby will encounter problems, because only giving birth to a baby is not enough. They need a name, father, education and an appropriate environment, which will create a long of anxiety in the future of the single mother.

Single mothers' economic situation is getting worse. In many cases, a single mother lives below the poverty level or beyond. For centuries women have lived in a traditional society, in which men dominated, gaining the same rights and freedoms as men do (Law of Religion).

In Georgian society, single mothers often feel socially isolated and humiliated, and it is impossible to fulfill their obligations. Numerous studies allow expressing an opinion, that children born out of wedlock or those raised by single mothers often require increased material and moral assistance and support from the state. According to the principles of humanity, such families should receive the support necessary for them (<http://www.education.ge>).

In Germany the concept of the traditional family is slowly being lost. In the 1990s, 35% of German households were made up of one member, while 31% - of two.

The situation is similar in France: fewer marriages, those who marry become divorced more frequently than in the past (<http://www.socium.ge>).

The situation is alarming in terms of divorce, but the state itself is no longer surprising in the in society.

There was a remarkable boost in the percentage of divorce in Spain. For example, 25 years ago every 100th marriage ended in divorce.

At the beginning of the last decade of the 20th century, Britain, Europe, was the most outstanding in terms of highest level of divorce (4 out of 10 marriages are doomed to divorce), therefore the number of single-parent families is constantly growing (<http://www.socium.ge>).

Nowadays, most of the people prefer to live without family responsibilities. Similar trends are observed worldwide.

Children born out of wedlock bear the official stamp of being underprivileged, just because they were not accepted by their father, but every person is equal before the Lord, so such a classification is not allowed (Law of Religion).

The number of single parents in the United States "is rocketing dramatically". In this regard, none of other countries have a more favourable position. Families break down, illegal children are born, and millions of parents are children are being devastated year by year. Many single parents find it difficult to support their family, especially if these are young, single mothers. If such mothers are devoted more attention and social aid from the government, that would be a reasonable step.

The survey among South African black girls revealed that poverty is an integral part of single-parent families, the study's authors say: "About 50% of teenagers are unlikely to return to school" and many unwed mothers start prostitution and drug trafficking (<http://www.socium.ge>).

The situation is much more critical in Western countries. For instance – based on data from year 1995, 10% of children in the United States, who have both parents, suffer from poverty, while 50% of single-parent families were in the same condition.

Some single parents are forced to care for themselves, are entirely drowning in responsibilities and are not able to spend adequate time with their children.

As noted above, the United States has a far higher teen pregnancy rate than other developed countries; the problem of births out of wedlock is global.

In some European countries, such as England and France, the birth rate is equal to that of the United States. In some countries of Africa and South America, the birthrate among teenage girls is nearly double than that of the United States.

NGOs showed that 94% of women nowadays 94% of women in Georgia are by domestic violence. This is not an individual problem, it's a social problem, but proper attention is not paid to this issue in society (<http://www.education.ge>).

According to Belgian law, children out of wedlock would be recognized legal only if the mother formally recognized herself as a parent. In this case the European Court stated that a biological connection between mother and child creates family life (Article 8), which also applies to the case of illegitimate children and their mothers, since the Convention does not distinguish between "legal" and "illegal" children (<http://www.ka.wikipedia.org>).

For the harmonious development of the child, parents are required and all children have the right to have both parents. The mother has the right not to leave the child outside the law. It is sometimes said that the child's mother left him or her in an orphanage, but the child was not abandoned only by mother, but both – mother and father. Parents are individuals with equal rights.

The European Court also found that judging children legally based on different marital status of parents' is prohibited by law (Article 8 of the Constitution, the prohibition of discrimination with regard to Article 14).

We welcome the fact that Parliament introduced a change in the law. Based on it, the paternity of a child born out of wedlock in Georgia is proved using a new rule. All fathers who refuse paternity will have to obtain the status in the name of law. It has become compulsory to take undergo genetic analysis, so called DNA. This need was resulted from recent statistics, according to which the number of children born out of wedlock and as well as that number of single mothers has risen sharply.

International human rights law provides a variety of mechanisms, but in order to use these international mechanisms more effectively, it was necessary to have additional tools, which guarantee women's rights and freedoms more.

In 1919, the organization received a Labour Convention, which dealt with women's social and professional status. At present, based on international laws and treaties, there are established standards, which will ensure creation of effective mechanisms to protect women's rights. Each state has its own constitution and laws to comply with international standards and obligations (<http://www.ka.wikipedia.org>).

Human rights and freedom represent the most important values in the modern society, recognition and protection of which is the primary achievement of democracy, however, the recognition of women's rights and gender equality is still problematic.

For all families recognition of each member's inalienable right of dignity and equality represents basis for freedom, justice and peace in the world.

International instruments are those documents, which have been adopted by international organizations and contain human rights norms and principles. These are: the different types of agreements, declarations, resolutions and conventions (<http://www.almustafa.ge>).

Gender equality aims to promote public awareness on gender issues and improve its level, also to obtain a state policy in the same field, which will introduce the same access and possibilities for both men and women in terms of social and economic activities. This represents one of the most important instruments which enables considering specifics of equal rights and opportunities for both men and women, as a socio-demographic group to create an optimal policy (<http://www.epn.ge>).

Conclusion

It is necessary to make relevant amendments to the Civil Code, and most importantly, a normative act, where the legal status of single mother and child will be specifically regulated. All of these issues are quite problematic, and it is necessary for the state to take measures to help single parents and underprivileged children and to protect both children and their parents' legal rights.

The above-mentioned changes will enable us to reach such a result when the present normative acts in Georgia are adequate towards representatives of the social status, which exists not only in Georgia but also many other countries.

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