

Universal Periodic Review of Georgia

23rd Session

March, 2015

Joint submission by:

Real People Real Vision



&

Sexual Rights Initiative



Key Words: Comprehensive Sexuality Education, Sexual Rights, Sexual Abuse, Sexual Exploitation; Sexual Violence; Domestic Violence; Gender Based Violence; Marital Rape; Young Women and Girls.

Executive Summary:

1. The report captures national context of Georgia regarding protection of the rights of population at large with the focus on the vulnerable and marginalized population in terms of sexual violence and sexual exploitation driven by insensitive gender roles and stereotypes rooted in the society interlinked with the lack of comprehensive sexuality education as the means of preventing sexual violence and in line with the increasing the accessibility towards sexual reproductive health and rights services (SRHR) in the country. Georgian government is moving towards EU integration and is in the process of developing policy systems and mechanisms for on the one hand preventing sexual violence and monitors the cases on the other. But the process is not community driven and grassroots decision making is limited preventing most vulnerable and at risk like young women and girls using drugs, involved in sex work, lesbian and transgender women being part of it. Civil society is playing rather a “passive supporter” role than of an equal pattern. As a result of mentioned above, the initiatives are fragmental, non comprehensive, not fully built on community needs resulting leaving the communities mentioned without any social supporting mechanisms accessing the rights that stay on paper.

Progress and gaps in the implementation of recommendations from 1st cycle of UPR

2. The passage below depicts the recommendation cascade from 1st cycle of UPR, what actions and legislative changes they initiated and finally whether the changes brought any benefit.
 - Reinforce mechanisms for monitoring violence and sexual abuse within the family; Accepted
 - Adopt comprehensive legislation to prevent sexual exploitation of children and ensure protection and/or recovery of child victims. [Para 10; CRC]; Rejected
 - Recommended that the number of therapeutic staff (in psychiatric hospitals) should increase in boarding houses and the risks of sexual violence should be identified and prevented. [Para 63] Rejected
 - Develop and implement a comprehensive set of measures to fight discrimination and protect the rights of women and children, adopt a comprehensive legislation to fight the sexual exploitation of children as well as corporal punishment, adopt a plan of action to combat domestic violence and create a mechanism to protect the rights of a child. Rejected; Rejected
 - Continue efforts to prevent, punish and eliminate all forms of violence against women, and to overcome the stereotypes that cause gender discrimination. Accepted

- Noted that marital rape had not been included in any proposal for new legislation. Neglected [Para 9; CEDAW]
- Recommended the State define the role of social workers explicitly to actively engage in the work against domestic violence... recommended active steps towards elaboration of the strategy of rehabilitation of perpetrators of domestic violence. [Para 30] Neglected;

Actions taken by the government VS reality

Latest update to Criminal Code of Georgia 27.11.2013

3. Due to the increased number of criminal sexual offences during the years 2009-2013, the Ministry of Internal Affairs of Georgia has admitted in 2013 that the government policy towards the crimes against sexual freedom and inviolability has been too liberal, and the need arose to tighten up the sanctions for abovementioned crimes. Accordingly, the Ministry had drafted the amendments to the existing code. The new bill was approved by the Parliament of Georgia On November 27, 2013. According to the amended Criminal Code of Georgia the minimum length for imprisonment sentence increased from four to six years for rape, that was followed by increased sanctions for all of the crimes under the same chapter. The new sanctions are more in conformity with the severity of mentioned crimes, hence the Georgian government took positive steps to address this issue. However, there is still a debate on the terminology used in the articles 137-141 of the Criminal Code of Georgia. Experts who criticize the current legislation, believe that Rape must be defined broadly and not restricted to the sexual intercourse only. The draft bill is being prepared by the Georgian non-governmental organizations addressing this issue and there is a possibility that the Georgian government will face the need to amend its legislation again. Irrespective the legislative changes practices shows that implementation of legal acts in practice are not effective and efficient especially when it comes to vulnerable and marginalized groups. Especially when it comes to Marital rape, though being one of the amendments in Criminal Code of Georgia 27.11.2013 (CHAPTER XXII. CRIME AGAINST SEXUAL FREEDOM AND INVIOLABILITY), the issue remains of the most underreported due to the cultural approach to “family values” promoting patriarchy and obedience of women at all ages, again doting that family issues being internal stay superior to legislation. The relevant example of that is the trend of police trying to avoid any interventions during domestic violence. In 2006 the parliament of Georgia adopted the law on “Elimination of Domestic Violence, Protection of and Support to Its Victims”. In May, 2012 amendments were made to the Criminal Code of Georgia, which criminalized Domestic Violence. The Article 11’ defines a circle of family members and refers to the list of crimes throughout the code that if they are committed between family members reference must be done to the mentioned Article 11’. Article 126’ determines the criminal nature of domestic violence and establishes responsibility for committed acts. But little has changed after, the late horrible statistics depicting 17 women dead by the hands of domestic partner during 2014. The contributive factor to it is the phenomenon of early marriage, that is a common practice in the cities but especially in regions. Although the age of marriage is defined as eighteen years, in exceptional cases marriage is allowed from the age of sixteen years, subject to the preliminary consent of the parents or other statutory representatives. In case of refusal of consent

by the parents or other statutory representatives, a court, on the petition of the prospective spouses, may grant the permission to marry provided there are legitimate reasons therefore. There are number of registered cases under parental consent, but what is problematic is the fact of underreporting of the early marriages, or referring to being married whenever any sexual intercourse happens without consent, which makes it impossible to protect the rights of the victims and refer to Convention of rights of children ratified in Georgia. The basic problem comes of non existence on comprehensive sexuality education – despite the Georgian National Youth Policy Document. Approved by #553 Decree, dd April 2 2014 states Sexual Reproductive Health and Rights as a priority including increased awareness about existing sexual and reproductive health programs and services; high-quality sexual and reproductive health services to young women and men, including those with special needs; accessibility to sexual and reproductive health services for young people as well as ensure service delivery in youth friendly environment with confidentiality guaranteed; development of modern educational programs regarding sexual and reproductive health and rights issues based on the best modern international standards for formal and informal education systems- in reality there is opposition in the name of orthodox churches that has great influence of public opinion, regarding sex before marriage as immoral act thus automatically marginalizing and stigmatizing any issue regarding to sexuality. Another step taken was adoption of the Law of Georgian on the Elimination of all Forms of Discrimination that is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics. The same problems occur when there are no clear defined mechanisms how the law should be pushed in practice. The discrimination in terms of employment, access to SRH service, access to education still remains low for sex workers, People Living with HIV, LGBTQI , drug users, especially those injecting drugs, being imprisoned during the file cycle.

Problem identification

The reality:

4. A relatively small number of women in Georgia acknowledged being victims of physical or sexual violence. Overall, 6.9% of women reported having experienced physical violence. Of them, 2.6% reported having experienced moderate physical violence and 4.3% reported having experienced severe physical violence. Place of residence, level of education, marital status and earning potential turned out to be not significantly linked to experience of physical violence. Age groups 25-34 and 35-44 yielded significant results. 3.9% of women reported having experienced sexual violence. Of those having reported sexual violence 64% were married and 37% were unmarried; the vast majority of these unmarried women - 32.6% said they do not have partner and are not involved in sexual relations either. Also, 0.7% of women said they were forced to have sex the first time they had sex. This data do not change by residential area, education level and independent economic income parameters, with only exception in age, women of 35-

44 age group tend to be victims more often than other age group women. 2,3% of women are the victims of both types of violence, i.e. physical and sexual. Interestingly, sexual abuse is often accompanied by physical violence.

5. The surveys revealed different forms of domestic violence nationwide: emotional violence, reported by 14% of women respondents; acts intended for controlling women (35%), e.g. 29% of women are not allowed to have relations with family, 11,6% need permission to use medical services and husbands of 11,1% of women get angry if they talk to another man. This data point that women are more open to talk about the forms of violence which are socially acceptable and are trying to hide the truth when it comes to physical and sexual abuse (because of fear and shame). Interestingly, actions intended for controlling woman are closely related to the educational level. The lower the educational level of a woman, the higher the percentage of such actions, for instance, 60% of women with incomplete secondary education become subject to their husbands' control, which is more often than women with complete secondary, professional or higher educational levels (35%). Another important finding of this survey is women's perception of a family being a secret place, where anything can happen inside but should never be put outside for discussion or public debate. This kind of perception is one of the factors maintaining the domestic violence. The number of women with such attitudes is 78,3%, distributed by regions in this way: capital 21,7%, urban 30,3% and rural 48,0%. Only 0,1% of women report sexual abuse experience from family member or a stranger after the age 15. None of the respondents gave positive responses when asked directly about the sexual abuse experience before the age of 15. At the same time, in indirect questions, 6,5% of respondents marked sad face (they were shown smiling and sad faces) which makes us think that facts of sexual abuse are common before the age of 15, even though, the respondents do not talk about it openly. Among women who have ever been married, every eleventh is a victim of physical abuse and 34,7% has had injuries several times. The biggest number of these women belongs to the age group 45-49. The most frequent forms of injuries are scratch, abrasion, bruise (84,4%) and internal injuries. (29,1%). 18,8% of women report brain concussion due to the violence of husband/ partner, 15,3% of women who have ever been victims of their husband's/partner's physical or sexual violence, have needed medical assistance at least once. Among them, 18,2% of women have received medical assistance. The number of days spent at the hospital varies from 2 to 30 days in case of 33,3% of women. The health state of 2,7% of pregnant women who have ever been victims of physical abuse during pregnancy period, has worsened twice as compared to women without such experience. 28,2% of urban and rural respondents stated that they could not get any kind of support. Survey results clearly indicate on the need of effective policies and mechanisms for elimination of gender inequality and for combating domestic violence, as well raising public awareness on gender equality and gender-based violence issues.
6. Female IDUs may be manipulated into having sexual intercourse so their partner can get money or drugs, drug dependence leads female IDUs to exchange sex for money or drug in unprotected environment. Having unwanted sex with undesirable person occurs frequently in the lives of female IDUs. Sexual intercourse may take place in exchange of money [...] They might have unwanted sex with police for different reasons, for instance, woman has to do this in order to avoid prison or fine. (Alternative Georgia) Women are often engaged in sex industry in order to earn money and get the drugs. They usually depend on men as it is difficult for them to get drugs independently. (GHRN) The obstacles female IDUs encounter

while getting drugs, and their dependence on male partners increase their vulnerability, make them easier to manipulate, and increase their risk of being violated by partners or police.

7. The violence on female sex workers in the country was analyzed. Major sources of information on have been Behavioural Surveillance Surveys conducted among FSWs in Tbilisi and Batumi biennially (2002; 2004, 2006 and 2008-2009 years). The BSSs (2008-2009 years) 15 among Female Sex Workers in Tbilisi and Batumi have found that small proportion on (4.2%) of FSWs in Batumi were victims of physical violence during last 12 months; however this rate was about 3 times higher among FSWs in Tbilisi (14.4%). In about half of the cases of physical violence sex workers named the clients as perpetrators. Small proportion of FSWs in Tbilisi (2.5%) and Batumi (5%) reported being victims of sexual violence through blackmailing or threatening that is still associated with their clients. About 2% in Tbilisi and less than 1% in Batumi told they were forced for sexual intercourse by strangers. Overall, the BSS found 15.6% of FSWs in Tbilisi and 8.3% in Batumi who experienced any types of violence during last year. In most cases of violent acts reported by sex workers, the clients of SWs were named as perpetrators. In many countries, especially in those where sex work is criminalized, the violence against female sex workers by police occurs frequently; and a couple of years ago Georgia was not an exception on to the general pattern of violence against women in sex business. Police used to commit different types of violence against sex workers. They conducted raids, pushed sex workers in cars after verbal and physical violence, and forced to render sexual service for free and it was happening rather regularly.
8. HIV positive status intensifies violence against women – rejection, putting labels to person, refusing medical service and not hiring her for job – all are the forms of violence often faced by HIV positive women. Experts believe that HIV positive status does not only cause violence which is expressed in different forms of discrimination against people living with HIV, but also might be a factor reinforcing the existing violence. For instance, HIV positive women become more vulnerable to domestic violence, and there are different barriers for women to report acts of violence against them and seek help. The probability that HIV infected women will report violence to the police is considerably low as they avoid disclosing their HIV status to other people because of fear of further discrimination.

Key trends:

- a. Women in Georgia experience either physical and/ or sexual violence;
- b. Women who have been physically or sexually abused by a partner have experienced injuries as a result of the violence;
- c. Number of HIV infection in women has brought into sharp focus the problem of violence against women;
- d. 17 murders of women are committed by intimate partners during the year 2014;
- e. Most vulnerable and marginalized women like sex workers and women using drugs are more exposed to sexual violence;

- f. Sexual violence is often viewed as being inevitable in conflict situations;
- g. Up to 8 000 young girls abandon school annually, due to early and forced marriage.

Key messages:

- 9. Violence against women and girls is an endemic violation of human rights, not least the sexual and reproductive rights of women and girls. Violence seriously jeopardizes the physical and mental health of women and girls, including in many instances their sexual and reproductive health. It has far reaching and negative impact of children, families and the wider community and may also result in women's deaths, including by suicide. Protection of sexual and reproductive health and rights is thus central to the prevention and mitigation of violence against women and girls.
- 10. WHO defines intimate partner violence as “any behavior within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship.” Intimate partner violence is one of the most common forms of violence against women and includes physical, sexual, and emotional abuse and controlling behaviors by an intimate partner. Although “domestic violence” is used in many countries to refer to partner violence, it can also include abuse by any member of a household (for example, child or elder abuse).
- 11. Violence related to sexual and reproductive health and rights is particularly harmful, adolescent girls and young women are disproportionately affected by violence related to their sexual and reproductive health and decision making over their bodies and lives.
- 12. Violence is most frequently perpetrated within families, by intimate partners and known persons, not by strangers;
- 13. Adolescent girls and young women are at especially high risk of sexual violence – a very large part of sexual assaults are committed against girls under 16 years and many women and girls report that their first sexual experience was forced;
- 14. Violence or the threat of it, is amongst the most common reasons that women/girls provide for not using, or inability to negotiate, use of contraception;
- 15. Sexual and reproductive health services, the health services that are most likely to be available to women, provide key opportunities to reach women and girls subjected to, and at risk of violence. They can help prevent violence and have a critical role to play in raising awareness, identification of risk, mitigation and responses to violence.

Recommendations for action:

16. Provide access to comprehensive and integrated social, health and legal services for all women and girls victims/survivors of sexual and gender-based violence and address all health consequences including the physical, mental and sexual and reproductive health consequences, of violence against women and girls by providing improved access to adequate health-care services that are responsive to trauma and include affordable, safe, effective and good quality medicines, including safe and effective family planning methods and emergency obstetric care, through first line support, treatment of injuries and psychosocial and mental health support, among them: emergency contraception, safe and legal abortion post-exposure prophylaxis for HIV infection, diagnosis and treatment for sexually transmitted infections, training for medical professionals to effectively identify and treat women subjected to violence, as well as forensic examinations by appropriately trained professionals;
17. Develop policies and programmes, giving priority to formal, informal and non-formal education, that support girls and enable them to acquire knowledge, including comprehensive sexuality education, that support girls and enable them to acquire knowledge, develop self-esteem and take responsibility for their own lives, and to place special focus on programmes to educate women and men, about the importance of girls' physical and mental health and well-being, including the elimination of all forms of discrimination and violence against girls;
18. Develop policies and programmes on full and meaningful engagement of men and boys and community leaders as strategic partners and allies in the elimination of all forms of discrimination and violence against women and girls in all their diversity in the family and in society, design and implement national policies that aim to transform those social norms that condone violence against women and girls, and work to counteract attitudes by which women and girls are regarded as subordinate to men and boys, including by understanding and addressing the root causes of gender inequality such as unequal power relations, social norms, practices and stereotypes that perpetuate discrimination against women and girls, and engage them in efforts to promote and achieve gender equality and the empowerment of women and girls;
19. Continue to develop and enhance international standards and qualitative and quantitative methodologies, for use at domestic and international levels, to improve data on women's experiences in areas such as poverty, income distribution within households, participation and income of women in the informal sector, unpaid care work, women's access to, control and ownership of assets and productive resources, and women's participation at all levels of decision-making, access to quality health services, including sexual and reproductive health and rights services, violence against women and girls in all contexts including sexual violence in conflict, women and girls' access to justice, reparations and remedies for all human rights and violations, including to monitor the progress on state level for women and girls;
20. Eliminate all harmful practices, including child, early and forced marriage, through reviewing, adopting, enacting and enforcing laws and regulations that prohibit such practices, and creating awareness around the harmful health consequences, including those concerning the minimum legal age of marriage, raising the minimum age for marriage where necessary, and generate social support for the enforcement of these laws in order to end the practice of child, early and forced marriage.

Government/policy level:

21. Ensure protective laws and policies are in place and enforced to prevent GBV and Sexual violence;
22. Establish effective mechanisms to monitor enforcement of related legislation; policies and protocols for improved identification on and management of survivors should be developed and institutionalized;
23. Increase the number of shelters and crises centers for female victims of violence to offer immediate, first-line support at a minimum. Immediate support should include minimum package of interventions that ensure physical and emotional safety of survivors. First-line support should be in accordance with the WHO clinical and policy guidelines released in 2013;
24. Develop and implement GBV and STI/HIV prevention on protocol/standard operation on procedures that will cover the topics of HIV /STI testing, HIV post-exposure prophylactic treatment and its adherence, emergency contraception on, other prophylaxis treatment for STIs;
25. Design and implement national monitoring and evaluation system and establish routine data collection of national key indicators to measure effectiveness of national response aiming at GBV and HIV prevention in Georgia;
26. Decriminalize drug use and ensure sustainable harm reduction services adopted for women;
27. Liberalize sex work and ensure sustainable HIV, HCV, STIs prevention, treatment care services.

Sources: Gender Based Violence and HIV in Georgia , UN Women 2012;

National Report on Domestic Violence in Georgia 2012;

Internal Reports of Georgian Union of PLHIV “Real People Real Vision”-2013-2014.