

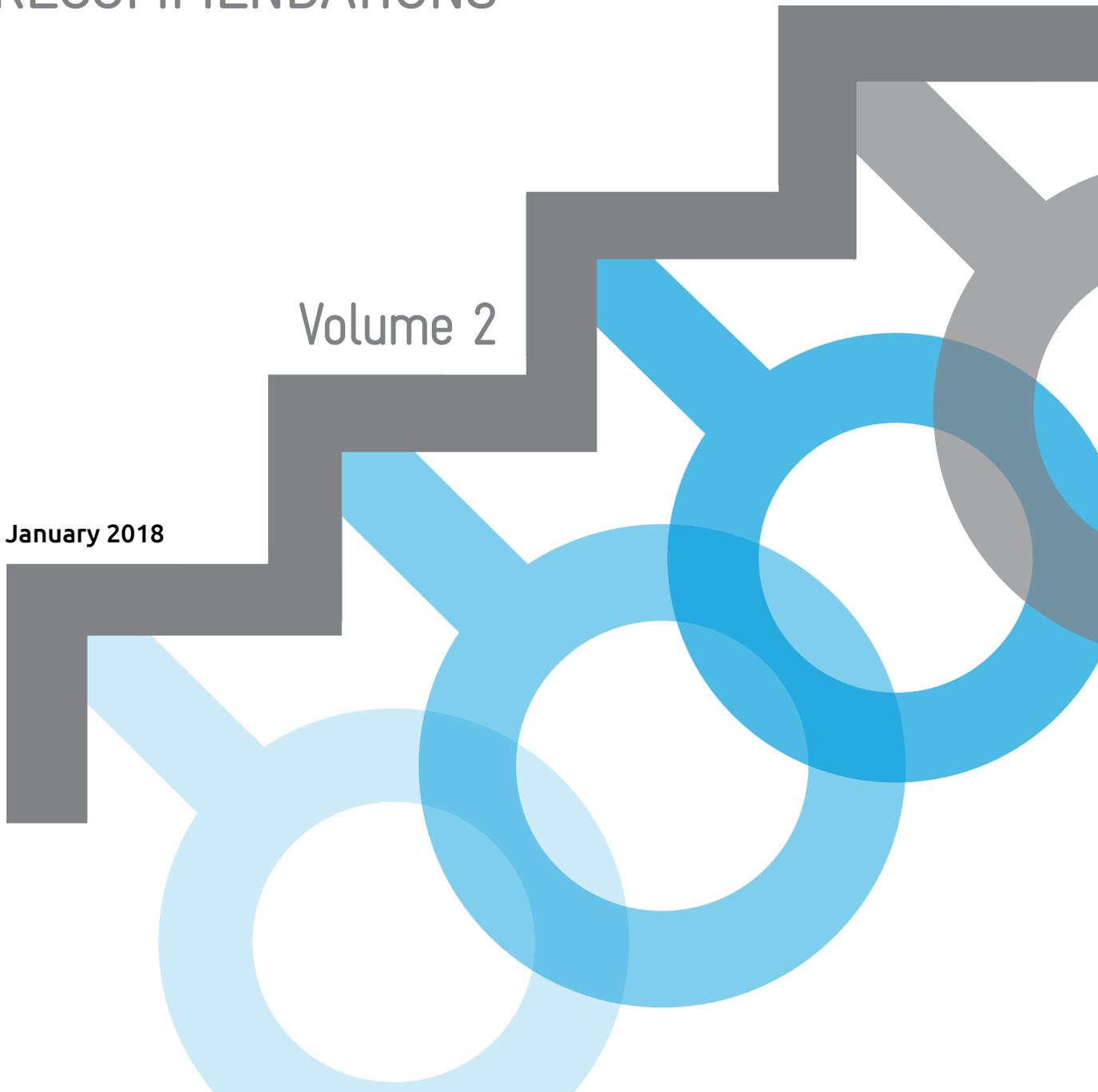


GENDER EQUALITY IN GEORGIA:

BARRIERS AND RECOMMENDATIONS

Volume 2

January 2018



This study is made possible by the assistance from the United Nations Development Programme (UNDP) and Government of Sweden, under the UN Joint Programme for Gender Equality. It was developed by UNDP international expert, Lori Mann, with the invaluable contributions and assistance of Tamar Tomashvili and Nino Janashia, United Nations Development Programme local experts. The contents of this publication are the sole responsibility of its authors and do not necessarily reflect the views of UNDP, Government of Sweden, or Parliament of Georgia.



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Preface

This publication “Gender Equality in Georgia: Barriers and Recommendations” in two volumes was developed with the initiative of Gender Equality Council of the Parliament of Georgia. In 2017, when the new composition of the Gender Equality Council (GEC) was approved, the GEC prioritized conducting the legislation and policy analysis to facilitate the evidence-based gender equality policy-making. The GEC, in cooperation with donor organizations, introduced the initiative to carry out this comprehensive qualitative research. The study was ongoing for more than six months and as a result, gaps in the legislative framework and barriers in policy implementation hindering achieving the gender equality have been identified.

The Volume 1 of the research covers the following topics: state mechanisms of gender equality, anti-discrimination, violence against women, women’s political participation, and women, peace and security. The Volume 2 includes topics such as: women’s economic empowerment, labor rights, sexual and reproductive health, and gender equality in education, culture and sports.

In addition to the gaps and barriers identified, the research provides recommendations on gender equality policy improvements in all spheres of social-political life. The future action plan of the Gender Equality Council of the Parliament of Georgia, as well as the state concept on gender equality is based on this research. The latter defines the general directions of the policy for the legislative and executive government.

Taking into consideration the multi-sectoral nature of this research, we have aimed at making its implementation process inclusive from the very beginning. To that end, consultations took place with representatives of civil society, international organizations and executive branch as well as the Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence and members of the Gender Equality Council of the Parliament.

Local experts along with the international expert developed this baseline research, which has ensured that both the local context and international standards have been taken into account respectively.

I would like to thank all the parties who participated in this research, donor organizations, experts, civil society and representatives of respective ministries. This study could not have been implemented without their active participation.

I hope the recommendations identified by this research will contribute to stronger state machinery of gender equality and assist the Parliament of Georgia and other policy makers in conducting the evidence-based policies on the road towards meaningful equality between women and men.

Tamar Chugoshvili,
First Vice-Speaker of the Parliament of Georgia
The Chair of Gender Equality Council

Acknowledgments

Developing this research would not have been possible without the active engagement and efforts of numerous individuals and organizations.

Firstly, we would like to thank Lori Mann, international expert and Nino Janashia and Tamar Tomashvili, local experts for their invaluable contributions. We are also grateful to governments of Sweden and the United States of America for their support and financial assistance without which this research could not have been implemented.

We extend our appreciation to Maka Meshveliani of United Nations Development Programme (UNDP). This publication could not have been created without her efforts, coordination and involvement

Special thanks also go to the Chairperson of the Gender Equality Council of the Parliament of Georgia Tamar Chugoshvili for the initiative and demonstrated leadership, and coordinators of the GEC Tinatin Avaliani and Ana Tsurtsunia-Zurabashvili for their support and active engagement during all stages of the research process.

In addition, we would like to thank representatives of the ministries, the Administration of Government and representatives of civil society and international organizations for the information and opinions provided.

And finally, we would like to thank all staff members of the United Nations Development Programme (UNDP) who participated in research development, implementation and publication process.

I. Executive summary

In line with its international commitments, Georgia has made significant strides in adopting legislative and policy reforms to foster gender equality and to combat violence against women. After a comprehensive review of Georgian law and policy, this study, *Gender Equality in Georgia: Barriers and Recommendations Volume 2*, identifies remaining legislative and policy gaps related to gender equality across a range of fields: women's economic empowerment, labour relations, health, harmful practices (gender-based violence), education, sports and culture. Women's political participation, violence against women and girls, peace and security, as well as the cross-thematic Gender Equality and Anti-discrimination Laws are exhaustively covered in Volume 1 of this study, *Gender Equality in Georgia: Barriers and Recommendations*.

Drawing information from reports and studies issued from inter-governmental bodies and international and national NGOs, as well as from interviews and data provided by national authorities, this study offers recommendations on specific amendments to be considered by legislators and policymakers in the above-listed fields in an effort to facilitate the revision process,¹ underscoring international standards and the recommendations issued by UN treaty bodies and special mandate holders. Recommendations also target the bodies of Georgia's national machinery for gender equality, in particular the Parliamentary Gender Equality Council, especially in light of the newly-established Inter-agency Commission on Gender Equality, Violence against Women and Domestic Violence within the Executive branch.

This document was drafted with the intent to highlight those specific provisions still in need of change in order to facilitate the work of those tasked with formulating gender equality policies and priorities. Georgia's commitment to this work is commendable and constitutes a core element of its economic, political and social progress in the years to come.

Women's economic empowerment

Effective economic empowerment occurs when women enjoy their rights to control and benefit from resources, assets, income and their own time. Georgian law and policy contains some provisions to foster gender equality in employment, but significant gaps render them of little utility. The current gender wage gap of 34.5% and unpaid care work, among others, constitute significant barrier to fostering women's full potential in economic life. The situation of rural women in agriculture and rural development requires significant improvement in the policy sphere.

Women in Georgia face numerous forms of employment discrimination, including a glass ceiling across sectors and a concentration of women in low paid jobs, discriminatory dismissal, overtly discriminatory job advertisements and the absence of legislation ensuring equal pay for work of equal value. The absence of gender-disaggregated data in this field constitutes a barrier to recognizing the full scope of the problems and to developing evidence-based policies to address

¹ The report does not cover the developments and materials produced after 30 November 2017.

them. The Labour Code should be amended to provide paid time off to attend ante-natal medical examinations, to protect all parents returning from parental leave from dismissal in both the public and private sector, and clarify the scope of the protected period.

Inequalities in women's involvement in agricultural production can be attributed, in part, limited access to basic services and social infrastructure and barriers to credit. While agricultural policies specifically address women's needs in some areas, meaningful gender mainstreaming has not been conducted for national, regional and village level policies in this field. There is thus a significant need for gender mainstreaming in agricultural and rural development policies. For example, gender mainstreaming should be performed on the Strategy for Agricultural Development in Georgia 2015-2020, including a gender-responsive budgeting analysis to determine any gaps in its responsiveness to women's needs and to foster gender equality in the agricultural sector. The same is true for the Rural Development Strategy and Action Plan and the Strategy of Market Formation and Action Plan. Furthermore, gender equality concerns and the gendered dimensions of specific problems are largely absent from regional development strategies, requiring increased supervision by the Ministry of Regional Development and Infrastructure, and amended policies.

In order to actually participate in economic activity, women in rural areas need access to basic services, including childcare and kindergartens as well as shelters for victims of domestic violence. Gender-disaggregated data in this field remains critical for policy development.

Finally, Georgia has yet to sign and ratify several international labour agreements: the 2014 Protocol to the International Labour Organization Forced Labour Convention (1930), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Maternity Protection Convention, 2000 (No. 183) and the ILO Termination of Employment Convention (No. 158).

Gender equality in healthcare

Access to sexual and reproductive health, including modern forms of contraception, remains very limited in Georgia, and is not prioritized in current policies. The five-day waiting period should be eliminated for women seeking an abortion. Adolescent sexual health should be integrated into age-appropriate curricula in schools. The Domestic Violence and Criminal Code should be amended to establish virginity testing as a crime of sexual coercion. There remains no legislative framework ensuring rights and protections for mothers and children in international surrogacy arrangements. In order to foster effective healthcare treatment to women drug users, the National Referral Mechanism for violence against women, encompassing healthcare and reproductive healthcare providers, should be linked to drug treatment centres and vice versa. The adoption of clinical guidelines on trans-specific medical procedures in line with the international standards in order to improve quality healthcare for transgender women is also recommended.

Harmful practices (gender-based violence)

The term "harmful practices" refers to several forms of gender-based violence, those stemming traditional, cultural practices that are grounded in discriminatory gender stereotypes, with significant consequences that impede women's and girls' ability to exercise their fundamental human rights to health, education, marriage and family life, and access to employment and economic opportunities. Women and girls in Georgia, especially those from specific ethnicities, are subject to harmful practices including: forced, early and child marriage, female genital mutilation (FGM). At the same time, gender-biased sex selection, also known as son preference, is practiced, especially in particular regions.

Gender equality in education

While the literacy rate among girls remains high and there is gender parity in school attendance, not all women and girls have access to education, such as vulnerable children and those from minority communities. Furthermore, there appears to be a glass ceiling for women in the education field. Gender mainstreaming could be undertaken with respect to the National Curriculum to remove any discriminatory materials and to ensure the inclusion of sexual and reproductive health as well as materials on women's contribution across subjects. Gender equality should be added as a module in civil education programs, and gender sensitivity included as a core component in teacher training programs.

Sexual harassment, harassment and bullying must be specifically addressed in the context of the field of education, including through the creation of sector- and institution-specific mechanisms for complaint. Several revisions must be made to the applicable orders and action plans to prevent educational drop outs due to early marriage.

Gender equality in culture

Access to and participation in culture is a fundamental right, and culture and cultural diversity are seen as catalysts for shaping ideas and societies. Culture holds transformative power to impact society by changing perceptions and opening spaces for social dialogue. Culture thus has the potential to challenge accepted unequal stereotypes and discriminatory social norms. Gender equality, inclusivity and non-discrimination are not included in the underlying principles of the Law on Culture. It should be amended to ensure non-discrimination and equality on the basis of gender/sex as well as other grounds, in the application of all of its provisions. The Culture Strategy and its Action Plan should be amended prior to 2025 to undertake a gender mainstreaming of the document. Gender aspects should be considered throughout the document, not solely in relation to engagement in and accessibility to culture.

Gender equality in sport

Georgian law and policy lack any provisions related to gender equality in sports. It contains no temporary special measures or other policies to foster women's equal participation in sports. The field of sports is not covered by the Gender Equality Law, and sports policies were developed without a gender lens. The National Sport Policy and Action plan should be revised following a gender mainstreaming of the documents with the involvement of women's organizations. A stand-alone objective of ensuring gender equality in sport should be added. At the same time, the Gender Equality Law should be amended to include provisions ensuring equal opportunities for women and girls to participate in sports, including within the context of education.

Recommendations:

Gender Equality in Georgia: Barriers and Recommendations volume 2 contains numerous additional recommendations on issues not highlighted above that signal the need for changes/amendments to legislation (laws, bylaws, orders, etc.), policies (State-level strategy documents and action plans, concepts), practices (case-law analysis, statistic data, etc.) and gender mainstreaming instruments (gender budgeting, gender impact assessment, etc.). The full list of concrete recommendations is provided in a separate table.

II. List of recommendations

Law or Policy	Recommendation	Target Group
Women's Economic Empowerment		
	Ratify the 2014 Protocol to the International Labour Organization Forced Labour Convention (1930) to advance prevention, protection and compensation measures, as well as to intensify efforts to eliminate contemporary forms of slavery.	Parliament
	Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.	Parliament
	Sign and ratify the ILO Maternity Protection Convention (No. 183).	
	Sign and ratify the ILO Termination of Employment Convention (No. 158).	
Labour Law	Introduce into the Labour Code provisions defining and requiring equal pay for equal work in both the public and the private sector, including the methodological criteria for the appraisal of remuneration rates. The provisions should require all employers with over a minimum number of employees to report gender-disaggregated data to GEOSTAT annually.	Parliament
National Human Rights Action Plan	Include equal pay as an objective of women's economic empowerment in forthcoming gender equality and human rights action plans.	Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence (IAC)
Labour Law, Anti-discrimination Law, Administrative Code	Sexual harassment should be defined and prohibited as a form of discrimination in the Labour Law, Anti-discrimination Law and Administrative Code. The Legal provisions should require public and private - sector entities to develop internal policies and complaint procedures and establish liability for the failure of supervisors to effectively respond to complaints.	Parliament
Labour Law, Law on Public Service	Introduce into the Labour Law and the Law on Public Service provisions prohibiting discriminatory job advertisements and discrimination during the interview stage.	Parliament
Labour Law	Clearly define the scope of pre-contractual relations in the Labour Law to include vacancy announcements. The legislation should specifically prohibit questions involving the applicant's marital status, pregnancy and other private matters during interviews.	Parliament

Labour Law, Anti-discrimination Law, Civil Procedure Code	Article 38 of the Labour Law should be amended to ensure that the burden of proof is always shifted to the employer in all cases alleging discrimination, harmonizing it with the Anti-discrimination Law and Civil Procedure Code.	Parliament
Labour Law	Article 5(8) of the Labour Law should be deleted. The Labour Law should be amended to require employers to provide the reasons underlying a decision not to hire an applicant upon the applicant's request.	Parliament
Labour Law	Article 38 of the Labour Law should be amended to ensure that the burden of proof is always shifted to the employer in cases involving termination for allegedly discriminatory reasons.	Parliament
Labour Law	Amend the Labour Law to provide paid time off to attend ante-natal medical examinations, and extra leave time for the birth and care of children with disabilities.	Parliament
Law on Public Service	Amend the Law on Public Service to provide for additional days of maternity leave for the birth and care of children with disabilities.	Parliament
Labour Law, Law on Public Service	Amend parental leave provisions within the Labour Law to protect all parents returning from parental leave from dismissal or transfer to lower position in both the public and private sector, and clarify the scope of the protected period. The period should be harmonized with that provided in the Law on Public Service.	Parliament
Law on Public Service	Amend the Law on Public Service to cover all public-sector employees.	Parliament
Labour Code, Regulation of Labour Conditions Inspections Department of MoLSHA	Amend the mandate of MoLSA's Working Conditions Monitoring Department to make health and safety inspections a mandatory function, and make its decisions binding, with enforceable sanctions for non-compliance. Expand the mandate of the human resources departments to explicitly cover incidents of sexual harassment as a violation of ethical standards.	Parliament, MoLSHA
Law on Public Ombudsman of Georgia	Establish an independent and impartial labor inspectorate that will monitor employees' rights and discrimination in the workplace.	Parliament, MoLSHA
Law on Public Service	Introduce temporary special measures, such as affirmative action in hiring and promotion, to foster the recruitment of higher numbers of women from ethnic and other minorities in public institutions at all levels.	Parliament
Strategy for Agricultural Development in Georgia 2015-2020	A gender assessment/mainstreaming should be performed on the Strategy for Agricultural Development in Georgia 2015-2020, including a gender-responsive budgeting analysis to determine any gaps in its responsiveness to women's needs and to foster gender equality in the agricultural sector. The Strategy should be amended accordingly.	Ministry of Agriculture
Rural Development Strategy 2017 – 2020 and Action Plan	The Rural Development Strategy and Action Plan should be amended to require internal staff training on gender mainstreaming to ensure that gender and women's needs are effectively integrated future strategies and action plans.	Ministry of Agriculture

Rural Development Strategy 2017-2020 and Action Plan	The Rural Development Strategy and Action Plan should reflect women's specific needs and interests throughout its provisions, such as increasing women's participation in cooperatives, and targeting women's SMEs.	Ministry of Agriculture
Strategy of Market Formation and Action Plan	The Strategy of Market Formation and Action Plan should be revised after conducting a gender-mainstreaming assessment, to ensure that it considers the situation of diverse categories of women in the marketplace.	Government of Georgia
Gender Equality Law, National Action Plan on Human Rights	The Gender Equality Law and forthcoming National Action Plan on Human Rights should require ministries to conduct a gender assessment/gender mainstreaming of internal policies and operations, including internal gender capacities to identify gaps. Gender mainstreaming should be required training for ministry personnel.	Parliament, IAC
Gender Equality Law, National Action Plan on Human Rights	As an effective tool for gender mainstreaming, NAPs and Strategies should institutionalize gender-responsive budgeting (GRB) throughout all ministries and local self-government bodies with the aim to increase women's access to resources.	Parliament, IAC
National Action Plan on Human Rights Rural Development Action Plan	Integrate into the NAPs on Human Rights and the Agricultural Rural Development Action Plan the objective of increasing the qualifications of women farmers through tailored trainings or college education, and the improved quality of, and access to, extension services. Integrate the aim of increasing opportunities for women to strengthen their advocacy skills to influence local planning and budgeting.	Parliament, IAC, Ministry of Agriculture
Action Plan and Strategy for Agricultural Development in Georgia 2015-2020, National Action Plan on Human Rights	Integrate into NAPs the development of women's cooperatives for support for women's participation in cooperatives to increase income-earning opportunities for women. Policy documents should be amended to provide free legal aid in rural communities on the procedures for land ownership/registration, with a special emphasize on rural women.	IAC, Ministry of Agriculture
Law of Georgia on Agricultural Land Ownership	Amend the Law of Georgia on Agricultural Land Ownership to allow women to use land as collateral, whether or not both spouses are formally registered as owners or co-owners.	Parliament
Action Plan and Strategy for Agricultural Development of Georgia 2015-2020, National Action Plan on Human Rights	National Action Plans should be amended to require the competent authorities and ministries to collect and disaggregate data. This should include data on agricultural landowners by sex, age, ethnicity and socio-economic status, including the number of rural women holding joint titles, disaggregated by age, ethnicity and socio-economic status.	Ministry of Agriculture, IAC
National Action Plan on Human Rights	In collaboration with banking and microfinance institutions, the State should develop special programs to meaningfully increase women's access to financial resources under terms that address existing barriers to credit.	IAC, Ministry of Economy, Ministry of Finances, Ministry of Agriculture

Rural Development Strategy for Georgia 2017-2020, National Action Plan on Human Rights	Strategic policies and action plans, including the Rural Development Strategy for Georgia 2017-2020, should contain specific targets to ensure access to basic services for rural women as a key step in fostering women's economic empowerment.	IAC, Ministry of Economy, Ministry of Finances, Ministry of Agriculture, Ministry of Regional Development and Infrastructure
Strategy of Rural Development of Georgia Local Government Code	The Strategy for Rural Development in Georgia should include as a target an increase in the construction or repair of kindergartens in rural areas as a factor in women's economic empowerment. The Local Government Code should contain a clearly defined obligation to ensure the requisite number of kindergartens according to international standards.	Parliament, Ministry of Agriculture, Parliament, Local Governments
Gender Equality in Healthcare		
National Maternal and Newborn Health Strategy	MoLHSA should designate a specific department or position to be responsible for the coordination, evaluation and implementation of the National Maternal and Newborn Health Strategy (2017-2030) and its three-year Action Plan through a Ministerial Order.	Ministry of Labor Health and Social Affairs
National Maternal and Newborn Health Strategy	An inter-agency coordination mechanism should be established to ensure implementation of section 5 "Implementation and Management Mechanism" of the Maternal and Newborn Health Strategy.	Ministry of Labor, Health and Social Affairs, the Government
National Maternal and Newborn Health Strategy	MoLHSA should calculate the costs for implementing the Maternal and Newborn Healthcare Action Plan, and provide for the gradual introduction of financial commitments by the State for the family planning and reproductive healthcare services, which currently financed by donor organizations. The Government and Ministry of Finance should provide increased budgetary allocations to MoLHSA to this end.	Ministry of Labor, Health and Social Affairs
National Maternal and Newborn Health Strategy	In order to implement second objective of the Strategy (by 2030 the quality of the family planning will meet international standards), MoLHSA should initiate the process of adopting a training module, protocols and standard operating procedures (SOPs) for medical personnel providing family planning and reproductive healthcare. It should further gradually retrain all relevant medical personnel. The training modules, protocols and SOPs should be gender sensitive as well as ensure the patients' right to confidentiality and privacy.	Ministry of Labor Health and Social Affairs
National Maternal and Newborn Health Strategy	MoLHSA should provide for the designation or establishment of an appropriate quality control and monitoring mechanism within the Ministry with respect to service providers (including private healthcare institutions) in family planning and reproductive healthcare, and develop regulations to provide for quality control monitoring.	Ministry of Labor Health and Social Affairs

Universal Healthcare Program	The Government should ensure the effective integration of family planning into primary healthcare programs, and include family planning counselling and the free provision of contraceptive supplies within the basic benefits package provided by Georgia's Universal Healthcare Program for vulnerable women, adolescents and youth, and those with low economic status. Ensure the de facto availability of an optimal offering of modern contraceptive methods, including long-acting and permanent methods under Universal Healthcare Program for disadvantage women. Government and Ministry of Finance should ensure adequate State budgetary allocations for these basic reproductive healthcare services.	Government
National Maternal and Newborn Health Strategy	MoLHSA and MoES should elaborate and consistently implement public awareness campaigns and educational programs concerning the importance of family planning, including modern contraception, in line with the Maternal and Newborn Strategy. Campaigns should target rural areas, and provide for linguistic diversity and cultural sensitivity in addressing ethnic minority women.	Ministry of Labor, Health and Social Affairs, Ministry of Education and Science
Essential Medicine List	MoLHSA should incorporate modern contraceptive methods, including emergency contraception, into the Essential Medicine List, which would be free of charge for vulnerable groups of women.	Ministry of Labor, Health and Social Affairs
Healthcare Law Order #01-74N	The Healthcare Law and Ministerial Order #01-74N should be amended to eliminate the five-day waiting period prior to obtaining an abortion as a violation of access to essential reproductive healthcare.	Ministry of Labor, Health and Social Affairs
Protocols on Termination of Pregnancy and Abortion Procedures	MoLHSA should review existing protocols on termination of pregnancy and abortion procedures in order ensure provision of information by doctors to women on abortion, both in and outside of counselling, in an accurate and evidence-based manner, in line with WHO standards.	Ministry of Labor, Health and Social Affairs
Law on Healthcare	The Law on Healthcare requiring the court authorization for abortion beyond 12 weeks' gestation in case of a rape should be amended.	Ministry of Labor, Health and Social Affairs
Universal Healthcare Program	MoLHSA should improve the availability of a broad array of maternal healthcare services at the primary and village healthcare level under Universal Healthcare Program. Namely, the Ministry should ensure that perinatal healthcare centers are adequately equipped, as well as the provision of high-quality services by medical personnel, particularly in rural areas, in order to provide emergency care as well as to operationalize referrals to higher level/central facilities.	Ministry of Labor, Health and Social Affairs
Universal Healthcare Program	MoLHSA should integrate youth-friendly sexual and reproductive health services into the healthcare system, preferably at the Primary Health Care level.	Ministry of Labor, Health and Social Affairs
National Curriculum	MoES should ensure the development and effective implementation of age-appropriate comprehensive sex education by amending National Curriculum 2018-2024. MoES should retrain teachers assigned to provide sexuality education at school.	Ministry of Education and Science

Maternal and Newborn Health Strategy	Maternal and Newborn Health Strategy and its Action Plan shall reflect and address the challenges related to accessibility of reproductive healthcare by the disadvantaged women, including women of ethnic minorities, taking into consideration barriers related to physical accessibility, language, etc.	Ministry of Labor, Health and Social Affairs
Universal Healthcare Program	Ensure that MoLHSA-run programs covering family planning and other sexual and reproductive healthcare accommodate the needs of the women with disabilities, including inter alia, the adaptation of gynecological wards to ensure physical access to wheelchair users and other necessary accommodations for disabled persons. MoLHSA should include disability sensitivity in guidelines and training for healthcare professionals including awareness on disabled women's voluntary sexual activity in line with the CRPD standards.	Ministry of Labor, Health and Social Affairs
The National Referral Mechanism	The National Referral Mechanism for violence against women, encompassing healthcare and reproductive healthcare providers, should be linked to drug treatment centres and vice versa.	Ministry of Labor, Health and Social Affairs
Nationwide Study	MoLHSA and National Center for Control Disease and Public Health (NCDC) in collaboration with Georgia's Inter-Agency Council on Combating Drug Abuse should commission a nationwide study to identify potential number of women who use drugs in order to adequately plan and provide gender-sensitive and evidence-based drug treatment services.	Ministry of Labor, Health and Social Affairs, IAC on Combating Drug Abuse
State Strategy on Healthcare	MoLHSA should incorporate the needs and specificities of lesbian, bi-sexual and transgendered women as a target/vulnerable group into the State Strategy on Healthcare. It should provide basic information and training to healthcare providers about the needs and sensitivities in working with LGBTI persons.	Ministry of Labor, Health and Social Affairs
State Strategy on Healthcare	MoLHSA should organize information campaigns addressed to sex workers on treatment methods for STIs and the need for regular check-ups.	Ministry of Labor, Health and Social Affairs
Decree #63	Amend Decree#63 of the Ministry of Corrections regulations to include gender sensitivity in scheduling the transfer of accused/convicted female prisoners for medical treatment.	Ministry of Corrections
Joint Order	A comprehensive regulatory mechanism for surrogacy procedures must be enacted by the Ministry of Justice, the Ministry of Internal Affairs and the Ministry of Labor, Health and Social Affairs in order to: (i) monitor surrogacy agreements; and, (ii) protect the rights of the surrogate mother and the child from exploitation. Regulations should require background checks for prospective adoptive parents and regulate cooperation with the third countries on placement and care. The law should not discriminate against same-sex couples. The best interest of the child standard should be the focus of these efforts.	Ministry of Labor, Health and Social Affairs

Harmful Practices (Gender Based Violence)		
Government Order#437	Government Order #437 should be amended to explicitly oblige the referral of child abuse, including instances of early and forced marriage to relevant authorities by educational institutions. The amendment of Order #437 should further provide for the confidentiality of the individual who filed the report.	Government
National Action Plan on Violence against Women and Domestic Violence	Include within the next National Action Plan on Violence against Women and Domestic Violence the development of guidelines for law enforcement officers to use in addressing child marriage and the development of region-specific approaches on detection, investigation and prosecution of child marriages, including a coordinated response by law enforcement officials and service providers involved in child referral mechanisms.	IAC
National Action Plan on Violence against Women and Domestic Violence	In addition to criminal sanctions and reporting requirements, the Inter-Agency Commission on Gender Equality should develop public awareness campaign on the harmful results of the child/early/forced marriages, with the specific emphasis being paid to the awareness of: (i) parents, (ii) influential community and religious leaders as well as (iii) girls as part of the prevention programs. Education on child's rights as well as women rights should be streamlined into National Curriculum 2018-2024 by the Ministry of Education and Science.	Government
Universal Healthcare Program	MoLHSA should support already married girls to avoid early pregnancy and when pregnant to have access to appropriate care during pregnancy, childbirth and postpartum (including family planning) free of charge as one of the disadvantaged groups recognized under Maternal and Newborn Strategy and its Action Plan.	Ministry of Labor, Health and Social Affairs
Law on Free Legal Aid	Parliament should review Law on Free Legal Aid in order to include girls' victims of forced and child marriage as beneficiaries of free legal aid.	Parliament
National Action Plan on Violence against Women and Domestic Violence	The Inter-Agency Commission on Gender Equality should identify communities where FGM is still practiced, gather data and develop tailored intervention policies within the up-coming Action Plan on Violence against Women. The data gathered should diagnose root causes as well as potential linkages with cultural traditions or religious beliefs in order to determine customized approaches. The interventions should aim to coordinate local community and religious leaders, role models, NGO representatives, etc. to initiate and lead changes from within the community. MoES should include a component on harmful consequences of FGM in the National Curriculum 2018-2024.	IAC
National Action Plan on Violence against Women and Domestic Violence	The new Action Plan's on Gender Equality and Violence against Women should support sociological and demographic research on family dynamics in relation to son preference in order to (i) examine remaining root causes and socio-economic factors influencing communities/three regions and (ii) develop tailored educational campaigns with focused attention on regions/communities where the decline in sex selection has been slower.	IAC
Medical Protocols	MoLHSA should require the ethical use of sex detection technologies through engaging relevant medical professional associations as well as support elaboration of respective guidelines for medical personnel, including through the imposition of professional sanctions.	Ministry of Labor, Health and Social Affairs

Gender Equality in Education		
Law on Education, Gender Equality Law, Anti-discrimination Law	Harassment and sexual harassment should be prohibited in the field of education through revisions in the Law on Education, the Anti-discrimination Law and the Gender Equality Law. Sector-specific internal complaint mechanisms, legal bases for filing complains and the delineation of clear lines of liability within educational institutions should be established.	Parliament
Strategy of the Ministry or elaboration a new gender equality strategy	Employ temporary special measures, such as the use of affirmative action in future hires and promotions or through the use of quotas, to foster a gender balance among teachers and senior administrators throughout all levels of the education field. The National Centre for Teacher Professional Development should increase options for professional mobility in order to eradicate the “glass ceiling”.	Ministry of Education and Science
Law on General Education, Gender Equality Law	The Law on General Education should be amended to formalize the requirement of gender mainstreaming of the National Curriculum, in accordance with international standards and guidelines.	Parliament
National Educational Plan	Expand the reach of civic education programs and incorporate a gender equality module into existing civic education programs.	Ministry of Education and Science
Teachers’ Professional Standarts	Professional Standards for Teachers shall be amended to require the inclusion of a module on gender sensitivity in training programs for teachers and other education professionals.	Parliament
Code of Administrative Offences	Article 172 ⁶ of the Code of Administrative Offences should be revised to clarify its application to educational institutions pertaining to notification and referral regarding child marriage and other forms of child abuse, and to contain appropriate professional sanctions for non-compliance with professional duties.	Parliament
Ordinance #437 of the Government of Georgia	The Ordinance #437 (Sept 12, 2016) of the Government of Georgia should be amended in order to establish the obligation (and not merely the possibility as it is indicated now) of the educational establishments to refer to the competent authorities in cases of early and forced marriages, and also to guarantee the confidentiality of the reporting persons vis-à-vis families.	Ministry of Labour, Health and Social Affairs
Law on Education	The Law on Education should be amended to also require educational institutions to report indications of early or forced marriage to social service agencies and law enforcement.	Parliament
National Action Plan to Combat Violence against Women and Domestic Violence	Include in the forthcoming National Action Plan to Combat Violence against Women and Domestic Violence support for social service providers to engage interpreters in working with communities with large populations of ethnic minorities. It should further include an objective of hiring psychologists with native proficiency in ethnic minority languages within social services agencies.	IAC, Social Service Agency
Law on General Education	The Law on Education should be amended to incorporate programs for monitoring the return of married and/or pregnant girls.	Parliament
Law on General Education	The Law on General Education should call for an increased number of bi-lingual teachers at all levels of education.	Parliament

National Educational Plan	The Ministry of Education and Science of Georgia should develop comprehensive 'reproductive health and rights' education lessons appropriate to the cultural context and the students' ages, and introduce these into the school curriculum. Special training programs should be provided for teachers. The training programs should include modules on gender equality and girls' rights to education and family planning.	Ministry of Education and Science
Law on General Education	Collect gender-disaggregated statistics in the education sector for the purpose of developing policies to foster increased gender balance among a range of professional fields.	Ministry of Education and Science
Elaboration of specific programs	Establish scholarships to foster under-represented categories of persons in specific fields.	Ministry of Education and Science
Gender Equality in Sport		
Gender Equality Law	The Gender Equality Law should be amended to include provisions ensuring equal opportunities for women and girls to participate in sports, including within the context of education.	Parliament
National Sport Policy	The National Sport Policy and Action Plan should be revised following a gender mainstreaming of the documents with the involvement of women's organizations. A stand-alone objective of ensuring gender equality in sport should be added.	Ministry of Sports and Youth
Elaboration of a Separate Strategy	Elaborate a separate strategy on gender equality in sports with specific and measurable objectives for advancing gender equality and women's empowerment both in sport and by sport. Appoint and train gender focal point at the Ministry of Sports and Youth to lead these recommended processes and follow-up efforts.	Ministry of Sports and Youth
Gender Equality Law	Amend the Gender Equality Law to require the disaggregation of all officially collected statistics by gender. Collect gender disaggregated data on all relevant aspects of sport in Georgia.	Parliament
	The Ministry of Sports and/or the Parliamentary Sports Committee should conduct specific studies/assessments into the field of gender and sports, beginning with a baseline study to address international standards and commitments to combat gender discrimination in sports: including: <ul style="list-style-type: none"> • Participation of women and men as decision-makers in sports management; • Access to state funding for sports federations dominated by men and dominated by women; • Access to state funding to female national teams vis-à-vis male national teams; • Overall participation of men and women in sport and physical activity; • Participation of men and women in organized sports; which sports are played and by whom; • Reasons for women's non-participation (ex: lack of time, childcare, lack of safe and appropriate facilities, lack of exposure etc.); • Attendance of men and women at sporting events; • Media coverage for women's and men's sport. 	Ministry of Sports, Parliamentary Sports Committee

Gender Equality in Culture		
Law of Georgia on Culture	The Law of Georgia on Culture should be amended to ensure non-discrimination and equality on the basis of gender/sex as well as other grounds, in the application of all of its provisions.	Parliament
Culture Strategy	The Culture Strategy should be amended prior to 2025 to undertake a gender mainstreaming of the document. Gender equality and non-discrimination should be set forth as an underlying principle at the outset of the document. Gender aspects should be considered throughout the document, not solely in relation to engagement in and accessibility to culture.	Ministry of Culture and Monument Protection
Culture Strategy and Action Plan, Gender Equality Law, Human Rights National Action Plan	A gender mainstreaming of the Action Plan of the Cultural Strategy should be undertaken and result in a revised document in which gender is integrated throughout the full range of objectives. This should be required by the Gender Equality Law.	IAC, Parliament, Ministry of Culture and Monument Protection
Culture Strategy and Action Plan, Gender Equality Law	Systematic collection of sex-disaggregated data and its dissemination in all areas of the cultural sector in order to strengthen the evidence base on gender gaps in the field. This should be required through amendments to the Gender Equality Law.	IAC, Parliament, Ministry of Culture and Monument Protection
	Conduct targeted studies on gender across the diverse cultural sectors. Utilize monitoring and evaluation tools, including Gender Impact Assessments (GIA) to measure the impact of diverse policies and programs on gender equality.	IAC, Ministry of Culture and Monument Protection





III. Introduction

As a signatory to many international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Georgia is required to ensure *de facto* equality between men and women. Article 2 of CEDAW directly prohibits discrimination against women and obligates States to agree to pursue a policy of eliminating discrimination against women by all appropriate means and to undertake concrete steps to eliminate discriminatory laws, policies and practices in the national legal framework. The 2014 Association Agreement between Georgia and the EU also requires Georgia to bring national legislation into conformance with international standards.

In 2015, the UN adopted a set of goals to **end poverty, protect the planet, and ensure prosperity for all** as part of a new sustainable development agenda. Each of the 17 Sustainable Development Goals (SDGs) has specific targets to be achieved over the next 15 years, with a series of indicators for measuring progress. Although gender equality has been mainstreamed across the SDGs, standalone Goal 5 aims to “achieve gender equality and empower all women and girls” and contain nine targets, including: ending all forms of discrimination against women and girls; ending all forms of violence against women and girls; eliminating harmful practices, such as early, forced and child marriage; achieving women’s full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life; and, adopting and strengthening sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels, among others. The SDGs and their targets will be referenced, where relevant, throughout this report.

With these commitments in mind, this document attempts to identify remaining legislative and policy gaps, notwithstanding the important strides Georgia has made in harmonizing the national legal framework with international standards, including most recently the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and enacting a series of accompanying amendments in national legislation. At the same time, it is important to recall that the legislative framework alone does not secure the right to equality and non-discrimination without its effective implementation. Although not the focus of this research, Georgia faces significant hurdles in implementing existing rights and protections throughout its territory.

In an effort to meet its international commitments, Georgia has strengthened its national institutional framework to monitor and advance women’s equality. Currently, the gender equality national machinery encompasses the Gender Equality Council within the Parliament, the recently created Inter-agency Commission on Gender Equality, Violence against Women and Domestic

Violence within the Executive branch, and the Gender Equality Department of the Public Defender's Office. Charged with inter-agency coordination, monitoring the implementation of laws within the Executive branch and the development of national action plans on gender equality, violence against women and domestic violence and women, peace and security, the new Inter-agency Commission complements the work of the parliamentary Gender Equality Council. The Public Defender's Office plays the crucial role of independent monitoring on the full range of gender issues.

This document is organized by subject matter and addresses: the Gender Equality Law, discrimination, violence against women, women's political participation, women, peace and security and civil registration. It highlights where specific issues have been raised by United Nations (UN) treaty bodies and mandate holders. It also takes an intersectional approach to gender equality, in order to ensure that all women benefit from an equal protection of the law, one that considers diverse identities, stages of life and experiences, such as women belonging to ethnic minorities, women with disabilities, and female children and adolescents, among others.

The report recommends the use of essential tools for ensuring gender equality, including gender mainstreaming, gender-responsive budgeting and the use of temporary special measures. So far, Georgia has not yet completed a concept note, nor a specific policy mandating gender mainstreaming and gender-responsive budgeting in the policymaking process. Further to this, training modules have not yet been created for public officials on these tools. Achieving gender equality requires an active use of these tools. Even a cursory read of several national action plans across sectors reveals a lack of gender mainstreaming. While quotas constitute one form of temporary special measures, affirmative action and tailored programs fostering the participation of under-represented communities are others.

In addition to addressing specific legislative gaps, such as the current absence of a legal framework for addressing sexual harassment, the report attempts to identify other, less conspicuous gaps across law and policy documents. Key issues to be considered for broader reform efforts that would have a significant impact on gender equality include, *inter alia*, broad changes to the electoral system towards proportional representation, equalizing the rights and protections provided to women employed in the private sector with those of women in the public sector regarding pregnancy, childbirth, childcare, maternity leave and compensation, and ensuring gender sensitivity in envisaged agricultural reform efforts.



IV. Glossary

Affirmative action refers to policies designed to eliminate discrimination between applicants, remedy the results of prior discrimination, and prevent discrimination in the future. They are frequently applied to the selection process in admissions to educational program and professional employment.

Gender impact assessments are *ex ante* evaluations, analyses or assessments of a law, policy or program in order to identify, in a preventative way, the likelihood of a given decision having negative consequences for the situation of equality between women and men.

Gender mainstreaming refers to efforts to examine and change processes of policy formulation and implementation from a gender perspective as well as to address and rectify persistent and emerging disparities between men and women. This is the process of policy design, implementation and evaluation by taking into consideration gender-specific and often diverse interests and values of differently situated men and women. Every policy need to be evaluated from the perspective of whether or not it reduces or increases gender inequalities. It is assumed that unfair and unequal gender outcomes can be redressed by gender-sensitive policy process.

Gender responsive budgeting involves a full process from the analysis of budgetary programs from a gender perspective to integration of gender perspectives throughout the budget process. It is a mechanism for incorporating gender equality principles into all stages of the budget process.

Genuine occupational requirement constitutes an exception to direct and indirect discrimination where discriminatory treatment is required by the nature of the particular occupational activities concerned or of the context in which they are carried out, provided that the objective is legitimate and the requirement is proportionate.

Glass ceiling - an invisible barrier, which prevents women and minorities from rising to high-level positions despite their achievements and qualifications.

Reasonable accommodation - any modification or adjustment to a work or educational environment that will enable a person with a disability to perform essential job functions or equally access educational opportunities.



V. Women's economic empowerment (WEE)

Effective economic empowerment for women occurs when women enjoy their rights to control and benefit from resources, assets, income and their own time, and when they have the ability to manage risk and improve their economic status and wellbeing.² WEE is essential for them to move out of and stay out of poverty, as well as to enjoy the full array of human rights.

Women's economic empowerment involves their ability to participate in markets with equal rights and opportunities and their control over productive resources, income and assets both in the household and in formal institutions. Achieving women's economic empowerment can have far-reaching benefits across multiple spheres. UN Secretary-General's High-Level Panel on Women's Economic Empowerment recognizes that "empowering women economically is not only the 'right thing to do' to honour the world's commitments to human rights, it is also the 'smart thing to do' for development and economic growth".³

WEE can thus be measured by women's market participation and resource equity. Market participation involves women's influence on global and local markets by focusing on gender equality and its relationship to the limitations on market involvement. Resource equity measures assets and ownership between genders.⁴

Georgia's total unemployment rate in 2016, 11.8%, was the lowest within the past decade.⁵ In 2016, 58% of women were considered as economically active and part of the labour force, compared to 78% of men.⁶ The largest segment of the employed population in Georgia has a general secondary education. The highest percentage of unemployed women have a higher education; 47% in 2016.⁷

The Georgian economy is characterized by *both horizontal segregation*, in which women tend to work in less profitable sectors of the economy, and *vertical segregation*, in which women tend to occupy lower-paying positions than men within the same sector. As a result of such segregation, women earn on average less than men.⁸ In Georgia, women mainly occupy lower-level support positions. Women tend to dominate in the teaching, social services and healthcare fields, while

² Oxfam, Conceptual Framework on Women's Economic Empowerment, 2017, available at: <https://policy-practice.oxfam.org.uk/publications/oxfams-conceptual-framework-on-womens-economic-empowerment-620269>

³ UN Secretary-General's High-Level Panel on Women's Economic Empowerment, January 2016, available at: <http://www.unwomen.org/~media/headquarters/attachments/sections/news/stories/2016/unhlp-womenseconomicempowerment-overview.pdf>.

⁴ University of Wisconsin-Madison, School of Public Affairs, *Indicators of Women's Empowerment in Developing Nations*, 2013.

⁵ National Statistics Office of Georgia, *Employment and unemployment in Georgia*, 2016.

⁶ Geostat, *Women and men in Georgia*, 2017

⁷ National Statistics Office of Georgia, *Women and Men in Georgia*, 2017.

⁸ Millennium Challenge Georgia, *Social and Gender Integration Plan*, 2014.

men predominate in management-level positions in government and the private sector, especially in the energy, information technology and construction sectors.⁹

In 2014, the Government approved an Action Plan on Gender Equality Policy (2014-2016), one component of which aimed to secure “gender equality in the economic field”. While it failed to explicitly address discrimination as an obstacle to employment, it called for a study on the current situation and activities to foster women’s participation through vocational and business training.¹⁰ Although there is no current National Action Plan on Gender Equality, the National Action Plan on the Protection of Human Rights (2016-2017) contains a section on “Gender equality and women’s empowerment”. Mission 13.1.4 addresses the “Promotion of women’s economic empowerment,” to be achieved through business education and capacity-building support, including in agriculture and agro-business, increasing women’s participation in agricultural cooperatives and ensuring their involvement in rural development.¹¹ Mission 13.1.4 does not address workplace discrimination, including the need for equal pay legislation, discriminatory vacancy advertisements, gender segregation in the labour market, the lack of basic services, or other key issues impeding women’s economic empowerment.

Article 11(1) of CEDAW guarantees women equal employment opportunities, the right to equal remuneration and benefits and the “right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction”. Article 11(2) prohibits discrimination on the grounds of pregnancy or marital status, requires maternity leave and access to social services programs to enable parents to combine family and work obligations. Article 13(a),(b) require States to:

to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit.

SDG 10, on the reduction of inequality, calls on States to “adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality,” as well as to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard”.

A. Sign and ratify international treaties in the fields of labour and employment

Georgia has yet to ratify several international conventions in the field of labour relations.

1. ILO Forced Labour Convention (1930)

The Special Rapporteur on the sale of children, child prostitution and child pornography urged the State to ratify “the Protocol of 2014 to the International Labour Organization Forced Labour Convention (1930)”.¹²

⁹ Geostat, Women and Men in Georgia in Georgia, 2017.

¹⁰ See, Activities 3.1.1-3.1.3., 2014-2016 National Action Plan for Implementation of Gender Equality Policy in Georgia.

¹¹ See, Activities 13.1.4.1-13.1.4.5, Action Plan of the Government of Georgia on the Protection of Human Rights for 2016-2017.

¹² A/HRC/34/55/Add.1, para 82(a).

Recommendation: Ratify the 2014 Protocol to the International Labour Organization Forced Labour Convention (1930) to advance prevention, protection and compensation measures, as well as to intensify efforts to eliminate contemporary forms of slavery.

2. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Recommendation: Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

3. ILO Maternity Convention 2000 (No. 183)

In its Concluding Observations on Georgia's 4th and 5th periodic report, the CEDAW Committee recommended that the State "ratify the Maternity Protection Convention, 2000 (No. 183), of the International Labour Organization".¹³

Recommendation: Sign and ratify the ILO Maternity Protection Convention (No. 183).

4. ILO Termination of Employment Convention (No. 158)

Recommendation: Sign and ratify the ILO Termination of Employment Convention (No. 158).

B. Gender discrimination in the Labour Law

1. Equal pay provisions

According to the Geostat data¹⁴, the average monthly salary for men was GEL 1074 and GEL 693 for women in 2015. The "average man's salary rate is GEL 381 higher or 1.54 times more than women's average salary rate".¹⁵ For the previous years,, ILO noted that of "average monthly nominal wages of men and women that, overall, in the first quarter of 2013, women earned 62.3 per cent of men's wages, corresponding to a gender wage gap of 37.7 per cent in favour of men".¹⁶ It further observed that "gender segregation in the labour market still persists in the country, as despite their qualifications and education, women predominate in non-commercial spheres where remuneration is rather low".¹⁷

Furthermore, structural discrimination has a further adverse impact on women's access to equal pay. As the *Gender Discrimination in Labour Relations* report found:

women are often employed in low qualification work in spite of their education level. The majority of women do not work in a decision-making position, but at a lower level. In spite of the fact that women very often perform most labor consuming work they are less visible and do not get promoted according to their performance and qualification.¹⁸

¹³ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 29(c).

¹⁴ GEOSATAT, Women and Men in Georgia, 2017.

¹⁵ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 54.

¹⁶ ILO, Direct Request (CEACR), 103rd ILC session, 2014, available at: http://www.ilo.org/dyn/normlex/en/f?p=NORML-EXPUB:13100:0::NO::P13100_COMMENT_ID:3145921

¹⁷ ILO, Direct Request (CEACR), 103rd ILC session, 2014.

¹⁸ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 61.

The right to equal pay for equal work has been clearly established by international law. ILO's Equal Remuneration Convention (No. 100) requires States to "ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value".¹⁹ Article 7(a)(i) of the International Covenant on Economic, Social and Cultural Rights provides that "[f]air wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work". SDG 8, on securing employment and decent work for all, also includes among its targets, "equal pay for work of equal value".

Article 1(b) of Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) sets forth its aim "to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation" including in relation to "working conditions, including pay".²⁰

In its Concluding Observations on Georgia's 4th and 5th periodic report, the CEDAW Committee expressed its concern:

about the disproportionately high unemployment rate of women, the significant gender wage gap and the continued horizontal and vertical segregation in the labour market, where women are concentrated in low-paid jobs.²¹

It recommended that the State:

Adopt measures to implement the principle of equal pay for work of equal value in order to narrow and close the gender wage gap, consistently reviewing the wages of men and women in all sectors.²²

In its Concluding Observations, the Human Rights Committee recommended that Georgia eliminate "the gender wage gap by combating vertical and horizontal segregation in employment".²³

Recommendations: Introduce into the Labour Code provisions defining and requiring equal pay for equal work in both the public and the private sector, including the methodological criteria for the appraisal of remuneration rates. The provisions should require all employers with over a minimum number of employees to report gender-disaggregated data to GEOSTAT annually.

Recommendation: Include equal pay as an objective of women's economic empowerment in forthcoming gender equality and human rights action plans.

¹⁹ Article 2(1), ILO Equal Remuneration Convention, 1951 (No. 100).

²⁰ Article 1(b), Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

²¹ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 28.

²² CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 29(b).

²³ HRC, CCPR/C/GEO/CO/4, August 19, 2014, para 7(c).

2. Sexual harassment

CEDAW General Recommendation No. 19 defines sexual harassment as a form of violence against women and as form of discrimination. It states:

Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.

Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.²⁴

According to one report on the situation in Georgia, “Sexual harassment in the workplace is one of the most taboo subjects of discrimination, even after its identification. Victims often refuse to go to court because they have no hopes of winning the case or try to avoid a life-long stigma.”²⁵ However, given the absence of any meaningful legal prohibition, there is no data on the incidence of sexual harassment.

In its Concluding Observations on Georgia’s 4th and 5th periodic report, the CEDAW Committee noted “with concern the poor enforcement of laws prohibiting sexual harassment in the workplace and protecting maternity owing to a lack of national labour inspectorates or similar enforcement mechanisms”.²⁶ It recommended that the State “strengthen measures to prevent and combat sexual harassment of women in the workplace by establishing labour inspectorates for effective labour law reporting and enforcement mechanisms”.²⁷

Article 208 of the Administrative Code provides for the liability for damages committed by administrative bodies of the State and self-governing bodies, constituting a potential basis to claim liability harassment or sexual harassment beyond the individual perpetrators. However, no specific law establishes a chain of liability in the private sector.

Recommendations: Sexual harassment should be defined and prohibited as a form of discrimination in the Labour Law, Anti-discrimination Law and Administrative Code. The Legal provisions should require public and private sector entities to develop internal policies and complaint procedures and establish liability for the failure of supervisors to effectively respond to complaints.

3. Discriminatory job announcements

Discrimination in pre-contractual labour relations is prohibited in Directive 76/207/EEC of the European Council on equal treatment for men and women. Article 3 of the Directive ensures its

²⁴ CEDAW, General Recommendation No. 19, paras 17, 18.

²⁵ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 88, (noting that LBT women constitute a high-risk group).

²⁶ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 28.

²⁷ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 29(d).

application to “all persons, as regards both the public and private sectors,” in the “conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions”.²⁸

As one study noted, on-line vacancy advertisements in Georgia tend to “invite ‘stable’, ‘pleasant looking’, ‘unmarried’ women to apply,”²⁹ specifying the gender without reference to whether it is a genuine occupational requirement.³⁰

The Labour Code does not clearly or specifically prohibit discrimination in job announcements. Although Article 2(3) the Labour Code ostensibly prohibits discrimination during pre-contractual employment relations, it does not define the scope of what constitutes pre-contractual relations, except at its completion. Article 5(7) states: “Pre-contractual relations with a candidate shall be deemed completed when the parties have concluded a labour agreement or when the candidate has been notified about refusing to employ him/her”.

Ongoing civil service reform efforts, approved by the Government in 2014, include general provisions on hiring procedures, such as transparency, merit-based competition and job announcements. However the latter requires that the vacancy describe the position, the required qualifications and salary, with no prohibition on gender or other forms of discrimination.

Recommendation: Introduce into the Labour Code and the Law on Public Service provisions prohibiting discriminatory job advertisements and discrimination during the interview stage.

Recommendation: Clearly define the scope of pre-contractual relations in the Labour Code to include vacancy announcements. The legislation should specifically prohibit questions involving the applicant’s marital status, pregnancy and other private matters during interviews.

4. Reversal of burden of proof

Article 4(1) of Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex requires States to:

ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

Article 9(2)(a) of ILO Termination of Employment Convention also imposes “the burden of proving the existence of a valid reason for the termination” on the employer, thus extending beyond the scope of discrimination complaints.

²⁸ Article 3(1)(a), Council Directive 2002/73/EC of 23 September 2002 establishing a general framework for equal treatment in employment and occupation.

²⁹ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, pp. 14, 17, (noting, *inter alia*, 34% of advertisements on two job websites from 2010 to 2014 specifying the gender), available at: http://article42.ge/wp-content/uploads/2016/03/Gender_Discrimination_in_Labor_Relations.pdf.

³⁰ See, Article 4(1), Council Directive 2002/73/EC of 23 September 2002 establishing a general framework for equal treatment in employment and occupation.

Unlike the Anti-discrimination Law, the Labour Code reverses the burden of proof only for claims concerning unlawful termination,³¹ but no explicit provision shifts the burden of proof in all cases involving discrimination at all stages of employment. However, Articles 363¹⁻⁶ of the Civil Procedure Code set forth the procedure for filing court cases alleging discrimination. Article 363³ reverses the burden of proof once the claimant has established a *prima facie* case.

Recommendation: Article 38 of the Labour Code should be amended to ensure that the burden of proof is always shifted to the employer in all cases alleging discrimination, harmonizing it with the Anti-discrimination and Civil Procedure Code.

5. Justification of non-hire

Article 5(8) of the Labour Code states: “An employer shall not be obliged to justify its decision on refusing to employ the candidate”. This provision undermines the reversal of the burden of proof, which places the evidentiary burden on the employer to prove that a hiring decision in question was not discriminatory, as required by international standards,³² the Civil Procedure Code and the Anti-discrimination Law. Article 5(8) could also be invoked to justify an employer’s refusal to comply with inquiries into potential discrimination cases by the Public Defender’s Office, further undermining efforts to ensure non-discriminatory hiring practices.

Recommendations: Article 5(8) of the Labour Law should be deleted. The Labour Law should be amended to require employers to provide the reasons underlying a decision not to hire an applicant upon the applicant’s request.

6. Unlawful termination

Article 38(4)-(8) of the Labour Law establishes the process for an employee to request “written substantiation of the grounds for terminating the labour agreement,” which the employer is required to provide within 7 calendar days. The employee has 30 days to file a complaint. Significantly, subsection (7) shifts the burden of proof to the employer only upon its refusal to provide the grounds for termination. It states:

If an employer fails to provide a written substantiation of the grounds for terminating a labour agreement within seven calendar days after an employee submits the request, the employee may appeal in court against the employer’s decision on terminating the labour agreement within 30 calendar days. In this case, the burden of proof for determining facts of the dispute shall lie on the employer.

As explained above, the burden of proof should shift for all complaints alleging employment discrimination, not only those for which the employer fails to provide a justification.

Recommendation: Article 38 of the Labour Code should be amended to ensure that the burden of proof is always shifted to the employer in cases involving termination for allegedly discriminatory reasons.

³¹ See, Article 38(7), Labour Law.

³² See, e.g., Council Directive on the Burden of Proof in Cases of Discrimination Based on Sex (Directive on the Burden of Proof) Council Directive 97/80/EC, 15 December 1997.

C. Maternity leave and conditions related to pregnancy

1. Maternity leave

EU Directives ensure the right to maternity leave, including time off for pre-natal examinations. Article 8(1) of Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast feeding establishes the right to at least 14 weeks of continuous maternity leave. Article 9 includes the right to “time off, without loss of pay, in order to attend ante-natal examinations, if such examinations have to take place during working hours”. Directive 2010/18/EU on parental leave, implementing the Framework Agreement on Parental Leave (Revised) 18 June 2009, protects all workers, men and women, from discrimination on the grounds of applying for, or taking, parental leave. It provides for “at least a period of four months and, to promote equal opportunities and equal treatment between men and women, should, in principle, be provided on a non-transferable basis”.³³ Article 3(3) of Directive 2010/18/EU also requires States and social partners to “assess the need to adjust the conditions for access and modalities of application of parental leave to the needs of parents of children with a disability or a long-term illness”.

Article 27(1), (2) of the Labour Code provides for 730 calendar days of maternity leave upon the employee’s request, 183 of which will be paid; 200 days can be paid in the event of complications with the pregnancy or multiple births. However, in the private sector, the provision of maternity leave is at the discretion of the employer and a one-time payment from the State in the amount of 1000 GEL.³⁴

No reference is made within the Labour Code to time off for ante-natal care. No additional days are contemplated for the birth and care of a disabled child.

In contrast, Article 64(5) of the Law on Public Service provides for paid time off for pre-natal care for workers in the public sector. Consequently, this is a right to be enjoyed by women working in the public sector, but not by those working in the private sector. The Law on Public Service contemplates no additional time off for the birth and care of a disabled child. Article 41¹(1) does provide up to 200 days leave paid for the birth of twins.

Recommendations: Amend the Labour Law to provide paid time off to attend ante-natal medical examinations, and extra leave time for the birth and care of children with disabilities.

Recommendation: Amend the Law on Public Service to provide for additional days of maternity leave for the birth and care of children with disabilities.

2. Discriminatory dismissal

Article 5(d),(e) of the ILO Convention Termination of Employment Convention (No. 158) prohibits dismissal on the bases of, *inter alia*, pregnancy or maternity leave. Article 33 of the EU Charter on Fundamental Rights prohibits contract termination on the basis of pregnancy, maternity leave or child adoption.

³³ Article 2(2), Council Directive 2010/18/EU on parental leave.

³⁴ See, Explanatory note, law proposal introduced to the Parliament by the Labour Union; Article 5, Order #231 of the Ministry of Labour, Health and Social Affairs.

The two above-mentioned European Council Directives also prohibit discriminatory action against pregnant employees and those who take parental leave: Council Directive 92/85/EEC of 19 October 1992 and Council Directive 2010/18/EU on parental leave. Directive 2010/18/EU protects all workers, men and women, from discrimination on the grounds of applying for or taking parental leave. It prohibits States and social partners from excluding “from the scope and application of this agreement workers, contracts of employment or employment relationships solely because they relate to part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency”.³⁵

Directives 2010/18/EU and 2002/73/EC ensure that when returning from parental leave, parents have the right to return to the same job or to an equivalent or similar job consistent with their employment contract or relationship.³⁶ The latter further states: “Less favourable treatment of a woman related to pregnancy or maternity leave ... shall constitute discrimination within the meaning of this Directive”.³⁷

Directive 92/85/EEC ensures that women may not be dismissed for reasons related to their condition from the beginning of their pregnancy to the end of their maternity leave.³⁸ In the event of dismissal, the employer “must cite duly substantiated grounds for her dismissal in writing”.³⁹ Article 10(3) of the Directive further requires the State to take measures to protect from the consequences of unlawful dismissal.

Several reports have indicated that in Georgia “dismissal cases are common during pregnancy, maternity leave, or based on marital status and other gender-related reasons,” and that many women decline to take maternity leave for fear of being dismissed afterwards.⁴⁰ Employers reportedly make use of short-term contracts, the non-renewal of which requires no justification.⁴¹ There are, however, no available statistics on dismissal due to pregnancy.

The Labour Code prohibits termination of employment during maternity leave, but does not specify the period during which such prohibition applies. Article 37(3)(c) states: “[t]erminating labour relations shall be inadmissible during the period under Article 36(2)(g) of this Law [maternity, newborn adoption leave of absence, and child care additional leave of absence] from notification to the employer from a female employee about her pregnancy,” except on specifically enumerated, unrelated grounds.

Article 111(2) of the Law on Public Service precludes dismissal of an elected or appointed “official” at the national and sub-national level who is pregnant or raising a child up to three years of age. This provision applies only to the category of employees considered “officials” in the public sector,

³⁵ Article 1(3), Council Directive 2010/18/EU on parental leave.

³⁶ Article 5(1), Council Directive 2010/18/EU on parental leave; Article 2(7), Council Directive 2002/73/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

³⁷ Article 2(7), Council Directive 2002/73/EC.

³⁸ Article 10(1), Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

³⁹ Article 10(2), Council Directive 92/85/EEC.

⁴⁰ See, e.g., USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 65.

⁴¹ Article 2(2) of the ILO Termination of Employment Convention (No. 158) exempts employees with short-term contracts from the protections set forth therein. However, subsection (3) states: “Adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention”.

and does not cover part-time time employees, support staff or “state-political officials”.⁴² This provision is discriminatory on its face, providing protection for one class of persons only.

Recommendations: Amend parental leave provisions within the Labour Law to protect all parents returning from parental leave from both dismissal as well as transfer to a lower-level position for less pay. in both the public and private sector, and clarify the scope of the protected period. The period should be harmonized with that provided in the Law on Public Service.

Recommendations: Amend the Law on Public Service to cover all public-sector employees.

3. Safe and healthy working environment

Safe and healthy working conditions are the right of all workers. SDG 8 calls on States to “protect labour rights and promote safe and secure working environments for all workers”. Due to their reproductive functions, pregnant and breast-feeding women are entitled to special protection. Women also face gendered threats to their health and safety at work due to sexual harassment. Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast feeding prohibits working conditions that would jeopardize the health and safety of pregnant workers, or workers who are breast-feeding.

Recommendation: Amend the mandate of MoLSA’s Working Conditions Monitoring Department to make health and safety inspections a mandatory function, and make its decisions binding, with enforceable sanctions for non-compliance. Expand the mandate of the human resources departments to explicitly cover incidents of sexual harassment as a violation of ethical standards.

D. Labour inspection

While acknowledging the role of the Public Defender in investigating complaints and cases ex officio, the ILO noted:

with **concern** the Government’s indication that further to the abolition of the Labour Inspection Service in 2006, there is no longer a labour supervisory body. The Committee also understands from the Government’s report that the labour supervisory body to be established will be responsible for enforcing only occupational safety and health provisions. ***The Committee asks the Government to provide information on the manner in which it ensures effective enforcement of the anti-discrimination legislation in employment and occupation, and to indicate whether the future labour supervisory body will be entrusted with ensuring the application of such legislation.*** (Emphasis in original).⁴³

Recommendation: Establish an independent and impartial labor inspectorate that will monitor employees’ rights and discrimination in the workplace.

⁴² See, Articles 5, 6, Law on Public Service.

⁴³ ILO, Direct Request (CEACR), 103rd ILC session, 2014, (emphasis in original), available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3146413.

E. Horizontal segregation

The CEDAW Committee recommended that the State “[t]ake measures to increase the participation of women in employment and effectively address the concentration of women in low-paid jobs”.⁴⁴

ILO Committee, in its Direct Request of 2013, asked the State encouraged the State to “to provide information on any steps taken to formulate and implement an equality policy, in cooperation with workers’ and employers’ organizations, to ensure equal opportunities and treatment of ethnic minorities and combat ethnic discrimination in employment and occupation”.⁴⁵

Recommendation: Introduce temporary special measures, such as affirmative action in hiring and promotion, to foster the recruitment of higher numbers of women from ethnic and other minorities in public institutions at all levels.

F. Gender equality in development, agricultural land ownership and production

Approximately 43.4% of the territory in Georgia is designated as agricultural land.⁴⁶ The majority of rural residents are self-employed and work in agriculture, 63% of whom are classified as vulnerable.⁴⁷ Agriculture thus represents an important sector of economy employing 50.89% of the active population, 54.13% of which are women.⁴⁸

Although there are no legal barriers for women to be registered as landowners, restricted access to productive resources, such as agricultural land, is identified as one of the causes of financial difficulties for rural women.⁴⁹ An assessment of gender disparities in rural areas and the agricultural sector in Georgia revealed that women are more likely than men engage in low-value-added agricultural production, such as subsistence agriculture. Compared to men, women’s agricultural participation occurs on a smaller scale, often as contributing family members.⁵⁰

Inequalities in women’s involvement in agricultural production can be attributed, in part, limited access to basic services and social infrastructure and barriers to credit. Traditional gender roles exclude women from decision-making processes that affect their lives and livelihoods, and the burden of unpaid work prevents them from moving beyond subsistence farming to active, income generating involvement in agricultural business.⁵¹ Gender stereotypes further prevent women from participating in planning and decision-making processes at all levels of public life. Women are less informed than men and rarely participate in public, local community meetings or trainings carried out by local governments, extension services provided by local authorities or development organizations.⁵²

⁴⁴ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 29(a).

⁴⁵ ILO, Direct Request (CEACR)-adopted 2013, published 103rd ILC session (2014), Georgia.

⁴⁶ Strategy for Agricultural Development in Georgia 2015-2020, p. 12.

⁴⁷ UN Women, *Accessibility of Microfinance Institution Services for Women: Existing Barriers and Opportunities*, 2013, p. 7.

⁴⁸ Agriculture constitutes 53% of the country’s labour force. Strategy for Agricultural Development in Georgia 2015-2020, p. 17; see also, World Bank, available at: <https://data.worldbank.org/indicator/SL.AGR.EMPL.FE.ZS?locations=GE&view=chart>.

⁴⁹ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016.

⁵⁰ UNDP, *Gender and Employment in the South Caucasus and Western CIS*, 2015. p. 18

⁵¹ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 5.

⁵² UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016.

While agricultural policies specifically address women's needs in some areas, meaningful gender mainstreaming has not been conducted for national, regional and village level policies in this field.⁵³

The Beijing Platform for Action urges the States to develop more comprehensive knowledge of all forms of work and employment by:

- Improving data collection on unremunerated work;
- Providing technical assistance to women, in the sectors of agriculture, fisheries, small enterprises, trade and industry to ensure the continuing promotion of human resource development and the development of environmentally sound technologies and of women's entrepreneurship;
- Increasing training in technical, managerial, agricultural extension and marketing areas for women in order to increase income-generating opportunities, women's participation in economic decision-making, in particular through women's organizations at the grassroots level, and their contribution to production, marketing, business, and science and technology;
- The States are also invited to conduct analysis of the structural links between gender relations, environment and development, with special emphasis on particular sectors, including agriculture.

Article 14 of CEDAW requires States to take into account the "particular problems faced by rural women and ensure they participate in and benefit from agriculture and rural development". Specifically, States Parties must ensure that rural women have the right to:

- participate in the elaboration and implementation of development planning;
- obtain access to health care facilities and information;
- benefit from social security programs;
- obtain access to education and training;
- organize self-help groups and cooperatives;
- participate in community activities;
- obtain access to credit, markets, technology and equal treatment in land and agrarian reform and land resettlement schemes;
- enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water, transport and communications.

In its Concluding Observations on the joint fourth and fifth periodical report, the CEDAW Committee recommended that Georgia:

ensure that rural women have adequate access to social, health-care and other basic services and economic opportunities, in addition to equal opportunities to participate in political and public life, in particular in decisions relating to the agricultural sector. The Committee also recommends that the State party ensure the availability of nurseries, in addition to shelters and other services for victims of domestic violence, in rural areas. It further recommends that the State party provide sex-disaggregated data on land ownership in its next periodic report.⁵⁴

⁵³ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 32.

⁵⁴ CEDAW/C/GEO/CO/4-5, 2014, para 33.

1. Mainstreaming gender equality into agricultural policies and local development programs

Gender equality is either not mainstreamed or is insufficiently mainstreamed in relevant national, regional and village level policies. The diverse needs, interests and perspectives of men, women, boys, and girls are not systematically considered. There is a clear lack of synergy between gender equality policies and the agricultural and regional development policies across sectors. According to one report, the legislative provisions on gender equality are not considered when developing the policies related to regional, agricultural or economic development because of the internal lack of understanding of gender equality and gender mainstreaming.⁵⁵

a) National Action Plan for Agricultural Development 2015-2020

The Strategy for Agricultural Development in Georgia 2015-2020 establishes the direction of agricultural development across seven sectors. It is evident that the Strategy did not undergo gender mainstreaming prior to its issuance. The strategy mentions gender within only two out of the seven directions, and only in one sub-heading within each of them. Strategic Direction 3.1, Enhanced competitiveness of rural entrepreneurs, refers in Measure 3.1.6 (Supporting the development of cooperation in agriculture) to the importance of cooperatives for involving women and other vulnerable groups in economic activities.⁵⁶ Within Strategic Direction 3.2., Institutional development, the collection of data disaggregated by gender is referenced in Measure 3.2.2 (Supporting an efficient market information collection, processing and dissemination among the different stakeholders actively engaged in the agricultural sector).⁵⁷ The Conclusion of the Strategy also refers to the collection of gender-disaggregated data during the period of its implementation.⁵⁸

Similarly, the National Action Plan accompanying the Strategy contains two references to gender: a recommendation to collect gender-disaggregated data for the development of a market information system, and a recommendation to involve women in the development of agricultural cooperatives.

Recommendation: A gender assessment/mainstreaming should be performed on the Strategy for Agricultural Development in Georgia 2015-2020, including a gender-responsive budgeting analysis to determine any gaps in its responsiveness to women's needs and to foster gender equality in the agricultural sector. The Strategy should be amended accordingly.

b) Rural Development Strategy for Georgia 2017-2020

Georgia's Rural Development Strategy lists as its three priorities: Economy and competitiveness, Social conditions and living standards and Environmental protection and sustainable management of natural resources. It references women in only one of these priority areas: social conditions and living standards. Objective 1 reads: "Raising awareness in innovation and entrepreneurship as well as promotion of cooperation through contributing to the skills development and employment

⁵⁵ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016.

⁵⁶ Strategy for Agricultural Development in Georgia 2015-2020, p. 22.

⁵⁷ Measure 3.2.2. includes the statement: "Gender specific information will be collected for the further detailed analysis purposes." Strategy for Agricultural Development in Georgia 2015-2020, p. 24.

⁵⁸ See, Strategy for Agricultural Development in Georgia 2015-2020, p. 37.

issues (especially for young people and women)". Objective 3 reads: "Local population engagement. Increase the involvement of rural population (especially youth and women) in the identification of local needs and the determination of solutions to these needs". Despite the critical role that access to infrastructure and services plays in women's economic empowerment (see below), women are not referenced with respect to that objective.

In the accompanying Action Plan, women are not mentioned with respect to the objectives of competitiveness or diversification, which include activities such as financial support to existing enterprises, equipping cooperatives with needed inventory, and job and skills training and creating MSEs, respectively. Nor are women mentioned in relation to activities to support the activities listed under the headings of: rural tourism, water, wood and other resources, waste management and climate change.

Although women are targeted in general for skills and development, they are not mentioned specifically in any of the foreseen activities, which include skills and language training and education, among others. On a positive note, under infrastructure and services, the Action Plan foresees 70 newly constructed or rehabilitated kindergartens. Among the activities foreseen under local population and inclusion, which explicitly targets youth and women, are "six events related to gender equality and women's rights". Like the Culture Strategy (see below) an evident lack of understanding of gender mainstreaming has resulted in generic activities pertaining to "women's rights," without articulating the links between those rights and the relevant policy. Thus, while women are the focus of an activity, the activity itself does not specifically relate to women's inclusion in development.

Recommendation: The Rural Development Strategy and Action Plan should be amended to require internal staff training on gender mainstreaming to ensure that gender and women's needs are effectively integrated future strategies and action plans.

Recommendation: The Rural Development Strategy and Action Plan should reflect women's specific needs and interests throughout its provisions, such as increasing women's participation in cooperatives, and targeting women's SMEs.

c) State Strategy of Market Formation, and Action Plan 2013

The Strategy of Market Formation and Action plan fail to refer to women in the labour market and lack any goal related to gender equality in labour relations. The strategy and Action Plan also omit reference to gender-based discrimination in the workplace.⁵⁹

Recommendation: The Strategy of Market Formation and Action Plan should be revised after conducting a gender-mainstreaming assessment, to ensure that it considers the situation of diverse categories of women in the marketplace.

d) National Action Plan on the Protection of Human Rights 2016-2017

The National Action Plan on the Protection of Human Rights foresees several activities supporting women's economic opportunities in the agricultural sector. Activities 13.1.4.2-13.1.4.5. provide for

⁵⁹ GYLA, State Action Plans analyses from the perspective of women's support to employment, 2014.

increasing women's qualifications, their access to resources for agro-business projects and their involvement in agricultural cooperatives and rural development Local Action Groups.

e) Regional and local development strategies and policies

Gender equality concerns and the gendered dimensions of specific problems "are almost completely absent" from regional development strategies.⁶⁰ Based on inputs provided by local governments "There has not been any supervision (by the Ministry of Regional Development and Infrastructure) to ensure that gender would be mainstreamed in the local plans."⁶¹ Similarly, "[l]ocal development programmes and budgets are often 'gender blind', not taking into consideration the potentially different needs of men and women".⁶²

Participation in local decision-making on development is very low for both men and women. The UN Women survey specifically found that women are "very rarely involved in decision-making processes in villages and municipalities", due in part to traditional gender stereotypes.⁶³ For women from ethnic minorities, who frequently lack knowledge of Georgian, participation in decision making is more difficult.

On the local level, policies are best reflected in special programs such as the *Village Support Program* realized by the Ministry of Regional Development and Infrastructure, the *Small Landowner Support Program* and *Produce in Georgia Program* realized by the Ministry of Economy and Sustainable Development as well as the *Favorable Agro Credit Program* realized by the Ministry of Agriculture. Yet, issues pertaining to women and ethnic minorities are not integrated into these documents.

Although Gender Advisory Groups and Gender Advisors have been established in the Local Self-Government bodies, the staff often lacks power and expertise, constituting an obstacle to achieving more substantial results. Similarly, institutional mechanisms in municipalities need to possess the expertise, capacity and power to promote gender mainstreaming.

Recommendations: The Gender Equality Law and forthcoming National Action Plan on Human Rights should require ministries to conduct a gender assessment/gender mainstreaming of internal policies and operations, including internal gender capacities to identify gaps. Gender mainstreaming should be required training for ministry personnel.

Recommendation: As an effective tool for gender mainstreaming, NAPs and Strategies should institutionalize gender-responsive budgeting (GRB) throughout all ministries and local self-government bodies with the aim to increase women's access to resources.

Recommendation: Integrate into the NAPs on Gender Equality and Agricultural Development the objective of increasing the qualifications of women farmers through tailored trainings or college education, and the improved quality of, and access to, extension services. Integrate the aim of increasing opportunities for women to strengthen their advocacy skills to influence local planning and budgeting.

⁶⁰ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 12.

⁶¹ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 12.

⁶² UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 12.

⁶³ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, pp. 14-15, 17 (noting less than 10% overall participation in planning meetings).

Recommendation: Integrate into NAPs the development of women’s cooperatives for support for women’s participation in cooperatives to increase income-earning opportunities for women. Policy documents should be amended to provide free legal aid in rural communities on the procedures for land ownership/registration, with a special emphasize on rural women.

2. Land ownership and cooperatives

While women face no *de jure* barriers to owning land, traditionally parents provide a son with the house and the land, while the daughter gets married and leaves her parents’ house. This tradition is widespread and accepted by the majority of men and women in Georgia. One study revealed that men own 70% of land, while women own 30% of land in the country.⁶⁴ One report indicated that:

While access to land and all other agricultural inputs are in theory open to men and women equally, in practice, women are less likely to have the legal protection of property being registered in their name, and there are issues of control associated with traditional roles and power relations.⁶⁵

Another study revealed that women’s parcels are smaller than men’s.⁶⁶ Studies of ethnic minority women also revealed that all ethnic minority representative women report problems with access to land.⁶⁷ Socio-cultural norms and stereotypes, such as perceptions on women’s role in the family and in society and/or female seclusion practices, constitute the primary factors constraining the meaningful participation of rural women in natural resource management.⁶⁸ SDG 5 calls for ensuring that women have “access to ownership and control over land and other forms of property”.

Recommendation: Amend the Law of Georgia on Agricultural Land Ownership to allow women to use land as collateral, whether or not both spouses are formally registered as owners or co-owners.

3. Sex-disaggregated statistics in agriculture and development

Ministries continue to lack gender-sensitive outreach strategies and often do not collect sex disaggregated data, which would form the basis of an analysis of the different needs of women and men, and of the impact of policies and programs on women and men respectively.

The Conclusion of the Strategy for Agricultural Development in Georgia makes reference to the collection of data disaggregated by gender. It states:

During the Strategy implementation process, the gender-disaggregated information will be collected for the purpose of its substantive analysis and subsequent inclusion in the policy measures targeted at promotion of female participation in agriculture and agribusiness. Particular issues will be addressed in relation to gender, minority, elderly, rural youth, remote regions and disadvantaged groups in program development and service delivery.⁶⁹

⁶⁴ UN Women, *Gender Assessment of the Agriculture and Local Development Systems*, 2016, p. 23.

⁶⁵ FAO, *Country Gender Assessment: Agriculture and Rural Development in Georgia*, 2013, p. 43.

⁶⁶ UNDP, *Gender and Employment in the South Caucasus and Western CIS*, 2015, p. 2

⁶⁷ Needs Assessment of Ethnic Minority Women in Georgia, 2014.

⁶⁸ FAO, *Gender and Law – Women’s Rights in Agriculture*.

⁶⁹ Strategy for Agricultural Development in Georgia 2015-2020, p. 37.

In its 2014 Concluding Observations, the CEDAW Committee recommended that the State “provide sex-disaggregated data on land ownership in its next periodic report”.⁷⁰

Recommendation: National Action Plans should be amended to require the competent authorities and ministries to collect and disaggregate data. This should include data on agricultural *de facto* landowners by sex, age, ethnicity and socio-economic status, including the number of rural women holding joint titles, disaggregated by age, ethnicity and socio-economic status.

4. Access to credit

Article 13(b) of CEDAW requires States Parties to ensure that women have the same rights to financial credit as men. SDG 5 calls for States to “undertake reforms to give women equal rights to economic resources ... financial services, inheritance and natural resources, in accordance with national laws”. Within the framework of inclusive and sustainable economic growth, SDG 8 also calls on States to “strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all”.

Although there are no legal barriers preventing women from obtaining access to credit, loans are *de facto* less accessible to women as many do not possess land or property to serve as collateral.⁷¹ In Georgia, women are more often co-owners of property than outright owners, and property is generally registered under men’s names.⁷² Women more frequently obtain microfinance loans, which do not require substantial collateral. Significantly, microfinance institutions offer comparatively expensive credit.

Special concessional programs implemented by banks, MFIs and international organizations, rarely target the most impoverished men/women or start-up initiatives, and rarely take into consideration the specificities of the agricultural sector. Accessibility to MFI products is limited for ethnic minority women due to language and cultural barriers, and for IDP and conflict-affected women due to the absence of collateral.⁷³ UN Women found that “the majority of MFIs do not organize information campaigns targeted at displaced persons. No MFI had separate products intended for displaced and conflict-affected persons, or for women from these groups”.⁷⁴

Activity 13.1.4.3. of the National Action Plan on the Protection of Human Rights foresees “[s]upport in increasing women’s involvement in agro-business projects,” by increasing the “accessibility of financial resources”.

Recommendation: In collaboration with banks and microfinance institutions, the State should develop special programs to meaningfully increase women’s access to financial resources under terms that address existing barriers to credit.

⁷⁰ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 33.

⁷¹ Women’s Information Center (WIC), *Women’s Economic Opportunities and Challenges*, 2014; WIC, *Empowerment Access to Finance for Women-Owned SMEs in Developing Countries*, 2011.

⁷² UN Women, *Accessibility of Microfinance Institution Services for Women: Existing Barriers and Opportunities*, 2013, p. 15.

⁷³ UN Women, *Existing Barriers and Opportunities for Accessing Micro Finance Institutions for National Minority, IDP Women and Conflict-Affected*, 2013.

⁷⁴ UN Women, *Accessibility of Microfinance Institution Services for Women: Existing Barriers and Opportunities*, 2013, p. 16. Microfinance institutions in Georgia are regulated by Law #3482-RS, 18 June 2006.

G. Women's unpaid labour and access to services and social infrastructure

1. Access to basic services, especially for rural women

Women's limited access to basic services and social infrastructure in rural areas further hampers income-generating activities. A recent survey conducted by UN Women found that more than 70% of the regions surveyed lack access to a sewage system; 30% do not have access to garbage disposal.⁷⁵ In its priority area number 3, on environmental protection and the sustainable management, the Rural Development Strategy for Georgia 2017-2020 lists the improvement of water and waste management in rural areas as key objectives. No reference, however, is made to the gendered dimension of these issues.

The lack of access to basic services disproportionately affects women in Georgia, who dedicate significantly more time to childcare and household duties. One researcher in Georgia determined that women dedicate 13 times more time to housework than men.⁷⁶ Furthermore, gender stereotypes do not prevent women from participating in subsistence agricultural activities. This results in increased pressure on women to accomplish a greater workload and limits opportunities to attend qualification courses or to build their professional capacity in general. It is particularly difficult for women who have taken time off to have a child to remain competitive.⁷⁷

Notably, in its objective related to the improvement of basic rural infrastructure and access to services, the Rural Development Strategy for Georgia 2017-2020 fails to reference the specific needs of women.

In its Concluding Observations, the CEDAW Committee recommended that the State:

ensure that rural women have adequate access to social, health-care and other basic services and economic opportunities, in addition to equal opportunities to participate in political and public life, in particular in decisions relating to the agricultural sector.⁷⁸

In this regard, SDG 5 calls for recognizing and valuing “unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate”.

Recommendation: Strategic policies and action plans, including the Rural Development Strategy for Georgia 2017-2020 should contain specific targets to ensure access to basic services for rural women as a key step in fostering women's economic empowerment.

2. Access to kindergartens and childcare

Women constitute the primary caregivers in Georgia and perform a majority of the domestic

⁷⁵ UN Women, *Gender Assessment of Agricultural and Local Development Systems*, 2016, p. 7, (noting that access varies across regions).

⁷⁶ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 60.

⁷⁷ USAID, Article 42, *Gender Discrimination in Labour Relations*, 2014, p. 64.

⁷⁸ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 33.

chores.⁷⁹ The UN Women survey found that in the regions covered, 30.8% of the population did not have access to kindergartens.⁸⁰ The limited access to social infrastructure potentially restricts women's abilities to generate income and provide for themselves and their households.

The National Action Plan for the Rural Development Strategy for Georgia 2017-2020 foresees 70 newly constructed or rehabilitated kindergartens.

Concerned about "the lack of childcare facilities," in its Concluding Observations, the CEDAW Committee recommended that Georgia: "Facilitate the reconciliation of professional and private life for women and men, including by expanding the number of childcare facilities and encouraging men to equally participate in family responsibilities".⁸¹ At the same time, SDG 4 calls for ensuring "that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education".

In its Concluding Observations, the CEDAW Committee recommended that the State "ensure the availability of nurseries, in addition to shelters and other services for victims of domestic violence, in rural areas".⁸²

Recommendations: The Strategy for Agricultural Development in Georgia should include as a target an increase in the construction or repair of kindergartens in rural areas as a factor in women's economic empowerment. The Local Government Code should contain a clearly defined obligation to ensure the requisite number of kindergartens according to international standards.

⁷⁹ UNDP, *Gender and Employment in the South Caucasus and Western CIS*, UNDP, 2015.

⁸⁰ UN Women, *Gender Assessment of Agricultural and Local Development Systems*, 2016, p. 7.

⁸¹ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, paras 28, 29(c).

⁸² CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 33.



VI. Gender equality in healthcare

Article 9 of the Gender Equality Law expressly provides for equal access to healthcare without discrimination. It further excepts from the definition of discrimination measures taken for the protection of maternal and children's health, family planning and women's reproductive rights, including the State policy for the protection of pregnancy and motherhood, as well as other gender sensitive measures.

State healthcare programs are implemented by the Ministry of Labor, Health and Social Affairs (MoLHSA) and its legal entities, such as the Social Service Agency and the L. Sakvarelidze National Centre of Disease Control and Public Health.

This Chapter covers healthcare law and policy as it relates to women and girls, focusing on reproductive healthcare, including access to modern contraception and safe abortion, maternal health and surrogate motherhood, with particular attention to vulnerable groups. Current major challenges relate to the non-existence of State-run programs on family planning and reproductive health, along with the absence of human rights-based, gender-sensitive approaches in service delivery.

A. Access to sexual and reproductive healthcare

The 2030 Agenda for Sustainable Development provides for universal access to sexual and reproductive health-care services, including family planning, information and education, as well as the integration of reproductive health into national strategies and programs.⁸³ The Beijing Declaration and Platform for Action provides for women's right to healthcare, including sexual and reproductive health, by recognizing women's right to decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, without coercion, discrimination and violence.⁸⁴ CEDAW obliges States to take all appropriate measures to eliminate discrimination against women in healthcare, in order to ensure access to healthcare services, including: family planning, services in connection with pregnancy, confinement and the post-natal period, as well as the provision of adequate nutrition during pregnancy and lactation.⁸⁵

The right to sexual and reproductive health is also an integral part of the right to health protected by Article 12 of the International Covenant on Economic, Social and Cultural Right (ICESCR). As a State party to ICESCR, Georgia has a legal obligation to ensure:

⁸³ SDG, Target 3.7.

⁸⁴ Beijing Platform for Action, paras. 89-107.

⁸⁵ Article 12, CEDAW.

- the physical and economic accessibility of health services in a non-discriminatory manner;
- an adequate number of functioning healthcare facilities, services, goods and programs to serve the population, including essential drugs as defined by the WHO Model List of Essential Medicines, (e.g., contraception and emergency contraception);
- health facilities, services and goods that are respectful of the diverse cultures of individual patients, including the different needs of minorities, genders and all age-groups, and that are designed to respect medical ethics, including confidentiality and informed consent;
- quality sexual and reproductive healthcare that is scientifically and medically appropriate, requires skilled medical personnel and is scientifically approved; and,
- unexpired drugs and equipment.⁸⁶

It is generally acknowledged that one of the major challenges with respect to the right to sexual and reproductive health in Georgia is the existence of deeply-rooted gender stereotypes regarding women's social roles as housewives and mothers.⁸⁷ Women's access to healthcare and autonomous decision making with respect to their own bodies is hindered by existing prejudicial perceptions about their reproductive function within the family and society.⁸⁸ UN treaty bodies have urged Georgia to further strengthen its efforts to overcome stereotypical attitudes regarding the social roles and responsibilities of women and men.⁸⁹

Georgia maintains no separate State-run healthcare program on sexual and reproductive health. Currently, sexual and reproductive health services are integrated in the public healthcare system through family planning centres (FPCs) to provide ante- and post-natal services.⁹⁰ FPCs are designed to provide consultations on contraception, sexually transmitted infections and HIV/AIDS.⁹¹ Notably, the number of such services in rural areas remains insufficient, as FPCs do not operate in village ambulatories.⁹²

The adoption of the National Maternal and Newborn Health Strategy (2017-2030) in 2017 marked a significant development with respect to sexual and reproductive health policy.⁹³ Its Action Plan (2017-2019) lists specific activities in the areas of: (i) maternal and newborn health; and, (ii) reproductive health and family planning, in order achieve following objectives:

- Ensure women's full access to and utilization of evidence-based pre-conception, ante-natal, obstetric, neonatal, and post-partum care that meet their needs;
- Improve awareness and knowledge among the general population about healthy behaviours, high quality medical standards and the rights of patients;
- Provide easy accessibility of family planning services for all who need them;
- Ensure that the quality of family planning services meets international standards.⁹⁴

⁸⁶ CESCR, General Comment 22 on the right to sexual and reproductive health – 2016, pp. 5-7.

⁸⁷ UNDP Georgia, *Public Perceptions towards Gender Equality in Politics and Business*, 2013, pp. 19 & 34.

⁸⁸ E. Aghdgomelashvili, *From Prejudice to Equality*, WISG, 2016, p. 236 (ENG).

⁸⁹ UN Special Rapporteur on Violence against Women report on her mission to Georgia, 2016; CEDAW Committee Concluding Observations to Georgia, 2014, pp. 15-16.

⁹⁰ Public Defender's Office of Georgia *Human Rights in the Context of Sexual and Reproductive Health and Well-being in Georgia: Country Assessment (PDO Report on Sexual and Reproductive Health)*, November 2017, p. 43.

⁹¹ Public Defender's Office of Georgia *Human Rights in the Context of Sexual and Reproductive Health and Well-being in Georgia: Country Assessment (PDO Report on Sexual and Reproductive Health)*, November 2017, p. 43.

⁹² PDO, *Report on Sexual and Reproductive Health*, 2017, p. 44.

⁹³ Georgia Maternal & New-born Health Strategy 2017-2030, adopted by Government Decree #459 on 6th of October 2017.

⁹⁴ Georgia Maternal & New-born Health Strategy, p. 1;

There are several challenges related to the effective implementation of the Strategy and its Action Plan. First, the Strategy explicitly assigns to MoLHSA the responsibility for “the monitoring, evaluation and execution of the Strategy,” as well as to “advocate, coordinate, collaborate and negotiate with the other partners.”⁹⁵ However, the Strategy does not determine which department or agency within the Ministry is responsible for internal coordination and monitoring. Because the Strategy requires inter-ministerial collaboration, a mechanism for cooperation on this issue between the Ministry of Education and Science (MoES) as well as other stakeholders, (the media, international organizations and NGOs working on reproductive health and family planning) should be established. The Ministry of Finance should ensure adequate funding from the State budget.

Recommendation: MoLHSA should designate a specific department or position to be responsible for the coordination, evaluation and implementation of the National Maternal and Newborn Health Strategy (2017-2030) and its three-year Action Plan through a Ministerial Order.

Recommendation: An inter-agency coordination mechanism should be established to ensure implementation of section 5 “Implementation and Management Mechanism” of the Maternal and Newborn Health Strategy.

Sexual and reproductive healthcare as currently provided by Georgia’s primary healthcare system is mainly donor-funded.⁹⁶ No specific financial calculations have been made as to the cost of implementing the three-year Action Plan, and donors continue to be designated as the major financial contributors. No specific financial allocations were made from the 2018 State budget.⁹⁷

Recommendation: MoLHSA should calculate the costs for implementing the Maternal and Newborn Healthcare Action Plan, and provide for the gradual introduction of financial commitments by the State for the family planning and reproductive healthcare services, which currently financed by donor organizations. The Government and Ministry of Finance should provide increased budgetary allocations to MoLHSA to this end.

Proper family planning and reproductive healthcare programs require the adoption of operational regulations and procedures for medical personnel and adequate re-training of healthcare providers, as well as existence of a quality control mechanism. The Strategy currently provides that the MoLHSA will “facilitate development/adoption and active use of nationally approved clinical guidelines and protocols for each component of the Reproductive health and family planning services.”⁹⁸ It further notes that there “no internal or external clinical audit-quality assurance mechanisms in place.”⁹⁹ As a rule, the State Regulatory Agency for Medical Activities is responsible for controlling the quality of medical services provided, (including the services rendered within the framework of State healthcare programs).¹⁰⁰

⁹⁵ Georgia Maternal & New-born Health Strategy, pp. 40-41;

⁹⁶ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 44.

⁹⁷ Interview with the Adviser of the Deputy Minister of Health, Labor and Social Affairs, - Ms. Ekaterine Pestvenidze (dated 28th of December 2017).

⁹⁸ Georgia Maternal & New-born Health Strategy, p. 34;

⁹⁹ Georgia Maternal & New-born Health Strategy, p. 19;

¹⁰⁰ Order N01-64/6 of the Minister of Labor, Health and Social Affairs on creation and affirming the regulations of the LEPL State Regulation Agency for Medical Activities, 2011.

Recommendation: In order to implement second objective of the Strategy (by 2030 the quality of the family planning will meet international standards), MoLHSA should initiate the process of adopting a training module, protocols and standard operating procedures (SOPs) for medical personnel providing family planning and reproductive healthcare. It should further gradually retrain all relevant medical personnel. The training modules, protocols and SOPs should be gender sensitive as well as ensure the patients' right to confidentiality and privacy.

Recommendation: MoLHSA should provide for the designation or establishment of an appropriate quality control and monitoring mechanism within the Ministry with respect to service providers (including private healthcare institutions) in family planning and reproductive healthcare, and develop regulations to provide for quality control monitoring.

1. Access to information and services on modern contraception

Georgia's human rights commitments require that contraceptive information and services should be available, accessible and acceptable for women while at the same time being of good quality.¹⁰¹ Notably, the right to the highest attainable standard of health requires access to medications in line with the WHO Essential Medicines List, including hormonal and emergency contraception.¹⁰² Contraceptives are available by prescription in Georgia.¹⁰³ They are not subsidized by the State's health program, including the Universal Health Care Program. In recent years, international donors, such as UNFPA and USAID, have been the only providers of free modern contraception to those most in need.¹⁰⁴

Despite the fact that the use of contraception has increased from 41% to 54% between 1999 and 2010, Georgia still has one of the lowest levels of modern contraceptive usage in Eastern Europe.¹⁰⁵ According to the Reproductive Health Survey (RHS) 2010, of all married women in Georgia only 35%, and for all women only 20.9%, use modern contraceptive methods, namely: condoms or IUDs.¹⁰⁶ The use of modern methods in urban areas is 42%, while in rural areas it is 28%.¹⁰⁷

The major obstacles to contraception use are:

- A lack of available information about modern methods of contraception, along with the prevalent myths concerning negative side effects, often further supported by religious beliefs.¹⁰⁸

¹⁰¹ CESCR General Comment 22 on the right to the highest attainable standard of health, pp. 4, 11 & 14.

¹⁰² *Ibid.*

¹⁰³ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 48.

¹⁰⁴ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 52.

¹⁰⁵ *World Contraceptive Use 2011*, UN Department of Economic and Social Affairs, p. 1 available at http://www.un.org/esa/population/publications/contraceptive2011/wallchart_front.pdf.

¹⁰⁶ National Centre for Disease Control and Public Health (NCDC), Ministry of Labor, Health, and Social Affairs (MoLHSA), National Statistics Office of Georgia, 2012, *Reproductive Health Survey 2010 (NCDC, Reproductive Health Survey, 2010)*, p. 156, Table 8.2.2, Table 8.2.1. Due to the very low level of usage of hormonal contraception, percentages were not included.

¹⁰⁷ NCDC, *Reproductive Health Survey 2010*, at p. 156, Table 8.2.2.

¹⁰⁸ NCDC, *Reproductive Health Survey*, 2010, p. 157;

- Financial costs and affordability for vulnerable groups, such as adolescents, low-income women and women living in rural areas.¹⁰⁹
- Non-inclusion of contraceptives in the essential medicine list, which would make it available for the aforementioned vulnerable categories of women free of charge.
- Low geographical accessibility for women residing in mountainous regions and rural areas, coupled with the lack of information. This problem is particularly acute for ethnic minorities, who face additional cultural and language barriers.¹¹⁰

As noted above, the new Maternal and Newborn Health Strategy and its Action Plan does not budget for the foreseen activities.¹¹¹ In particular, it does not ensure the availability and accessibility of the following essential elements of the provision of reproductive healthcare:

- The inclusion of family planning counselling, the prescription of contraceptive supplies, (including IUDs and hormonal contraception) and checkups within the basic benefits package of Georgia's Universal Healthcare Program.¹¹²
- The inclusion of modern methods of family planning (IUD and oral contraception) free of charge to beneficiaries of the Targeted Social Assistance (TSA) program and other vulnerable population groups, such as women under age of 21.¹¹³

Hence, the Governments need to allocate appropriate funding, and to determine the categories of vulnerable women for whom services and contraception would be available free of charge.

In this regard, in its Concluding Observations, the CEDAW Committee urged Georgia:

to improve women's access to high-quality health care and health-related services, in line with its general recommendation No. 24 on women and health, in particular by: (a) Providing access to family planning services and affordable contraceptive methods, including all modern forms of contraception, especially for women in rural areas.¹¹⁴

Recommendation: The Government should ensure the effective integration of family planning into primary healthcare programs, and include family planning counselling and the free provision of contraceptive supplies within the basic benefits package provided by Georgia's Universal Healthcare Program for vulnerable women, adolescents and youth, and those with low economic status. Ensure the *de facto* availability of an optimal offering of modern contraceptive methods, including long-acting and permanent methods under Universal Healthcare Program for disadvantage women. Government and Ministry of Finance should ensure adequate State budgetary allocations for these basic reproductive healthcare services.

Recommendation: MoLHSA and MoES should elaborate and consistently implement public awareness campaigns and educational programs concerning the importance of family

¹⁰⁹ CEDAW/C/GEO/CO/4-5, para. 31.

¹¹⁰ PDO, *Report on Sexual and Reproductive Health*, 2017, pp. 48-50.

¹¹¹ Georgia Maternal & New-born Health Action Plan for 2017-2019.

¹¹² Georgia Maternal & New-born Health Action Plan for 2017-2019.

¹¹³ Georgia Maternal & New-born Health Action Plan for 2017-2019.

¹¹⁴ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 31(a).

planning, including modern contraception, in line with the Maternal and Newborn Strategy. Campaigns should target rural areas, and provide for linguistic diversity and cultural sensitivity in addressing ethnic minority women.

Recommendation: MoLHSA should incorporate modern contraceptive methods, including emergency contraception, into the Essential Medicine List, which would be free of charge for vulnerable groups of women.

2. Access to safe abortion services

The availability of reproductive health services, including abortion services, constitute a fundamental human right. CEDAW has found that laws criminalizing abortion are discriminatory.¹¹⁵ In addition, WHO has recognized the negative impact of mandatory waiting periods, which could jeopardize women's ability to access safe and legal abortion.¹¹⁶ WHO has also stressed that information and counselling provided to women prior to abortion should always be evidence-based, non-directive and free from inducement or coercion.¹¹⁷ Following an abortion, women should benefit from confidential and adequate post-abortion care.¹¹⁸

The latest available data on annual abortion rates in Georgia were reported in 2014, which found 56 abortions per 1,000 women (15-44 years of age), double the rate of abortion in southern Europe (26 abortions per 1,000 women).¹¹⁹ Abortion rates are higher among marginalized women, such as rural and less-educated women, as well as among women of Azeri descent.¹²⁰ Significantly, abortion is often under-reported.

The Law on Healthcare provides that abortion can be carried out for any reason if the pregnancy does not exceed 12 weeks.¹²¹ From 12 to 22 weeks, abortion is allowed only on the grounds of listed medical conditions (therapeutic abortion) and for social reasons, including if pregnancy is the result of rape or if the patient is under 15 or over 49 years of age.¹²²

In cases of rape, the Law requires that the crime of rape be confirmed by court in the first instance. More specifically, it requires both that the patient be granted the status of victim under the Criminal Procedure Code, and a conviction. Significantly, criminal proceedings can last months, rendering the fulfillment of this criteria entirely impracticable for the purposes of obtaining a safe and timely abortion in line with the patient's health requirements. Furthermore, criminal convictions in Georgia require the testimony of the rape victim. Access to safe abortion should not require patients to engage in public and potentially stigmatizing legal proceedings, especially in

¹¹⁵ CEDAW General Recommendation 24 on women and health, 1999, para 31(c); CEDAW General Recommendation 35 on Violence against Women, 2017, paras 18, 31(a).

¹¹⁶ WHO, *Safe Abortion: Technical and Policy Guidance for Health Systems* 96, 2012, pp. 96-7.

¹¹⁷ WHO, *Safe Abortion Guidance*, 2012, pp. 36, 68, 97.

¹¹⁸ CESCR General Comment 22, pp. 7, 11.

¹¹⁹ G. Sedgh, J. Bearak, S. Singh et al., *Abortion incidence between 1990 and 2014: global, regional, and sub-regional levels and trends*, 2016, pp. 259-260, available at: [http://dx.doi.org/10.1016/S0140-6736\(16\)30380-4](http://dx.doi.org/10.1016/S0140-6736(16)30380-4).

¹²⁰ NCDC, *Reproductive Health Survey*, 2010, p. 9.

¹²¹ Article 139(2)(a), Law on Healthcare.

¹²² Art. 140.2, the Law on Health Care; Order №01-74/n of the Minister of Labour, Health and Social Affairs of Georgia, dated 7 October 2014, Tbilisi, On the Approval of the Rules of Artificial Termination of Pregnancy, Annex N1, Article N2.b. Order №01-74/n of the Minister of Labour, Health and Social Affairs of Georgia, dated 7 October 2014, Tbilisi, on the Approval of the Rules of Artificial Termination of Pregnancy, Annex N5.

light of the near total absence in Georgia of forensic evidence kits and other basic elements for ensuring access to justice for victims of rape.

Abortion is permitted after 22 weeks due to medical conditions, and only upon the decision of a medical commission.¹²³ It is prohibited to terminate a pregnancy after 22 weeks for non-medical reasons.¹²⁴

Since 2014, the Law on Healthcare requires mandatory counselling and a five-day waiting period before obtaining an abortion during the first 12 weeks of pregnancy.¹²⁵ An Order of the Minister of Health provides for reducing the waiting period to three days, if a woman applies for abortion during the 12th week of pregnancy and the term is expiring.¹²⁶ The Order attempts to strike a balance during the preliminary interview and pre-abortion counseling by the physician, by requiring both that the counseling prioritize the protection of the life of the fetus, and that the decision to obtain an abortion shall be the prerogative of the women.

There are several challenges with the existing formulation of the Law as well as its implementation in practice:

- The five-day waiting period has a potentially negative impact on marginalized groups. It places a particularly heavy burden on women from rural areas, who face additional travel time (including time off work) and expenses.¹²⁷
- Pre-abortion counselling is reportedly provided in a biased manner, as doctors attempt to dissuade patients from undergoing abortions.¹²⁸
- Clinics impose discriminatory restrictions imposed on certain groups of women due to their age, medical condition (having a sexually transmitted infection) or being a sex worker.¹²⁹
- The rules regulating abortion after the 12-week period undermine women's autonomy.
- In rape cases, requiring a rape conviction in order to access abortion impedes the victim's access to a timely abortion and increases the potential for social stigmatization.¹³⁰

Recommendation: The Healthcare Law and Ministerial Order #01-74N should be amended to eliminate the five-day waiting period prior to obtaining an abortion as a violation of access to essential reproductive healthcare.

Recommendation: MoLHSA should review existing protocols on termination of pregnancy and abortion procedures in order ensure provision of information by doctors to women on

¹²³ Article N1 of Annex N4 of Order №01-74/6 of the Minister of Labour, Health and Social Affairs of Georgia, dated 7 October 2014, Tbilisi, on the Approval of the Rules of Artificial Termination of Pregnancy.

¹²⁴ Order №01-74/6 of the Minister of Labour, Health and Social Affairs of Georgia, dated 7 October 2014, Tbilisi, on the Approval of the Rules of Artificial Termination of Pregnancy, Annex N6.

¹²⁵ Article 139(2)(b), Law on Healthcare.

¹²⁶ Article 3 of Annex N1 of Order №01-74/n of the Minister of Labour, Health and Social Affairs of Georgia, dated 7 October 2014, Tbilisi, on the Approval of the Rules of Artificial Termination of Pregnancy.

¹²⁷ *Joint Report by Hera XXI and Sexual Rights Initiatives on Georgia*, 23rd Working Session of UPR, 2015, p. 5; Public Defender's Office, *Gender Equality and Women's Rights*, 2015, p. 19.

¹²⁸ HERA XXI, RFSU, Institute of Social Studies and Analysis, *Abortion Services Availability and Readiness Assessment*, 2015, p. 32, (indicating that 23% of the clinics do not offer unbiased counselling).

¹²⁹ HERA XXI, RFSU, Institute of Social Studies and Analysis, *Abortion Services Availability and Readiness Assessment*, 2015, at pp. 55-56.

¹³⁰ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 66.

abortion, both in and outside of counselling, in an accurate and evidence-based manner, in line with WHO standards.

Recommendation: The Law on Healthcare requiring the court authorization for abortion beyond 12 weeks' gestation in case of a rape should be amended.

3. Maternal healthcare

The new Maternal and Newborn Health Strategy aims to reduce the maternal mortality ratio from 32 per 100,000 live births in 2015 to 25 by 2020, and to 12 by 2030.¹³¹

The primary reasons for maternal mortality in Georgia are: (i) the low quality of antenatal and perinatal care; (ii) a weak transportation system; (iii) a weak regulatory and monitoring system; (iv) the lack of referral mechanisms in maternal healthcare services, such as emergency obstetric care; and, (v) the shortage of trained professionals in maternity houses and consultation centers, especially in the regions.¹³²

Although maternal mortality appears to be in decline in Georgia, it still exceeds EU and some CIS States.¹³³ According to the UN Maternal Mortality Estimation Inter-Agency Group, Georgia belongs to category B countries, due to its lack of a comprehensive system to register maternal mortality.¹³⁴ As national statistics do not mirror international statistics on maternal mortality, in 2013 MoLHSA issued order N01-30/N "On the form and rule of obligatory reporting of mothers' and children mortality/still birth cases".¹³⁵ MoLHSA and Georgia's National Center for Disease Control and Public Health launched an electronic registry "Mother's and neonate's health surveillance system," covering all cases of pregnancy, delivery and postpartum abortion, including maternal deaths, stillbirths and early neonatal deaths. Yet, a functioning and user-friendly health information system to assist in data collection.¹³⁶

Recommendation: MoLHSA should improve the availability of a broad array of maternal healthcare services at the primary and village healthcare level under Universal Healthcare Program. Namely, the Ministry should ensure that perinatal healthcare centers are adequately equipped, as well as the provision of high-quality services by medical personnel, particularly in rural areas, in order to provide emergency care as well as to operationalize referrals to higher level/central facilities.

4. Adolescents' access to sexual and reproductive health

The CRC's Concluding Observations urged the State to "[e]nsure that the strategy for reproductive health includes a specific focus on adolescent health and expedite its adoption."¹³⁷ The CEDAW Committee urged the State in its Concluding Observations to ensure "access by adolescent girls

¹³¹ Maternal Mortality Indicator in the Maternal and Newborn Strategy – 1.5. Target, p. 8.

¹³² PDO, *Report on Sexual and Reproductive Health*, 2017, p. 74.

¹³³ Public Defender's Office, *Gender Equality and Women's Rights*, 2015, p. 19.

¹³⁴ WHO, UNICEF, UNFPA, UNDP, World Bank, *Trends in Maternal Mortality, 1990 – 2015*, available at: <http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/>

¹³⁵ Public Defender's Office, *Gender Equality and Women's Rights*, 2015, p. 18.

¹³⁶ Maternal and Newborn Health Strategy, p. 21.

¹³⁷ CRC/C/GEO/CO/3, para 33.

and young women to sexual and reproductive health services by eliminating prejudices, training medical personnel and enhancing the number of obstetric health facilities and their equipment".¹³⁸ In addition, Georgia has a human rights commitment to provide sex education in a manner that is physically accessible, understandable and appropriate to the age and educational level of children primarily through the school system.¹³⁹

According to the Law on the Rights of the Patient, adolescent patients (14-18 years old) have a right to provide informed consent to receive counselling on the methods of non-surgical contraception without parental notification.¹⁴⁰ Georgia's National Youth Policy for 2015-2020¹⁴¹ recognizes the importance of information on sexual and reproductive health and rights for young people. However, sex education is not part of the official school curriculum under National Curriculum 2018-2018¹⁴². Several subjects contain general references to reproductive health, such as civic education and biology classes, but teachers reportedly omit this material during the classes.¹⁴³ The new Maternal and Newborn Health Strategy provides for the development, piloting and implementation of a school-based healthy lifestyle education program.¹⁴⁴ Yet, Georgia does not have youth-friendly sexual and reproductive health services, including on family planning.¹⁴⁵

Recommendation: MoLHSA should integrate youth-friendly sexual and reproductive health services into the healthcare system, preferably at the Primary Health Care level.

Recommendation: MoES should ensure the development and effective implementation of age-appropriate comprehensive sex education by amending National Curriculum 2018-2024. MoES should retrain teachers assigned to provide sexuality education at school.

B. Improve access to healthcare for vulnerable categories of women

1. Discrimination against women of ethnic minorities in access to healthcare

The largest ethnic minority groups in Georgia include: Azeris (6,3%), Armenians (4,5%), Russians, Ossetians, Yezidis, Ukrainians, Chechens, and Greeks.¹⁴⁶ In practice, ethnic minority women face the following obstacles in accessing healthcare, particularly if they reside in rural areas and lack adequate knowledge of Georgian:

- Equal access to adequate, timely and qualified medical services, since larger medical institutions are situated in regional centers;

¹³⁸ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 31(c).

¹³⁹ CRC, General Comment 15: On the Right of the Child to the highest attainable standard of Health, 2013; CEDAW General Recommendation 24 on Women and Health, Article, 1999, para 18.

¹⁴⁰ Art. 41.1, Georgian Law on The Rights of the Patients.

¹⁴¹ The Georgian National Youth Policy Document, Approved by Government Decree #553 Decree, 2014.

¹⁴² Order #40/N of the Minister of Education and Science of Georgia, 2016.

¹⁴³ Evert Ketting, *Possibilities for developing Youth-Friendly Sexual and Reproductive Health Services in Georgia - A Situation Analysis*, Report of a consultancy mission on behalf of UNFPA Country Office Georgia, 16-20 November 2015, p. 22.

¹⁴⁴ Maternal and Newborn Health Strategy.

¹⁴⁵ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 54.

¹⁴⁶ GEOSTAT, 2014 General Population Census, Main Results, 28.04.2016, p. 8, see: http://geostat.ge/cms/site_images/files/english/population/Census_release_ENG_2016.pdf.

- Lack of awareness of reproductive healthcare and family planning that results in higher unplanned pregnancies and abortion rates.¹⁴⁷

Recommendation: Maternal and Newborn Strategy and its Action Plan shall reflect and address the challenges related to accessibility of reproductive healthcare by the disadvantaged women, including women of ethnic minorities, taking into consideration barriers related to physical accessibility, language, etc.

2. Discrimination against women with disabilities in access to healthcare

Despite the fact that Georgia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2014, most State-level policies in the fields of healthcare and human rights do not address women and girls with disabilities as an independent target group.¹⁴⁸

The Coalition for Independent Living reports that in Georgian women with certain physical disabilities cannot access gynecological services, as gynecological wards are not adapted for wheelchair users.¹⁴⁹ Disabled women lack access to information about reproductive health and rights.¹⁵⁰ Reportedly, doctors provide discriminatory advice to women with disabilities not to have children, as they are not “physically fit” for pregnancy.¹⁵¹

The Government Action Plan 2014-2016 for Ensuring Equal Opportunities for Persons with Disabilities provides merely for conducting surveys on the identification of social needs, (including the specific needs of women and children), and setting priorities.¹⁵² The Action Plan also provides for raising awareness among persons with disabilities on reproductive health issues, including on life skills education through trainings.¹⁵³ As of September 2017, it does not appear that these activities have been implemented.¹⁵⁴

Recommendation: Ensure that MoLHSA-run programs covering family planning and other sexual and reproductive healthcare accommodate the needs of the women with disabilities, including *inter alia*, the adaptation of gynecological wards to ensure physical access to wheelchair users and other necessary accommodations for disabled persons. MoLHSA should include disability sensitivity in guidelines and training for healthcare professionals including awareness on disabled women’s voluntary sexual activity in line with the CRPD standards.

¹⁴⁷ PDO Report on Sexual and Reproductive Health, 2017, pp. 78-79.

¹⁴⁸ Public Defender’s Office, *Report on the Rights of Persons with Disabilities*, 2016, pp. 117-8.

¹⁴⁹ Interview, with Ketevan Khomeriki, Chief Lawyer at the Coalition for Independent Living, dated 01.08.2017 cited in PDO, *Report on Sexual and Reproductive Health*, 2017, p. 118.

¹⁵⁰ Public Defender’s Office, *Alternative Report to the Committee on the Rights of Persons with Disabilities*, 2017, pp. 14, 47.

¹⁵¹ Interview, with Ketevan Khomeriki, Chief Lawyer at the Coalition for Independent Living, dated 01.08.2017 cited in PDO Report on Sexual and Reproductive Health, 2017, p. 118.

¹⁵² Government Decree #76 on adoption of the State Action Plan 2014-2016 for Ensuring Equal Opportunities for Persons with Disabilities.

¹⁵³ Government Decree #76, Chapter VII, para 2.4.

¹⁵⁴ Letter of the Ministry of Labor, Health and Social Affairs of Georgia, 11 September, 2017, no. 01/57385, cited in PDO, *Report on Sexual and Reproductive Health*, 2017, p. 119.

3. Women drug users

There are currently several issues impeding women drug users from obtaining effective treatment. In light of the absence of separate treatment centers for women, including separate entrances or hours of operation, they have been subject to abuse and disrespectful behaviour from male patients, as well as violations of their right to confidentiality by staff. They also face disrespectful treatment from medical professionals. This disrespect and abuse is due to the heightened stigma attached to female drug users in Georgia, which is exacerbated for sex workers. There is no referral system between drug treatment centers and services providers in other fields, including those provided for victims of domestic violence, or for reproductive health.

In response to the “[l]ack of gender-sensitive, accessible and evidence-based drug treatment programs for women,”¹⁵⁵ in its Concluding Observations on Georgia’s 4th and 5th periodic report, the CEDAW Committee urged Georgia: to conduct “a nationwide study to establish the number of women who use drugs, including while pregnant, in order to inform strategic planning,” and to provide “gender-sensitive and evidence-based drug treatment services to reduce harmful effects for women who use drugs, including harm reduction programs for women in detention.”¹⁵⁶

Recommendation: The National Referral Mechanism for violence against women, encompassing healthcare and reproductive healthcare providers, should be linked to drug treatment centres and vice versa.

Recommendation: MoLHSA and National Center for Control Disease and Public Health (NCDC) in collaboration with Georgia’s Inter-Agency Council on Combating Drug Abuse should commission a nationwide study to identify potential number of women who use drugs in order to adequately plan and provide gender-sensitive and evidence-based drug treatment services.

4. LGBTI

The healthcare needs of LGBTI persons have not yet been studied at the State level in Georgia. Government policies, strategies and action plans on the healthcare system do not cover or address their needs and interests.¹⁵⁷ With respect to services specific to trans-gendered persons, there are no clinical guidelines addressing diagnostic and transition procedures.¹⁵⁸ A recent study by the non-governmental organization Women’s Initiatives Supporting Group further revealed a lack of adequate knowledge among healthcare workers about sexual orientation and gender identity as well as regarding the needs of LGBTI persons in the healthcare system.¹⁵⁹

¹⁵⁵ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 30(d).

¹⁵⁶ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 30(d), (e).

¹⁵⁷ E. Aghdgomelashvili, WISG – Tbilisi, *From Prejudice to Equality Study of Societal Attitudes, Knowledge and Information regarding the LGBT Community and Their Rights*, 2016, p. 170.

¹⁵⁸ E. Aghdgomelashvili, N. Gviniashvili, T. Todua and T. Ratiani, WISG – Tbilisi, *Healthcare Needs of Transgender Persons in Georgia – Policy Paper*, 2015, p. 20.

¹⁵⁹ N. Gviniashvili, WISG – Tbilisi, *The Situation of Transgender Persons in Georgia*, 2014, pp.19-20.

Recommendation: MoLHSA should incorporate the needs and specificities of lesbian, bisexual and transgendered women as a target/vulnerable group into the State Strategy on Healthcare. It should provide basic information and training to healthcare providers about the needs and sensitivities in working with LGBTI persons.

Recommendation: MoLHSA should adopt clinical guidelines on trans-specific medical procedures in line with international standards in order to improve quality healthcare for transgender women.

5. Sex workers

According to estimates, there were 6,785 female sex workers in Georgia in 2014.¹⁶⁰ With regards to sexual and reproductive health data, sex workers are one of the most vulnerable groups since they are the least informed about treatment methods for sexually transmitted infections (STIs). Specifically,

- only 27% claim to be well-informed on STIs;¹⁶¹
- up to 40% of sex workers undergo health checks for STIs once every 3 months, and 49% only once every 6 months; and,
- approximately 77% of sex workers have never taken a Pap Smear Test (Cervical Screening), and 78% have never been administered the HPV vaccine.¹⁶²

Recommendation: MoLHSA should organize information campaigns addressed to sex workers on treatment methods for STIs and the need for regular check-ups.

6. Women in penitentiary establishments – incarcerated women

The Bangkok Rules oblige States to take into consideration the gender-specific needs of women prisoners in order to avoid gender- based discrimination.¹⁶³

Decree #63 of 2016, along with the Decree # 55 of 2014, issued by the Minister of Corrections of Georgia regulate issues related to the transfer of the accused and convicted persons to general hospitals, prison medical facilities and TB Treatment and Rehabilitation Center for scheduled medical services.¹⁶⁴ According to the Decree #63, accused/convicted persons are taken to medical institutions in accordance with their queue number, taking into consideration the geographical area, medical examination in question and individual needs.¹⁶⁵ Thus, the Decree #63 omits specific

¹⁶⁰ *Population Size Estimation of Female Sex Workers In Tbilisi and Batumi*, Georgia 2014, Study Report August 2014 Prepared by: Curatio International Foundation and Center for Information and Counseling on Reproductive Health – Tanadgoma, p. 23, available at: <http://new.tanadgomaweb.ge/upfiles/dfltcontent/1/150.pdf>.

¹⁶¹ *Research on the needs of sex workers and causes of discrimination*, Hera XI, 2014, p. 15, available at: <http://en.calameo.com/read/004110021894c3ad2d39d>.

¹⁶² *Research on the needs of sex workers and causes of discrimination*, Hera XI, 2014, p. 15-17.

¹⁶³ UN Rules for Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, UNGA Resolution 2010/16, 45th Session, 2010;

¹⁶⁴ Decree #63 and amended Decree #55 of the Minister of Corrections on issues related to the transfer of the accused and convicted persons to general hospitals, prison medical facilities and TB Treatment and Rehabilitation Center for scheduled medical services.

¹⁶⁵ Article 1, Decree 63.

needs of female prisoners, including *inter alia* progressive nature of some women-specific diseases as well as women specific conditions that could prevent women from undergoing scheduled examinations. Consequently, and due this fact they automatically lose their turn in the queue, which in itself results into postponement of the treatment.¹⁶⁶ Notably, the number of women in prison is much less than percentage of male prisoners. Women are placed in the queue vis-a-vis the entire prison population, substantially prolonging their waiting periods. The situation is further exacerbated by the fact that almost 45% of women inmates have gender-specific health problems.¹⁶⁷

Recommendation: Amend Decree #63 of the Ministry of Corrections to include gender-sensitivity in scheduling the transfer of accused/convicted female prisoners for treatment in to medical facilities.

C. Surrogate motherhood

In Georgia, surrogate motherhood is regulated by three laws:

- the Law on Healthcare, which determines the process for *in vitro* fertilization;
- the Law on Civil Acts, which provides for the registration of the child born as a result of extracorporeal fertilization; and,
- the Law on Registration Procedure of Civil Acts, which sets forth the procedures for registering births.

Georgia has not made surrogate motherhood unlawful, but has not yet regulated the practice in sufficient detail. An inter-agency order requires information on the child and parents to be entered into a database and checked at the border.¹⁶⁸ No regulations require a background check on the parents, (as required in cases of adoption), nor establish procedures for cooperation with third countries on child placement and care.

The absence of regulation and consequent potential for exploitation have drawn the attention of UN mandate holders and treaty bodies. The Report *of the Special Rapporteur on violence against women, its causes and consequences* noted that:

different foreign agencies have advertised and offered surrogate motherhood contracts to young women and that the whole procedure of medically assisted procreation is not legally regulated and as such could lead to violence and exploitation of women entering such contracts that are not based on clear legal regulation.¹⁶⁹

The *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* on her mission to Georgia also noted:

¹⁶⁶ Human Rights Center (HRC), *Rights of Women, Ethnic and Religious Minorities*, 2017, pp. 11.

¹⁶⁷ *Ibid.*

HRC, *Rights of Women, Ethnic and Religious Minorities*, p. 12.

¹⁶⁸ Joint Order 133-No. 144 of the Minister of Justice and the Minister of Internal Affairs of 2016 regulating the departure of a child born through extracorporeal fertility (surrogacy) from Georgia.

¹⁶⁹ A/HRC/32/42/Add.3, para 33.

with concern that there is no comprehensive regulation of commercial surrogacy arrangements. Maternal surrogacy is legal in Georgia for married heterosexual couples. The only provision regulating this matter is article 143 of the Law on Health Care, which allows *in vitro* fertilization. In addition, this provision establishes that the commissioning couple are deemed to be the legal parents of the child while the donor or the surrogate mother has no right to be recognized as a parent of the child. The balance that has been struck is clearly in favour of commissioning parents. That violates the rights of the child, including the right to preserve identity, nationality and health, places such children at risk of being affected by decisions which are not in their best interests and exposes them to the risk of exploitation. It also subordinates the rights of women who act as surrogates, since they have no legal right over the child, and places them at risk of exploitation as well.¹⁷⁰

The Special Rapporteur highlighted that the lack of detailed regulations, including the commercial aspects, “has led to irregularities and protection gaps.” She underscored that the effects of Joint Order No. 133-No. 144 on the procedure for removing from Georgia a child born in Georgia through surrogacy “are limited to the creation of a database run by the Ministry of Justice and accessible by the Ministry of Internal Affairs, to ensure the registration of children born through surrogacy arrangements,” which can refuse the child’s removal at the border.¹⁷¹

The *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* further expressed deep concern that:

international commercial surrogacy arrangements [] have proliferated in Georgia over recent years and are increasing. Since 2012, 581 children have been born through international commercial surrogacy, of which 171 were born in the first nine months of 2016. Gestational surrogacy is legal in Georgia and Georgian law views children born through gestational surrogacy arrangements as the legal children of their commissioning parents. Georgia is one of the few countries providing surrogacy arrangements to foreign commissioning parents (although surrogacy arrangements are not permitted for same-sex couples), without the regulations that protect the rights and best interests of children born through these arrangements and the rights of the women acting as surrogate mothers.

The lack of comprehensive protective regulations has resulted in so-called “baby tourism”, fuelled by advertising campaigns promoting clinics based in Georgia, which often operate in agreement with foreign clinics.¹⁷²

The Special Rapporteur underscored the concern expressed by consular representatives of other States, as the lack of regulation in Georgia conflicts with their regulations, resulting in a legal “limbo” for the children born of such arrangements.¹⁷³ The Special Rapporteur urged Georgia to:

[a]dopt comprehensive regulations to govern the practice of commercial surrogacy arrangements based on the best interests of the child and protection from abuse and exploitation, as well as the protection from exploitation of women who act as surrogates; set

¹⁷⁰ A/HRC/34/55/Add.1, para 40.

¹⁷¹ A/HRC/34/55/Add.1, paras 40, 41.

¹⁷² A/HRC/34/55/Add.1, para.3.

¹⁷³ A/HRC/34/55/Add.1, paras 15-17, (noting that the child’s birth certificate does not indicate the surrogacy arrangement, nor the mother’s identity).

up a regulatory system for clinics and their practices in relation to surrogacy and associated practices, and ensure that decisions and actions undertaken in all surrogacy arrangements are consistent with the rights and best interests of the child.¹⁷⁴

Notably, in 2014, consultations between the Ministry of Justice, MoLHSA, the Parliamentary Committee on Healthcare and Social Affairs and the Maternal and Child Health Coordination Council aimed to develop a regulatory framework for surrogate motherhood in Georgia.¹⁷⁵ The framework provided for the establishment of an agency that would regulate IVF-licensed clinics and establish criteria for the surrogacy agreement to be valid, in order to guarantee the human rights of the surrogate mother and the child.¹⁷⁶ To date no specific law or Government Decree has been enacted.

Recommendations: A comprehensive regulatory mechanism for surrogacy procedures must be enacted by the Ministry of Justice, the Ministry of Internal Affairs and the Ministry of Labor, Health and Social Affairs in order to: (i) monitor surrogacy agreements; and, (ii) protect the rights of the surrogate mother and the child from exploitation. Regulations should require background checks for prospective adoptive parents and regulate cooperation with the third countries on placement and care. The law should not discriminate against same-sex couples. The best interest of the child standard should be the focus of these efforts.

¹⁷⁴ A/HRC/34/55/Add.1, para 82(e).

¹⁷⁵ Bernard M. Dickens, University of Toronto, Report on the UNFPA Consultation on Surrogate Motherhood Law in Georgia, 9-10 June 2014.

¹⁷⁶ PDO, *Report on Sexual and Reproductive Health*, 2017, p. 106.

VII. Harmful practices (gender-based violence)

This chapter addresses: (i) child, early and forced marriage; (ii) female genital mutilation (FGM); and, (iii) gender-biased sex selection/son preference. These practices are manifestations of gender-based violence, and are classified as 'harmful practices' under international human rights instruments. Such harmful practices are carried out on women and girls as part of accepted traditional or cultural practices, by individuals, families and communities.

Gender-biased harmful practices have a major impact on victims, causing physical and psychological harm, and limiting their capacity to participate fully in society and often to develop and reach their full potential. The 2030 Agenda for Sustainable Development calls upon States to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation as part of Sustainable Development Goal 5 on Gender Equality.¹⁷⁷

A. Forced, early and child marriage

CEDAW explicitly stipulates that "the betrothal and the marriage of a child shall have no legal effect,"¹⁷⁸ and, along with the CRC, considers that the minimum age of marriage should be set at 18 for both men and women.¹⁷⁹ At the same time, the ICCPR, ICESCR and Istanbul Convention prohibit forced marriages.¹⁸⁰

The issue of child marriage has gained recognition in Georgia during the last few years as a result of evidence-based advocacy by the Public Defender's Office, and international and civil society organizations.¹⁸¹ Research findings indicate that child marriage is not a rare occurrence in Georgia, and is linked to gender inequality, among other factors.¹⁸²

The Human Rights Committee called upon Georgia to develop strategies for combating patriarchal attitudes, gender stereotyping, early marriage and sex-selective abortions among others impediments to gender equality.¹⁸³ The United Nations Special Rapporteur on Violence against Women (UNSR on VAW) noted in her report on Georgia that among the factors that most likely increase the risk of intimate-partner violence are discriminatory gender stereotypes and patriarchal attitudes, women's low awareness of their rights and the occurrence of child and forced marriages.¹⁸⁴

¹⁷⁷ SDG Target 5.3.

¹⁷⁸ Article 16, CEDAW;

¹⁷⁹ CEDAW and Committee on the Rights of the Child Joint General Comment 31 on harmful practices, 2014, para 31;

¹⁸⁰ Article 23, ICCPR; Article 10, ICESCR; Articles 32 & 37, Istanbul Convention.

¹⁸¹ Public Defender's Office, *Special Report: Early Age Marriage: Challenges and Solutions (PDO Early Age Marriage)* 2016. UNFPA, *Child Marriage in Georgia*, 2014.

¹⁸² PDO, *Early Age Marriage*, 2016, p. 10; PDO, *Report on Sexual and Reproductive Health*, 2017, p. 96.

¹⁸³ CCPR/C/GEO/CO/4, p. 4;

¹⁸⁴ A/HRC/32/42/Add.3, paras. 24-25;

According to information provided by the Ministry of Justice of Georgia, in 2015, 611 child marriages were registered. In 2016, there were only five. The number of parents who were still minors when registering the birth of a child also declined from 1,449 in 2015 to 1,278 in 2016. However, the figures for the number of minor parents having children considerably exceed the figures on early marriage, clearly indicating that the phenomenon continues with such marriages not being registered.¹⁸⁵ It should be noted that the failure to register a marriage can have important consequences for property rights and child custody in the event of a separation or divorce, further impacting on women's rights.

The legal age of marriage for persons is 18 years,¹⁸⁶ which means that marriage prior to that age is null and prohibited. Forced marriage, including non-registered one is a crime, whereas coercion of the minor into marriage is an aggravating circumstance.¹⁸⁷ Both parents of the girl as well as the groom would be held criminally responsible.

A Governmental Order #437 regulates referral procedures for cases of violence against children, which authorizes educational institutions (schools) to refer the case to the competent authorities.¹⁸⁸

However, as noted by the Public Defender's Office, the referral system does not work, as the relevant agencies are simply failing to report and refer cases.¹⁸⁹

Recommendation: Government Order #437 should be amended to explicitly oblige the referral of child abuse, including instances of early and forced marriage to relevant authorities by educational institutions. The amendment of Order #437 should further provide for the confidentiality of the individual who filed the report.

Recommendation: The Inter-Agency Commission on Gender Equality should include within the next National Action Plan on Violence against Women and Domestic Violence the development of guidelines for law enforcement officers to use in addressing child marriage and the development of region-specific approaches on detection, investigation and prosecution of child marriages, including a coordinated response by law enforcement officials and service providers involved in child referral mechanisms.

Since 2015, a Task Force on the Issues of Early Marriages has been summoned under the Inter-Agency Commission on Gender Equality, which is mandated to refine policy recommendation, identify necessary interventions and activities for the implementation of policy recommendations, as well as to improve the application of the child referral procedures. As of 2017, the Task Force mandate was extended to cover FGM issues, as addressed below.

In 2017, nation-wide qualitative research on child marriage was commissioned by the National Center for Disease Control (NCDC) with the support of UNFPA. The preliminary findings of the research identified attitudes, societal norms and diverse practices related child marriages.¹⁹⁰

¹⁸⁵ Public Defender's Office, *Special Report on Women's Rights and Gender Equality*, 2016, p.35.

¹⁸⁶ Article 1108, Civil Code of Georgia.

¹⁸⁷ Article 150¹, Criminal Code of Georgia.

¹⁸⁸ Article 5.10, Government Order #437 of 2016 on the Referral Procedures in Case of Violence against a Child.

¹⁸⁹ Public Defender's Office, *Special Report: Early Age Marriage: Challenges and Solutions*, 2016, p. 17.

¹⁹⁰ Exploring Early/Child Marriage in Georgia: Preliminary Results from a Qualitative Research, Sponsored by UNFPA

Namely, the research confirms the role of traditional gender stereotypes, and social norms related to sexual relations.¹⁹¹

Task Force has found that there is a need to: (i) invigorate policies aimed at the prevention and eradication of the harmful practices; (ii) strengthen inter-agency coordination in the implementation of specific activities; and, (iii) raise public awareness on harmful practices in order to transform existing social norms and attitudes.

Recommendation: In addition to criminal sanctions and reporting requirements, the Inter-Agency Commission on Gender Equality should develop public awareness campaign on the harmful results of the child/early/forced marriages, with the specific emphasis being paid to the awareness of: (i) parents, (ii) influential community and religious leaders as well as (iii) girls as part of the prevention programs. Education on child's rights as well as women rights should be streamlined into National Curriculum 2018-2024 by the Ministry of Education and Science.

Recommendation: MoLHSA should provide targeted support to married girls to avoid early pregnancy and to ensure access to appropriate medical care during pregnancy, childbirth and post-partum (including family planning) free of charge as one of the disadvantaged groups recognized under Maternal and Newborn Strategy and its Action Plan.

Recommendation: Parliament should review the Law on Free Legal Aid in order to include victims of forced and child marriage as beneficiaries of free legal aid.

B. Female genital mutilation

Female genital mutilation (FGM) is a practice that involves altering or injuring the female genitalia for non-medical reasons, and it is internationally recognized as a human rights violation.¹⁹² In 2012, the United Nations General Assembly unanimously adopted the first-ever resolution against female genital mutilation, calling for intensified global efforts to eliminate the practice.¹⁹³ Both CEDAW and the Istanbul Convention prohibit FGM in all its forms.¹⁹⁴ FGM can cause short- and long-term health complications, including chronic pain, infections, increased risk of HIV transmission, anxiety and depression, birth complications, infertility, and in the worst of cases, death.

FGM is reportedly practiced among the Avar community in the Kakheti region of Georgia in November 2016.¹⁹⁵ The Prosecutors Office of Georgia has also confirmed that FGM occurs among the Avari community living in Kvareli, Kakheti region.¹⁹⁶ Yet, there are no specific statistics on

within the frameworks of the UN Joint Program for Gender Equality and UNICEF, Preliminary Findings – 6th of December 2017.

¹⁹¹ Exploring Early/Child Marriage in Georgia: Preliminary Results from a Qualitative Research, Sponsored by UNFPA within the frameworks of the UN Joint Program for Gender Equality and UNICEF, Preliminary Findings – 6th of December 2017.

¹⁹² OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM and WHO, *Eliminating female genital mutilation – An interagency Statement*, 2008, p. 8.

¹⁹³ UNGA Resolution 67/146.

¹⁹⁴ CEDAW, General Recommendation 24, 1999, paras 12-18; Article 38, Istanbul Convention.

¹⁹⁵ Institution for War and Peace, FGM uncovered in Georgia, 2016 available at <https://iwpr.net/global-voices/fgm-uncovered-georgia>.

¹⁹⁶ Letter from the Prosecutors Office of Georgia, No: 08-2/504, as cited in PDO, *Report on Sexual and Reproductive*

the practice of FGM in Georgia.¹⁹⁷ While the local population in villages of Tivi, Saruso and Chantliskure indicate that FGM is no longer performed, there is credible information to suggest that local communities have been covering up information on FGM due to the increased interest from society and the media.¹⁹⁸

As of May 2017, the new Article 1331 of Criminal Code prohibits female genital mutilation on any grounds, including both forceful acts as well as mutilation conducted with the woman's or girl's consent. The Article provides for the criminal responsibility of the person performing the cutting as well as any person coercing a woman/girl to undergo FGM, including family members.

The Government has acknowledged existence of the issue by extending the mandate of the Task Force on Child/Early Marriages to cover FGM in 2017.

Recommendation: The Inter-Agency Commission on Gender Equality should identify communities where FGM is still practiced, gather data and develop tailored intervention policies within the up-coming Action Plan on Violence against Women. The data gathered should diagnose root causes as well as potential linkages with cultural traditions or religious beliefs in order to determine customized approaches. The interventions should aim to coordinate local community and religious leaders, role models, NGO representatives, etc. to initiate and lead changes from within the community. MoES should include a component on harmful consequences of FGM in the National Curriculum 2018-2024.

C. Harmful practice of gender-biased sex selection/son preference

Georgia only recently recognized the problem of gender-based sex selection, which has a history of more than 25 years.¹⁹⁹ The sex ratio at birth (SRB) for 4-year-olds averaged 108.5 boys for every 100 girls in 2015.²⁰⁰ The most recent measurement of SRB in Georgia was produced by a UNFPA-commissioned study comparing the data of the 2014 general population census to the 2016 birth registration information provided by the civil registry. According to 2016 data, among the 56,569 registered births, there were 28,887 male births and 27,682 female births – a distribution corresponding to normal SRB of 105 male births per 100 female births.²⁰¹ Despite these positive estimates, the analysis of the sameStudy reveals remaining challenges related to gender-biased fertility behavior.²⁰² Namely, it points to:

- The persistence of a quest for a son through repeated fertility through multiple pregnancies. A significant share of the increase in male births takes place during the first (25%) and second birth (14%), which means that many parents opted for sex selection during first and second pregnancies in 2010-2014;
- A higher male birth rate occurs in three regions of southeastern Georgia (Kakheti, Kvemo

Health, 2017, p. 117.

¹⁹⁷ Letter from the Prosecutors Office of Georgia, No: 08-2/504, as cited in PDO, *Report on Sexual and Reproductive Health*, 2017, p. 117.

¹⁹⁸ Letter from the MoLHSA, No: 01/4252 as cited in PDO, *Report on Sexual and Reproductive Health*, 2017, p. 117.

¹⁹⁹ Ch. Guilmoto & S. Tafuro, *Trends in Sex Ratio at Birth in Georgia: An Overview Based on the 2014 General Population Data Census*, 2017, (Trends in Sex Ratio at Birth 2017).

²⁰⁰ Geostat Data of 2015.

²⁰¹ Ch. Guilmoto & S. Tafuro, *Trends in Sex Ratio at Birth in Georgia*, p. 28.

²⁰² Ch. Guilmoto & S. Tafuro, *Trends in Sex Ratio at Birth in Georgia*, p. 59.

Kartli and Samtskhe-Javakheti) birth ratios being higher among Azeri and among Armenian households.

- Normal SRB levels are observed in urban, more affluent households with higher levels of education, especially Tbilisi.

MoLHSA has prohibited sex-selective abortion through a declarative 2014 Ministerial Decree #01-74N. Activity 13.1.5.1. of the National Action Plan for the Protection of Human Rights foresees the prevention of sex-selective abortions through an awareness-raising campaign for primary healthcare and reproductive rights providers, targeting the above-mentioned provinces.

The issue of sex-selective abortion has drawn the attention of UN treaty bodies and special mandate holders. The *Report of the Special Rapporteur on violence against women, its causes and consequences* welcomed:

the adoption of Order n°01-74/6 of 2014 which regulates the termination of the pregnancy and prohibits in its paragraph 14 of the first addendum the termination of pregnancy for the reason of sex selection. While acknowledging this positive step, she regrets that no official statistics on sex-selective abortions are collected and notes with interest the will of the Government to elaborate a regulation on this issue.²⁰³

In its Concluding Observations, the Human Rights Committee encouraged Georgia to: “step up its measures aimed at ensuring gender equality by:

Combating the practice of sex-selective abortions, including by monitoring the scale of this phenomenon, addressing its root causes and long-term implications for the society, expanding and improving family planning services and carrying out awareness-raising activities on the detrimental impact of sex selection and on the equal value of girls and boys.²⁰⁴

The CEDAW Committee urged the State in its Concluding Observations to take measures “to eliminate the practice of sex-selective abortions resulting from prenatal sex discernment”.²⁰⁵

Recommendation: The new Action Plans on Gender Equality and Violence against Women should support sociological and demographic research on family dynamics in relation to son preference in order to: (i) examine the root causes and socio-economic factors influencing communities with a high incidence of sex-selective abortion; and, (ii) develop tailored educational campaigns with focused attention on those regions and communities where the decline in sex selection has been slower.

Recommendation: MoLHSA should require the ethical use of sex detection technologies through engaging relevant medical professional associations, as well as support the elaboration of guidelines for medical personnel, including through the imposition of professional sanctions.

²⁰³ A/HRC/32/42/Add.3, para 60.

²⁰⁴ Human Rights Committee, Concluding observations on the fourth periodic report of Georgia, CCPR/C/GEO/CO/4, 19 August 2014, para 7(f).

²⁰⁵ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 31(b).



VIII. Gender equality in education

Georgian culture places a high value on education. Primary and secondary school enrollment rates are high for both male and female students. The strong tradition of education, coupled with mandatory primary schooling, has resulted in near universal primary school enrollment, and adult literacy rates remain consistently high in Georgia.²⁰⁶ Yet, patriarchal norms remain influential; more than one study found that if parents cannot afford to educate all their children, they prefer to send their sons to obtain tertiary education.²⁰⁷

Despite educational reforms in 1997 and 2001, concerns remain about the general quality of education and the poor infrastructure of many schools, as well as the growing disparity in educational standards between rural and urban areas. The cost of education may hinder access for children from low-income families, and drop-out rates rise progressively in later stages of schooling, particularly in rural areas.

Women have a slightly higher representation in institutions of higher education compared to men.²⁰⁸ This has been attributed to men being able to find work more easily after secondary school.²⁰⁹

Article 10 of CEDAW requires that States “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women”. CEDAW interprets this broad right to equal access to education to include all of the following: the “same conditions for career and vocational guidance,” “the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality,” the elimination of stereotypes on women’s and men’s roles, “by the revision of textbooks and school programs and the adaptation of teaching methods,” the same access to continuing education, the reduction of female drop-out rates and special programs for girls who do, “the same opportunities to participate actively in sports and physical education,” and access to information and education on family health and well-being, including family planning.²¹⁰

²⁰⁶ World Bank, Gender Data Portal, available at: <http://datatopics.worldbank.org/gender/country/georgia>, (showing over 100% primary school completion rates for both girls and boys, and secondary school completion rates at 95.6% for girls and 95% for boys).

²⁰⁷ Millennium Challenge Account Georgia, *Social and Gender Integration Plan*, 2014, p. 6.

²⁰⁸ 55% of enrolled students are women and 45% enrolled are men. Millennium Challenge Account Georgia, *Social and Gender Integration Plan*, 2014, p. 6.

²⁰⁹ Millennium Challenge Account Georgia, *Social and Gender Integration Plan*, 2014, p. 6.

²¹⁰ Article 10(a)-(h), CEDAW.

SDG 4 on quality education, contains several targets to ensure gender equality in education. These include calling for by 2030:

- “equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university,”
- eliminating “gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities . . . and children in vulnerable situations,”
- upgrading “education facilities that are child, disability and gender sensitive”.

Article 4(2)(b) of the Gender Equality Law ensures “equal access to education for men and women and free choice of education at any stage of learning”. Article 7 addresses equality in access to higher education and vocational training. It states in full:

1. Everyone shall have the right to freely choose a profession and speciality [sic] according to their abilities. Such equality shall be ensured through equal access, without discrimination, to general, vocational and higher education.
2. The State shall ensure that equal conditions are created for men and women to acquire general, vocational and higher education in all kinds of educational establishments, and to participate in educational and scientific processes.

Recommendations regarding expanding Article 7 to go beyond mere declaratory statements, and to cover a broader scope of the education field are provided in the section on the Gender Equality Law, above.

A. Harassment and sexual harassment in education

Article 6 of the Gender Equality Law prohibits harassment and sexual harassment in the field of labour relations only. It contains no such prohibition in the field of education. Although it theoretically covers harassment and sexual harassment with respect to labour relations in the educational sector, it leaves a gap regarding teacher-student relations, harassment perpetrated by other schools staff, such as management, administrators, security or cleaning staff and by any third parties on campus. Furthermore, it currently contains no effective enforcement mechanisms. The Anti-discrimination Law prohibits harassment, but not sexual harassment. The Law on Education contains no mention of harassment or sexual harassment. Article 9(8) of the Law on Education provides that “[p]upils shall have the right to be protected from improper treatment, neglect and abuse,” which could theoretically cover harassment and sexual harassment but without the necessary legal specificity.

With respect to a mechanism for filing complaints, Article 12(1) states: “In order to protect their rights and freedoms, pupils, parents and teachers shall have the right to appeal unlawful and other wrongful acts of teachers and the school, as well as to receive full compensation for any inflicted damage”. Article 13 does prohibit discrimination, but makes no mention of the forms of discrimination. The relevant subsections provide:

4. It shall be inadmissible for schools to use their powers and resources in a way to directly or indirectly discriminate against pupils, parents, teachers or their associations.

5. Any differentiating act or an exception shall be considered as discrimination, except for the cases where such act or exception is fair and reasonable and ensures free development of and equal opportunities for each person and group.

This critical gap was identified by the Special Rapporteur on violence against women, its causes and consequences. Her report stated:

While welcoming the adoption of the Law on Gender Equality, which provides a definition of harassment, the Special Rapporteur is concerned that the law does not cover the issue of sexual harassment in education establishments or sexual harassment at workplace.²¹¹

Recommendation: Harassment and sexual harassment should be prohibited in the field of education through revisions in the Law on Education, the Anti-discrimination Law and the Gender Equality Law. Sector-specific internal complaint mechanisms, legal bases for filing complaints and the delineation of clear lines of liability within educational institutions should be established.

B. Gender imbalances among teaching staff, management and administrative positions

The vast majority of teachers in Georgia are women.²¹² Low salaries, the lack of professional opportunities and poor career development have resulted in the feminization of the profession, in light of the fact that men tend to have greater, more highly-paid career prospects than women. Some experts see the lack of male teachers as a problem, as it deprives the students of male role models at school.²¹³ In contrast to teaching staff, a large majority of school directors are men, revealing a glass ceiling in the sector.

In its Concluding Observations on Georgia's 4th and 5th periodic report, the CEDAW Committee expressed its concern regarding the "[g]ender imbalance among teaching professionals, with most teachers being women owing to the low salaries paid, while senior school administration positions are predominantly held by men".²¹⁴ It recommended that the State:

Take measures to ensure gender balance among teaching professionals, both at the level of teachers and within the senior levels of school administration, by providing the necessary incentives, including career mobility.²¹⁵

Recommendation: Employ temporary special measures, such as the use of affirmative action in future hires and promotions or through the use of quotas, to foster a gender balance among teachers and senior administrators throughout all levels of the education field. The National Centre for Teacher Professional Development should increase options for professional mobility in order to eradicate the "glass ceiling".

²¹¹ A/HRC/32/42/Add.3, para 58, Mission to Georgia (15 to 19 February 2016), citing Annual Report of the Public Defender of Georgia, The Situation of Human Rights and Freedoms in Georgia, 2014, p. 419.

²¹² School of International and Public Affairs (SIPA), Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p.25.

²¹³ SIPA, Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p.26.

²¹⁴ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 26(d).

²¹⁵ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 27(d).

C. Non-discriminatory textbooks and approach to teaching the national curricula

As described in the report *Social and gender integration in Georgia*:

A 2012 review of ten history and civic education textbooks for school children revealed that men are represented in terms of number –more pictures and more characters--and in terms of quality -more positive discussions and greater praise of their activities. In addition, most textbooks contain stereotypical information on gender roles and responsibilities.²¹⁶

Gender and education professionals have noted a clear lack of attention given to the achievements of women in the national curriculum and textbooks, in contrast to numerous stories of famous men and their achievements. The lack of stories about women, and their “invisibility” in the curriculum and school books may contribute to female students’ low self-esteem and lack of self-confidence.²¹⁷ Furthermore, the experts have identified a lack of illustrations or photographs of women in the classrooms, and recommend that women’s numerous achievements and contributions to society shall be better incorporated into the school resources.²¹⁸

The survey results also found an absence of understanding related to sexual minorities, and had provided erroneous explanations to their students.²¹⁹ While a majority of teachers denied any discrimination toward ethnic, religious or sexual minorities,²²⁰ they admitted an inability to see classroom interactions through a gender lens prior to having taken these courses.²²¹

Article 5(6) of the Law on General Education provides that the teaching of “subjects determined by the National and School Curricula must be academic, impartial and non-discriminatory”.

Recommendation: The Law on General Education should be amended to formalize the requirement of gender mainstreaming of the National Curriculum, in accordance with international standards and guidelines.²²²

Experts have further suggested that particular attention should be devoted to gender equality issues in civic education programs.²²³ The integration of civic education into the school curriculum constitutes one objective of the Council of Europe, in order to educate youth about democratic values and good citizenship.²²⁴ Civic education is currently taught in Georgia in selected grades

²¹⁶ Millennium Challenge Account-Georgia, *Social and gender integration plan*, 2014, p. 7, available at: <http://www.mchangeorgia.ge/cms/kcfinder/upload/files/Social%20and%20Gender%20Integration%20Plan%20Aug%2027%2C%202014.pdf>, citing Khomeriki, I. Javakhishvili, M. Abramishvili, T., *Gender Equality Issues in Studying Social Sciences: Gender Analysis of Textbooks*, Center for Civil Integration and Inter-Ethnic Relations (2012).

²¹⁷ SIPA, Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p. 31.

²¹⁸ SIPA, Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p. 42.

²¹⁹ Women’s Fund in Georgia, Survey on teachers approach to gender equality issues, 2014, 30.

²²⁰ Women’s Fund in Georgia, Survey on teachers approach to gender equality issues, 2014, 32.

²²¹ School of International and Public Affairs (SIPA), Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, 27.

²²² UNESCO and other international organizations have produced numerous guidelines in this field.

²²³ SIPA, Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p. 30.

²²⁴ “An essential element of all education for democratic citizenship and human rights education is the promotion of social cohesion and intercultural dialogue and the valuing of diversity and equality, including gender equality,” Article 5, Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, 2010.

only and covers, among other issues, human rights, integrating only some aspects of gender equality. The promotion of gender equality through civic education could raise gender awareness among children at early ages.

Recommendation: Expand the reach of civic education programs and incorporate a gender equality module into existing civic education programs.

Moreover, several studies and surveys on gender equality in education in Georgia have concluded that traditional attitudes among teachers result in their unconscious perpetuation of gender stereotypes in the classroom. The survey findings indicated that not all teachers fully understand concepts pertaining to gender equality, as defined by contemporary standards. Although the surveys revealed that school directors and the teachers themselves failed to perceive any difference in the treatment and expectations toward girls and boys at school, gender and education experts observed distinct approaches in their treatment and expectations of male as compared to female students. For example, female students described teachers as referring to them as weak and emotional in contrast to boys, whom teachers referred to as smart and strong. Alternatively, girls who stood out as very bright were praised as having “men’s brains”.²²⁵

The absence of gender sensitivity has a significant bearing on students’ early academic orientation and subsequent course selection after secondary school. Specifically, teachers attached increased importance to boys’ professional development, perceiving them as primary breadwinners whose potential successful career is of greater importance than that of girls’.²²⁶ One of the consequences of such stereotypes is that it can steer girls away from stereotypically male professions, resulting in men outnumbering women in professions related to science and engineering. One study found that:

in the upper secondary classes, girls and boys perform equally well, or girls even slightly outperform boys, and about as many girls as boys leave school prepared to pursue science and engineering. Yet fewer women than men pursue these careers. Girls are less likely than boys to say that they aspire to education in STEM programs. In addition, latent stereotypes that STEM is more for boys than girls are reinforced by teachers and parents, as well as textbooks.²²⁷

Recommendation: Amend Professional Standards for Teachers to require the inclusion of a module on gender sensitivity in training programs for teachers and other education professionals.

D. Attendance and drop-out rates among girls due to early marriage

In Georgia, early marriage is associated with poverty and low social status. It is a desirable solution for daughters from families facing economic hardship. Conversely, girls may see early marriage as

²²⁵ School of International and Public Affairs (SIPA), Columbia University, *Gender Mainstreaming in Education in Georgia*, 2011, p. 26

²²⁶ Women’s Fund in Georgia, Survey on teachers approach to gender equality issues, 2014, pp. 11, 15.

²²⁷ Millennium Challenge Account-Georgia, *Social and gender integration plan*, 2014, p. 7, available at: <http://www.mcageorgia.ge/cms/kcfinder/upload/files/Social%20and%20Gender%20Integration%20Plan%20Aug%2027%2C%202014.pdf>

a way out of difficult situations at home.²²⁸ Primarily practiced within certain ethnic and religious communities, early marriage occurs throughout Georgia. In 2015, approximately 408 persons between the ages of 13 and 17 interrupted the secondary education because of the marriage; 168 dropped out at the age of 18.²²⁹ A UNFPA report on the issue stated:

Child marriage is one of the main reasons leading girls to curtail their education. After getting married or engaged (in the case of some ethnic minorities in some parts of the country), girls drop out of school.²³⁰

Another factor leading to child marriage and the resultant drop-out rate is the lack of information about sexual and reproductive health. The absence of information on reproductive health leads to an increased probability of girls becoming pregnant, which in turn is one of the reasons for early marriage. As the UNFPA report noted, “pregnant adolescents are more likely to marry to ‘legitimise’ their pregnancies and avoid social disapproval. In 2012, babies born to adolescent mothers aged 15-19 accounted for approximately 10 per cent of all births in Georgia”.²³¹

Moreover, according to the UNFPA report, respondents in regions with a high representation of ethnic and religious minorities stated that:

teachers as well as the local society in general are not aware of the negative aspects of early marriages, and they are even involved in the process of arranged marriages. That’s why the constructive actions to be taken by the Ministry of Education are important to prevent students from dropping out of school.²³²

SDG 5 calls for eliminating “all harmful practices, such as child, early and forced marriage”.

Activity 1.3.5 of the National Action Plan to Combat Violence against Women and Domestic Violence calls for awareness raising among teachers on the issue of child marriage.

Recent amendments to the Civil Code removed all exceptions to the minimum age of marriage at 18, and the Criminal Code was amended to criminalize forced marriage. Article 172 of the Code of Administrative Offences foresees fines for parents failing to assume their “duties to raise, educate a minor and to provide him/her with dwelling, food and other conditions necessary for normal development”. However, in practice, these penalties are rarely enforced. In addition to the reporting requirements under the Criminal Code, Article 1726 establishes an administrative offence for failure to detect and report instances of child abuse. It states:

Failure of an entity (institution or/and its authorised employee) involved in childcare referral procedures provided for by the legislation of Georgia to perform its duties with respect to detecting child abuse and reporting it to the relevant state body – shall carry a warning or a fine from GEL 50 to 100 for the natural person concerned or a fine from GEL 100 to 200 for the institution (legal person) concerned.

²²⁸ UNFPA, *Child Marriage in Georgia*, p. 6, available at: <http://www.girlsnotbrides.org/wp-content/uploads/2015/08/UNFPA-Child-Marriage-in-Georgia-2014.pdf>.

²²⁹ Public Defender’s Office, *Special Report: Early Age Marriages: Challenges and Solutions*, 2015, pp. 5, 6.

²³⁰ UNFPA, *Child Marriage in Georgia*, p. 8.

²³¹ UNFPA, *Child Marriage in Georgia*, p. 7.

²³² UNFPA, *Child Marriage in Georgia*, p. 5.

The low level of the fine and the absence of any professional sanction renders this provision of marginal deterrence. Article 30(g) of the Law on Education further empowers local self-government authorities to: “take measures determined by the legislation to ensure school attendance by pupils”.

Recommendation: Article 172⁶ of the Code of Administrative Offences should be revised to clarify its application to educational institutions pertaining to notification and referral regarding child marriage and other forms of child abuse, and to contain appropriate professional sanctions for non-compliance with professional duties.

Article 5(10) of Ordinance № 437 authorizes educational institutions to refer cases of child abuse, including early and child marriage, to the competent authorities. The Ordinance should be amended to oblige the reporting of child abuse, defined to include early and child marriage. The amendment should further provide for the confidentiality of the individual who filed the report.

Yet, as found by the Public Defender’s Office, educational institutions are not referring cases of early marriage to social services agencies. It stated:

According to the information received from the LEPL (Legal Entity of Public Law) Social Service Agency in 2014 they haven’t received any notification on early marriages from schools or the Ministry of Internal Affairs. . . referral procedures are ignored by the relevant authorities.²³³

In addition to ignorance about the requirements, teachers have expressed fear regarding the protection of their confidentiality in the event that they notify the authorities, fearing violence and threats of violence from the families.²³⁴

Recommendations: Ordinance № #437 should be amended to oblige the reporting of child abuse, defined to include early and child marriage. The amendment should further provide for the confidentiality of the individual who filed the report.

This issue has drawn the attention of international treaty bodies. In its Concluding Observations on Georgia’s 4th and 5th periodic report, the CEDAW expressed concern over the:

Significant rate at which girls are dropping out of secondary school, reportedly owing to child marriage, and the disproportionately low secondary school attendance rate among girls belonging to ethnic minorities.²³⁵

The Committee recommended that the State:

Promote school attendance by girls belonging to ethnic minorities, in particular at the secondary level, and take measures to remove barriers to their access to education, such as child marriage.²³⁶

²³³ Public Defender’s Office, Gender Equality and Women’s Rights, 2015, p. 34; see also, Public Defender’s Office, Special Report: Early Age Marriage: Challenges and Solutions, pp. 7, 8, 9, (noting the failure of teachers to notify the authorities of early marriages, and their ignorance of their legal obligations).

²³⁴ Public Defender’s Office, Special Report: Early Age Marriages: Challenges and Solutions, 2015, p. 17.

²³⁵ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 26(b).

²³⁶ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 27(b).

Recommendation: The Law on Education should be amended to also require educational institutions to report indications of early or forced marriage to social service agencies and law enforcement.

It should be noted in this regard, that social services agencies do not have interpreters, limiting their work with members of ethnic minorities who do not speak proficient Georgian. Consequently, the “[l]anguage barrier significantly hampers the work process and causes lack of services”.²³⁷

Recommendation: Include in the forthcoming National Action Plan to Combat Violence against Women and Domestic Violence support for social service providers to engage interpreters in working with communities with large populations of ethnic minorities. It should further include an objective of hiring psychologists with native proficiency in ethnic minority languages within social services agencies.

E. School attendance among disadvantaged and marginalized children

Despite overall high enrolment rates for primary and secondary school generally, the level of school attendance is lower among children from low income families: 84%.²³⁸ SDG 4 calls for ensuring “that all girls and boys complete free, equitable and quality primary and secondary education,” and that “all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education” by 2030. It also specifically calls for ending “gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities . . . and children in vulnerable situations.” In its Concluding Observations, the CEDAW Committee the high enrolment rate among girls at all educational levels, but expressed concern about the:

Low level of school attendance among children belonging to disadvantaged and marginalized groups, such as street children, children with disabilities, children in foster care and children in correctional institutions.²³⁹

In its Concluding Observations, the CRC recommended that the State:

Take the necessary measures to improve the accessibility of education and focus on creating the conditions to increase the access of children of vulnerable groups, such as children in situations of poverty, those from ethnic minorities and those with disabilities, as well as young mothers after childbirth.²⁴⁰

Recommendation: The Law on Education should be amended to incorporate programs for monitoring the return of married and/or pregnant girls.

²³⁷ Public Defender’s Office, Gender Equality and Women’s Rights, 2015, p. 35; see also, see also, Public Defender’s Office, Special Report: Early Age Marriage: Challenges and Solutions, 2015, p. 8, (noting that the language barrier results in an absence of services).

²³⁸ World Bank, Gender Data Portal, available at: <http://datatopics.worldbank.org/gender/country/georgia>.

²³⁹ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, para 26(a).

²⁴⁰ CRC, Concluding observations on the fourth periodic report of Georgia, CRC/C/GEO/CO/4, 19 March 2017, para 36(a).

F. Educational advancement for children from ethnic minorities

The Law on General Education provides that “the citizens of Georgia, whose native language is not Georgian, shall have the right to acquire a complete general education in their native language.”²⁴¹ At the same time, Article 4(1) of the Law provides that the teaching of Georgian language in these institutions is mandatory.

Organizations working on minorities’ issues indicate that the students whose native language is not Georgian and receive instruction in their own language face limited opportunities to enter tertiary education.²⁴² Indeed, the Unified National Examination, which is a necessary passage from the secondary to the higher education, requires advanced knowledge of Georgian, and passing a mandatory exam in Georgian Language and Literature. The statistics have revealed that because of this barrier, a low percentage of the representatives of ethnic minorities have been entering into the tertiary education.²⁴³

The ILO Committee, in its Direct Request of 2013 encouraged the State to “improve access of ethnic minorities to education and their knowledge of the Georgian language”.²⁴⁴

Article 13 of the Law on General Education prohibits discrimination, including on the basis of ethnicity, social status, religion and language. The relevant subsections provide:

6. Schools shall observe and facilitate tolerance and mutual respect among pupils, parents and teachers irrespective of their social, ethnic, religious, linguistic and world-view affiliations.
7. Schools shall protect individual and collective rights of minorities to freely use their native language, preserve and manifest their cultural affiliation on the basis of equality.

In its Concluding Observations, the CERD Committee recommended that Georgia:

Adopt a comprehensive approach to eliminate language barriers faced by national or ethnic minorities, including by ensuring that there is a sufficient number of qualified bilingual teachers at all levels of education.²⁴⁵

Recommendation: The Law on General Education should call for an increased number of bilingual teachers at all levels of education.

G. Age appropriate reproductive health and rights programs

Public awareness and access to information on reproductive and sexual health and rights as well as services and programs available in the country remains low. Information about reproductive health is very limited within the context of formal education, and consequently youth lack information about access to contraception and abortion, existing regulations and family planning services. The Public Defender’s Office has stated:

²⁴¹ Article 4(3), Law on General Education.

²⁴² Millennium Challenge Account-Georgia, *Social and gender integration plan*, 2014, p. 8

²⁴³ Millennium Challenge Account-Georgia, *Social and gender integration plan*, 2014, p. 8

²⁴⁴ ILO, Direct Request (CEACR)-adopted 2013, published 103rd ILC session (2014), Georgia

²⁴⁵ CERD, Concluding observations on the sixth to eighth periodic reports of Georgia, CERD/C/GEO/CO/6-8, 2016. para 13(b).

The level of awareness of our population in the direction of reproductive and sexual health and rights is quite low. Unwanted pregnancies, their termination and the frequent facts of complications as a result of termination among teenagers is related exactly to the lack of access to information, low level of public education on sexual and reproductive health rights, and a widespread negative opinion toward gender equality.²⁴⁶

Furthermore, many parents do not favor the content of classes for their children on the issues of reproductive and sexual health, HIV/AIDS and other similar topics.²⁴⁷ Education on these issues does not currently form part of the national curricula.

In its Concluding Observations, the CEDAW Committee noted the “absence of age-appropriate sexual and reproductive health and rights education,” and recommended that the State “[i]ntroduce age-appropriate sexual and reproductive health and rights education, including on responsible sexual behaviour, at all levels”.²⁴⁸ SDG 4 calls for “universal access to sexual and reproductive health-care services, including for family planning, **information and education**” (emphasis added). As noted above, the absence of education on these topics constitutes a factor leading to early pregnancy, and thus in many cases to early marriage.

Recommendation: The Ministry of Education and Science of Georgia should develop comprehensive ‘reproductive health and rights’ education lessons appropriate to the cultural context and the students’ ages, and introduce these into the school curriculum. Special training programs should be provided for teachers. The training programs should include modules on gender equality and girls’ rights to education and family planning.

H. Gender-disaggregated data

The collection of gender-disaggregated data is essential in order to develop evidence-based policies in the field of education. For example, data on the gender breakdown of high-level administrators and other decision-makers, professors of tertiary studies by sector.

Recommendation: Collect gender-disaggregated statistics in the education sector for the purpose of developing policies to foster increased gender balance among a range of professional fields.

Recommendation: Establish scholarships to foster under-represented categories of persons in specific fields.

²⁴⁶ Public Defender’s Office, *Gender Equality and Women’s Rights*, 2015, p. 17.

²⁴⁷ Public Defender’s Office, *Women Rights and Gender Equality Report*, 2015, p. 19; see also, Public Defender’s Office, *Special Report: Early Age Marriage: Challenges and Solutions*, 2015, p. 16.

²⁴⁸ CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, 24 July 2014, paras 26(e), 27(e).



IX. Gender equality in sport

Over the past decade, there has been a growing understanding that access to and participation in sport and physical education is not only a right in itself, but can also be used to promote a number of important development goals through facilitating democratic principles, promoting leadership development, and encouraging tolerance and respect, as well as providing access to opportunities and social networks. All areas of development can be influenced by sport, including health, education, employment, social inclusion, political development and peace and security.

The UNESCO International Charter of Physical Education and Sport states:

One of the essential conditions for the effective exercise of human rights is that everyone should be free to develop and preserve his or her physical, intellectual, and moral powers, and that access to physical education and sport should consequently be assured and guaranteed for all human beings.²⁴⁹

Article 10(g) of CEDAW requires States to ensure that women enjoy “the same opportunities to participate actively in sports and physical education”. Article 13(c) requires States parties to take measures to eliminate discrimination against women in economic and social life in order to ensure the right “to participate in recreational activities, sports and all aspects of cultural life”. CEDAW General Recommendation No. 25, on temporary special measures specifically applies to the field of sports.²⁵⁰

Article 29(1) of the Convention on the Rights of the Child states that the education of the child shall be directed to “the development of the child’s personality, talents and mental and physical abilities to their fullest potential”. The Council of Europe’s Parliamentary Assembly Recommendation 1701 (2005) on discrimination against women and girls in sport calls for, *inter alia*: the promotion of women’s sport and women’s participation in sport, according greater importance to school-based physical education for women and girls, conducting awareness-raising among officials in sport, education and health, supporting women’s participation in top-level sports, ensuring equality in terms of pay, prize money and bonuses, ensuring that women play a greater role in ruling bodies of sports organizations, conducting an in-depth study of national sports policies, ensuring the collection of gender-specific statistics, and increasing media coverage of the women in sport.²⁵¹

²⁴⁹ UNESCO Observations, available at:

<http://www.unesco.org/new/en/social-and-human-sciences/themes/physical-education-and-sport/women-and-sport/>.

²⁵⁰ CEDAW, General recommendation No. 25, para 38.

²⁵¹ Available at: <http://www.coe.int/t/dg4/epas/resources/texts/EDOC10755.pdf>.

Georgian law and policy can be characterised by its complete lack of attention to this issue, and due to the lack of data collected on the issue, little is known about any existing intentional or *de facto* discrimination. One recent national survey, *Gender equality in Sports and Physical Activity*, conducted by the Georgian National Youth Federation, found gendered stereotypes among parents influenced in which sports girls participated. It also listed the absence or poor quality of sports facilities in educational institutions as a factor determining girls' participation in sports.²⁵²

A. Absence of law and policy on gender and sport

Georgian law and policy lack any provisions related to gender equality in sports. It contains no temporary special measures or other policies to foster women's equal participation in sports. The field of sports is not covered by the Gender Equality Law, and sports policies were developed without a gender lens. Specifically, the Gender Equality Law contains no provision related to women's and girls' equal access to sport, including within the context of education under Article 7.

Recommendation: The Gender Equality Law should be amended to include provisions ensuring equal opportunities for women and girls to participate in sports, including within the context of education.

The National Sport Policy 2014-2020 contains no specific stand-alone objective of ensuring gender equality in sport, gender has not been mainstreamed throughout the objectives and here are no specific references to women in girls in the document. In sum, the legal and policy documents fail to address the rights set forth in CEDAW and the CRC, and do not tackle the types of critical issues covered in the Council of Europe Recommendation 1701, as described above.

Recommendations: The National Sport Policy should be revised following a gender mainstreaming of the documents with the involvement of women's organizations. A stand-alone objective of ensuring gender equality in sport should be added.

Recommendations: Elaborate a separate strategy on gender equality in sports with specific and measurable objectives for advancing gender equality and women's empowerment both in sport and by sport. Appoint and train gender focal point at the Ministry of Sports and Youth to lead these recommended processes and follow-up efforts.

B. Gender-disaggregated data on all aspects of sport

Georgia continues to lack gender-disaggregated data on sports, impeding any evidence-based analysis on existing gaps. Significantly, Article 5 of the Gender Equality Law requires the collection of gender-disaggregated statistics only for "official statistical reports on gender issues". Regarding gender equality in sport, the focus of data collection efforts as well as future targeted studies, should include the following:

- Are there unequal gender ratios in sport?
- Are women segregated into different types of sports in Georgia?
- Is women's access to positions of leadership and decision-making constrained?

²⁵² Georgian National Youth Federation, *Gender equality in sports and physical activity*, 2015.

- Is the value placed on women's sports lower compared to the value placed on men's sports?
- Are women's sports marginalized in the media?
- Which gender stereotypes influence girls' and women's low involvement in sport?

Recommendation: Amend the Gender Equality Law to require the disaggregation of all officially collected statistics by gender. Collect gender disaggregated data on all relevant aspects of sport in Georgia.

Recommendation: The Ministry of Sports and/or the Parliamentary Sports Committee should conduct specific studies/assessments into the field of gender and sports, beginning with a baseline study to address international standards and commitments to combat gender discrimination in sports: including:

- Participation of women and men as decision-makers in sports management;
- Access to state funding for sports federations dominated by men and dominated by women;
- Access to state funding to female national teams vis-à-vis male national teams;
- Overall participation of men and women in sport and physical activity;
- Participation of men and women in organized sports; which sports are played and by whom;
- Reasons for women's non-participation (ex: lack of time, childcare, lack of safe and appropriate facilities, lack of exposure etc.);
- Attendance of men and women at sporting events;
- Media coverage for women's and men's sport.

X. Gender equality and culture

Recent decades have been marked by an increasingly explicit recognition of the role of culture²⁵³ in promoting sustainable development and alleviating poverty, presenting culture as both an enabler and a driver of development, which generates income, creates decent jobs and improves livelihoods. In turn, development policies responsive to cultural contexts have been evidenced as a crucial determinant in ensuring more sustainable outcomes.²⁵⁴ Access to and participation in culture is a fundamental right, and culture and cultural diversity are seen as catalysts for shaping ideas and societies. Culture holds transformative power to impact society by changing perceptions and opening spaces for social dialogue. Culture thus has the potential to challenge accepted unequal stereotypes and discriminatory social norms.

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression provides a solid foundation for the promotion of culture for sustainable development.²⁵⁵ It requires States parties to:

create in their territory an environment which encourages individuals and social groups: to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples.²⁵⁶

The Convention also requires States to “encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, *inter alia*, through educational and greater public awareness programmes,” as well as the active participation of civil society.²⁵⁷

In its periodic report to UNESCO on the implementation of the Convention for the years 2012-2015, Georgia identified several policy challenges; gender equality was not identified as a challenge, signaling a lack of attention to the issue.²⁵⁸

UNESCO has developed numerous practical tools for advancing gender equality in the fields of culture and education, including a gender-sensitivity for manual for education managers,

²⁵³ The term “culture” here refers to the cultural sector encompassing three key components: core creative fields, cultural industries and creative services, involving decision makers and stakeholders;

²⁵⁴ UNESCO, *Gender equality, Heritage and Creativity*, 2014; UNESCO, *Measuring the Economic Contributions and Cultural Industries*, 2012.

²⁵⁵ Georgia ratified the UNESCO Convention in 2008.

²⁵⁶ Article 7(1)(a), Convention on the Protection and Promotion of the Diversity of Cultural Expression, UNESCO, 2005.

²⁵⁷ Article 10(a), Convention on the Protection and Promotion of the Diversity of Cultural Expression, UNESCO, 2005.

²⁵⁸ See, Georgia 2016 Report, available at: <http://en.unesco.org/creativity/monitoring-reporting/periodic-reports/georgia-2016-report>.

curriculum and material developers and media professionals, and a guide for gender equality in teacher education.²⁵⁹ The UNESCO Priority Gender Equality Action Plan for 2014-2021 (GEAP II) provides an operational framework for the implementation of priority gender equality.²⁶⁰ Indeed, its website has an entire page dedicated to the issue, with links to a list of tools for ensuring gender equality (<http://www.unesco.org/new/en/unesco/themes/gender-equality/tools/>).

UN General Assembly Resolution 68/223 on culture and sustainable development further underscored the role of gender equality in achieving sustainable development through culture.²⁶¹ The UNESCO Hangzhou Declaration: Placing Culture at the Heart of Sustainable Development Policies also highlighted the role of culture in fostering inclusive, social, cultural and economic development, harmony, environmental sustainability, peace and security.²⁶²

A. Gender equality in law and policy on culture

The Law of Georgia on Culture constitutes the legal basis for the preservation, protection and development of culture in the country. Article 18 provides for the Government to ensure “protection of human rights and freedoms in the field of culture”. Articles 8, 11 and 12 ensure to “everyone” the “right to creative activity of any kind,” the “right to enjoy cultural valuables,” and the right to receive an arts education, respectively. Article 4(e) also refers to the principle of “accessibility and publicity of cultural and creative activity”.

Gender equality, inclusivity and non-discrimination are not included in the underlying principles of the law as set out in Article 4. The reference in Article 6 to equality in cultural life does not include gender. It states, in pertinent part: “The citizens of Georgia shall be equal in cultural life, whatever their national or ethnic origin, religion, or language”. Critically, there is no reference to equality, non-discrimination or inclusion with respect to financing for the arts in Article 29.

Recommendation: The Law of Georgia on Culture should be amended to ensure non-discrimination and equality on the basis of gender/sex as well as other grounds, in the application of all of its provisions.

In 2015, the Ministry of Culture established a comprehensive, long-term Culture Strategy (2025), in which gender equality is not enumerated as an underlying principle or objective, but rather is solely referenced as one of the tasks listed under Objective 2.2 on access to engagement in cultural life. Objective 2.2 reads: “All members of the society, including vulnerable groups, youth and minorities are actively engaged in cultural life and have access to cultural infrastructure and resources”. The task reads, “Ensure that principles of gender equality are taken into account during the planning and implementation of cultural policy, use the potential of culture to foster gender equality”. Although the task itself calls broadly for the principle of gender equality to be included

²⁵⁹ See, e.g., UNESCO, *Gender sensitivity: A training manual for sensitizing educational managers, curriculum and material developers and media professionals to gender concerns*, 2002, available at: <http://unesdoc.unesco.org/images/0012/001281/128166eb.pdf>; UNESCO, *A guide for gender equality in teacher education policy and practices*, 2015, available at: <http://unesdoc.unesco.org/images/0023/002316/231646e.pdf>; UNESCO, *Gender-sensitive indicators for media: Framework of indicators to gauge gender sensitivity in media operations and content*, 2012, available at: <http://unesdoc.unesco.org/images/0021/002178/217831e.pdf>.

²⁶⁰ UNESCO, *Priority Gender Equality Action Plan (2014-2021)*, available at: <http://unesdoc.unesco.org/images/0022/002272/227222e.pdf>

²⁶¹ UNGA Res. 68/223, 20 December 2013.

²⁶² UNESCO Hangzhou Declaration: Placing Culture at the Heart of Sustainable Development Policies, 2013, available at: <http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/images/FinalHangzhouDeclaration20130517.pdf>.

in the development of cultural policy, its narrow placement within the objective on accessibility and engagement was replicated in the subsequent 2017-2018 Action Plan, and not considered as a broad principle to be mainstreamed throughout.

Objective 2.2 of the Action Plan mirrors the language of the Strategy, yet the broad task of integrating principles of gender equality into the engagement in and accessibility of culture is channeled into narrow activities related to information and awareness raising on women's rights in 10 community centres. Activity 2.2.5 reads: "Conducting information meetings and awareness-raising on women's rights, legal migration and migrant rights at Community Centres." The implementation indicator reads: "At least 10 Community centres held a meeting on issues related to gender equality," which on their face do not even relate to the stated objective: engagement in or accessibility to culture.

In sum, the failure to mainstream gender equality into the Culture Strategy, listing it under one objective only, ultimately translated into 10 tenuously related activities on "women's rights" at the community level, leaving the numerous other objectives and activities, such as those related to the integration of culture into diverse sectors of development policy or supporting creative industries, to be conducted without a gender lens. These outcome documents further reveal the Ministry of Culture's limited understanding of gender equality, and its low capacity to mainstream gender into policy making.

Article 4(1) of the Gender Equality Law guarantees broadly "equal rights for men and women in political, economic, social and cultural life," without more specific guarantees. In addition to existing anti-discrimination provisions as elaborated above, it also ensures labour rights, such as: equality with respect to the free choice of occupation and profession, equal treatment in the evaluation of work quality and equal access to employment.

Recommendation: The Culture Strategy should be amended to undertake a gender mainstreaming of the document. Gender equality and non-discrimination should be set forth as an underlying principle at the outset of the document. Gender aspects should be considered throughout the document, not solely in relation to engagement in and accessibility to culture.

Recommendation: A gender mainstreaming of the Action Plan of the Cultural Strategy should be undertaken and result in a revised document in which gender is integrated throughout the full range of objectives. This should be required by the Gender Equality Law.

Specific targeted measures for the Action Plan could include, *inter alia*, measures such as: gender-sensitivity training for Ministry and other staff engaged in policy making; promoting the visibility of female cultural producers, by supporting exhibitions, performances, research, publications and conferences dedicated to gender issues; and, ensure gender balance in the allocation of funds to cultural projects, including for women and girls with disabilities, from minority communities and LBT women.

B. Gender-disaggregated statistics on the full range of cultural sectors

One of the primary barriers to ensuring gender equality in the field of culture is the absence of gender-disaggregated statistics on the sector, rendering it impossible to identify specific obstacles to gender equality and to elaborate tailored, gender-sensitive cultural policies. Targeted studies and gender impact assessments would be useful tools.

Recommendation: Systematic collection of sex-disaggregated data and its dissemination in all areas of the cultural sector in order to strengthen the evidence base on gender gaps in the field. This should be required through amendments to the Gender Equality Law.

Recommendations: Conduct targeted studies on gender across the diverse cultural sectors. Utilize monitoring and evaluation tools, including Gender Impact Assessments (GIA) to measure the impact of diverse policies and programs on gender equality.

Key inquiries for data collection and a baseline study include:

- The level of women's participation in cultural policy making, (and the need for temporary special measures)
- Gender-balance in the allocation of cultural grants.

