



საფარი  
SAPARI

# WOMEN'S RIGHTS IN GEORGIA



3RD REPORTING CYCLE OF GEORGIA  
74TH PRE-SESSIONAL WORKING GROUP SUBMISSION

2024

## Table of Contents

<b>Introduction .....</b>	<b>2</b>
<b>Issue I – Gender Equality, Domestic Violence, rape and sexual harassment .....</b>	<b>2</b>
Absence of consent-based definition of rape .....	2
Burdensome evidence requirements to prove sexual violence .....	3
Discriminatory investigation procedures.....	3
Child Marriage .....	4
<b>Issue II - Economic Violence.....</b>	<b>5</b>
<b>Issue III – Sexual and Reproductive Health .....</b>	<b>6</b>
Safe Abortion Services .....	7
Contraception.....	8
Sexuality Education.....	8
<b>Annex.....</b>	<b>9</b>

**Information on Georgia for consideration by the CESCR 74<sup>th</sup> pre-sessional working group (04 Mar 2024 - 08 Mar 2024)**

**Introduction**

1. Union Sapari Respectfully submits this report for consideration of Georgia's third reporting cycle state party report for the CESCR 74<sup>th</sup> pre-sessional working group (04 Mar 2024 - 08 Mar 2024). This submission expresses our concerns in respect to women's rights. To specify, this report discusses issues related to domestic, sexual and economic violence against women and challenges in regards to sexual and reproductive health of women.

**Issue I – Gender Equality, Domestic Violence, rape and sexual harassment**

Paragraph 36 of Concluding observations of the Committee

Paras. 123-152 of State Report

*Absence of consent-based definition of rape*

2. Despite numerous ammendements, the Criminal Code of Georgia lacks definition of rape based on consent, resulting in certain serious instances of rape being classified as minor crimes that do not qualify as rape.
3. According to international human rights norms, rape and other forms of sexual violence crimes should be based on the absence of genuine consent from the victim. This is emphasized by CEDAW<sup>1</sup> and endorsed by other human rights standards.<sup>2</sup>
4. Contrary to the aforementioned, the definition of rape and other sexual offenses the Criminal Code of Georgia focuses on criteria such as use of force, threat of force, abusing the victim's vulnerability, and numerous forms of coercion. However, this fails to prioritize the evaluation of the absence of voluntary consent within the context of the surrounding circumstances.
5. Article 137 of the Criminal Code defines rape as any form of sexual penetration of the body of another person with any body part or object, committed by the use of violence, threat of violence or by abusing the victim's vulnerability, which is punishable by

---

<sup>1</sup> CEDAW Committee, General recommendation No. 35. CEDAW Committee, Vertido v Philippines, Merits, Communication No. 18/2008, UN Doc CEDAW/C/46/D/18/2008, Accessible at: <https://shorturl.at/mCPST>

<sup>2</sup> The European Court of Human Rights, the International Criminal Court (ICC), the Inter-American Court, the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Tribunal for the Former Yugoslavia (ICTY), the Mechanism to Follow Up on the Implementation of the Convention on the Prevention, Punishment and Eradication of Violence against Women (MESECVI), and the Declaration on Violence Against Women, Girls and Adolescents and their Sexual and Reproductive Rights.

imprisonment of six to eight years. Similarly, Article 138 of the Criminal Code defines an assault of a sexual that does not involve penetration committed using violence, the threat of violence or by abusing the victim's helpless condition, punishable by imprisonment of four to six years.

#### *Burdensome evidence requirements to prove sexual violence*

6. In the majority of cases, perpetrators are prosecuted for sexual violence crimes when physical injuries and/or biological evidence related to a sexual act are found on the victim's body. These evidentiary standards leave many forms of sexual violence unpunished. This contributes to the high rate of dropped cases concerning sexual violence. Due to this number of cases never advance to the prosecution and conviction stages.
7. Example of exceedingly high evidentiary standard used by court was manifested in Todadze case (N#1353-23), a high-profile sexual violence case committed by a politician. The evidence in the case were: victim's statement, video recordings featuring police officers documenting the visible physical injuries and severe emotional distress of the victim post the incident, statements from police officers, doctors from the ambulance service, the victim's mother - the first person to encounter the victim after the crime. Additionally, reports from the ambulance detailing the victim's physical condition, a Forensic Medical Examination Report describing intentional infliction of minor harm to health, a Forensic Biological Examination Report identifying the perpetrator's DNA on the victim's dress, a Forensic Psychological Examination establishing the trauma experienced by the victim. All three instance courts upheld judgment of acquittal, asserting that the evidence presented was insufficient to convict the accused.
8. This goes against the recommendation to abolish "corroboration rules that discriminate against women as witnesses, complainants and defendants by requiring them to discharge a higher burden of proof than men in order to establish an offence or to seek a remedy."<sup>3</sup>

#### *Discriminatory investigation procedures*

9. Despite recent advancements, gender stereotyping and discriminatory investigation methods are still applied in practice which creates a significant obstacle for survivors of sexual violence. Moreover, the stereotypical views used by judges in the legal assessment of the judgement in cases of violence against women and domestic violence are still problematic.<sup>4</sup> These practices encompass requiring the victim to retell their

---

<sup>3</sup> Committee on the Elimination of Discrimination against Women, General recommendation on women's access to justice, 23 July 2015, CEDAW/C/GC/33, para 25(a)(iii).

<sup>4</sup> Report of the Public Defender of Georgia, On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022, pp. 158-159, Available at: <https://shorturl.at/mwNT4>

- traumatic experiences multiple times, examining their past sexual history, assessing their mental health in ways that challenge their credibility, and the absence of gender-sensitive questioning during both investigations and court proceedings. Allegations from sexual violence survivors and their legal representatives persist regarding the humiliating and mocking behavior displayed by certain law enforcement officials. This discourages victim participation in criminal investigations in numerous instances.<sup>5</sup>
10. The interrogation of the victim during the investigative phase frequently occurs in a communal area within the police station, where other investigators/policemen and victims are present, allowing the victim's narrative to be easily heard by bystanders. This circumstance amplifies the fear and humiliation experienced by the victims throughout the procedure. Reports from victims and their legal representatives highlight that inquiries and remarks made by investigators during the interrogation implicitly—or at times explicitly—criticize the victim's actions, often aiming to assign partial responsibility to the victim alongside the perpetrator for the occurrence of the sexual violence.<sup>6</sup>

### *Child Marriage*

11. Harmful practices, such as child and forced marriages, which includes instances of bride kidnapping as a variant of forced marriage, remain a serious problem in Georgia, especially within ethnic minorities.<sup>7</sup> In 2018, UNICEF and GeoStat estimated that 14% of women aged 20-24 claimed that they were married before the age of 18.
12. Families avoid the legal prohibition on child marriage by refraining from officially registering a minor's marriage. They might organize engagement gatherings and wedding ceremonies, and once couple starts living together, the community considers them traditionally married, referring to them as husband and wife.<sup>8</sup>
13. The authorities have problems identifying the alleged forced marriage. They also find it particularly difficult to respond to incidents of child marriage that do not constitute a

---

<sup>5</sup> Sex Crimes – Unpunished and Poorly Regulated Crimes in Georgia, Open Society Georgia Foundation, November 2022, p.5; Accessible at: <https://rb.gy/fdkbp6>; See Also Joint CEDAW submission of Equality Now and 15 Georgian NGOs on factors effectively denying access to justice for survivors of sexual violence in Georgia, submitted in June 2021, p. 5. Available at: <https://rb.gy/k51dll>

<sup>6</sup> Ibid, p.5

<sup>7</sup> Report of the Public Defender of Georgia, On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022, p. 160; Exploring Harmful Practices of Early/Child Marriage and FGM/C in Georgia, Final Report, UNFPA, 2017, Available at: <https://rb.gy/69c68o>; See also CEDAW/C/GEO/CO/6 Concluding Observations on The Sixth Periodic Report of Georgia, 2023, para. 44, Available at: <https://shorturl.at/rxH15>; Public Defender's Office of Georgia, Harmful Practices of Early/child marriage in Kvemo Kartli: Research of Attitudes, 2021, p. 2, Available at: <https://shorturl.at/koxLP>

<sup>8</sup> Equality Now & Goga Khatiashvili, Courage: Survivors of Child Marriage share their stories, Available at: <https://rb.gy/7dbp3y>

crime, between age 16-18.<sup>9</sup> Marrying a child does not automatically constitute a forced marriage under the law and, or as violence against child, hence, child marriage per se is not deemed as a crime. For a child marriage to be regarded as a crime, it has to be committed by using numerous forms of physical and psychological coercion. Where the victim is a child, using such means should not be required and the action should automatically be considered as coercive due to the age of the victim.

14. Aside from effective criminal justice system, it is crucial to establish multi-sectoral prevention and support programs that include economic empowerment initiatives to address this issue comprehensively. Moreover, the root causes of child and forced marriages should be address by strengthening educational, social services, healthcare and improving coordination among governmental entities. The existing approach toward perpetrators of sexual violence occurring within early marriages encourages impunity, reduces criminality of these crimes.

### **Recommendations**

- Adopt the definition of consent-based rape in line with international human rights standards;
- Specialize judges and prosecutors handling cases of sexual violence crimes, domestic violence and other gender based violence;
- Establish rape crisis centers to support services for survivors of sexual violence crimes;
- Criminalise child marriage as forced marriage, regardless of the methods applied to commit the crime; criminalize child engagement; implement preventive actions against child marriages.

### **Issue II - Economic Violence**

15. Economic violence, a form of gender-based and domestic violence, is notably one of the least recognized forms of violence. Researches indicate that economic violence against women occurs across various socio-economic levels and encompasses 94-99% of victims of domestic violence.<sup>10</sup>
16. Economic violence notably harms women physically and mentally. As a result, victims become economically dependent on the perpetrator and, therefore, are unable to the abusive relationship.<sup>11</sup> According to the Study conducted by Union “Sapari”, 14% of women aged 16-45 who have ever been in a relationship have experienced economic

---

<sup>9</sup> Ibid.

<sup>10</sup> Study of economic violence against Women in Kakheti and Adjara, Union “Sapari”, KVINFO, Tbilisi 2023, p. 16, Available at: <https://rb.gy/dyvckd>

<sup>11</sup> Ibid.

violence in Georgia.<sup>12</sup> No effective remedies to combat economic violence are available in Georgia.

17. Article 2(a<sup>1</sup>) of Law of Georgia on violence against women and/or elimination of domestic violence, protection and support of victims of violence states that it aims to ensure creation of legislative guarantees to protect the rights and freedoms of women, and for physical, sexual, mental and economic inviolability.<sup>13</sup> Moreover, Article 3 of the law defines domestic violence as a violation of constitutional rights and freedoms of one family member by another family member through neglect or physical, psychological, sexual or economic violence or coercion. Hence, economic damage is considered as a form of violence.
18. Economic violence is defined in Article 4(e) of aforementioned law, as “an act that causes restriction of the right to have food, dwelling or other conditions for normal development, to enjoy property and labour rights, to use common property and to administer one’s own share of that property.” Additionally, Article 11 paragraph 3 authorizes police to issue a restraining order, if there are sufficient grounds to assume that the constitutional rights and freedoms of a person may be violated by neglecting, coercion, or by physical, psychological, sexual or economic violence against them. Under Georgian legislation, this is the only mechanism for responding to economic violence.<sup>14</sup>
19. According to the Statistic of Ministry of Internal Affairs from 2020, only 1.7% of restraining orders were issued on the grounds of economic violence. This low statistic suggests that economic violence remains largely unnoticed in Georgia.<sup>15</sup>

### **Recommendations**

- Criminalize systemic economic violence as a form of domestic violence;
- Effectively combat and prevent economic violence, including via awareness raising of public on economic violence.

### **Issue III – Sexual and Reproductive Health**

20. Access to sexual and reproductive health services still remains a major challenge for women living in rural parts of the country. According to informational sessions conducted by the Office of the Public Defender the lack of maternity and gynecological

---

<sup>12</sup> Ibid, p. 58.

<sup>13</sup> Law of Georgia on violence against women and/or elimination of domestic violence, protection and support of victims of violence, Accessible at: <https://shorturl.at/djmC8>

<sup>14</sup> Baia Pataraiia, Economic Violence – Unstudied problem, 2021, p. 14, Accessible at: <https://shorturl.at/wFLS0>

<sup>15</sup> Ibid, p. 15.



facilities in certain municipalities women need to travel to other areas to receive these services.<sup>16</sup>

21. Persistent stereotypical attitudes concerning service reception remain a significant issue, particularly impacting women not in civil marriages, which is why they refrain from receiving medical consultations.<sup>17</sup>

### *Safe Abortion Services*

22. Although there are some improvements in abortion and post-abortion care in Georgia, it is still a significant challenge.<sup>18</sup> Only 17 % from 655 medical facilities provide abortion services and Only 5% of primary health care facilities provide abortion and family planning services.<sup>19</sup> Additionally, only few healthcare facilities provide information about abortion, possible complications, post-abortion contraception and rights of clients.<sup>20</sup>
23. Victims of sexual violence face challenges in timely access to abortion services. Practice shows that receiving this service typically requires the passing of a guilty verdict in case of sexual violence. This poses significant limitations for these individuals seeking abortion due to sexual violence.<sup>21</sup>
24. According to amendment made to the Law of Georgia “On Health Care” in 2014, woman has to wait for five days after the interview in order to get induced abortion. This decreases chances of women to receive a safe abortion service, and, therefore, increases risks. The earlier the abortion is performed, the more likely it is to be safe. And the 5-day waiting period delays the procedure. Moreover, women living far away from the healthcare facilities may not be able to visit repeatedly and resort to a self-induced termination of a pregnancy.<sup>22</sup>

---

<sup>16</sup> Report of the Public Defender of Georgia, On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022, p. 157.

<sup>17</sup> Ibid.

<sup>18</sup> Sexual and Reproductive Health and Rights in Georgia, Coalition for Reproductive Health and Rights, Report, 2020, p. 1. Available at: <https://shorturl.at/cfzUV>

<sup>19</sup> Ibid, 2; See Also “Artificial Termination of Pregnancy in Georgia” (Comparative Review), HERA XXI, 2014.

<sup>20</sup> Family Planning and Abortion Service Availability and Readiness Assessment, Analytical report, Association HERA XXI, 2022, p. 30, Accessible at: <https://shorturl.at/DFK19>

<sup>21</sup> Report of the Public Defender of Georgia, On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022, p. 157.

<sup>22</sup> Family Planning and Abortion Service Availability and Readiness Assessment, Analytical report, Association HERA XXI, 2022, p. 31.



### *Contraception*

25. While there is an increase in the use of effective, evidence-based contraception methods among women in Georgia, accessing quality and affordable contraceptive services remains a significant challenge.<sup>23</sup> The unmet need for contraception among women persists as a serious concern.<sup>24</sup>

### *Sexuality Education*

26. The absence of formal and age-appropriate sexuality education, which is currently concentrated on only the medical aspects of reproductive health, remains a challenge, lack of knowledge fosters violence against women and girls.<sup>25</sup>

27. Age specific information concerning sexual and reproductive health along with the aspects of gender equality, based on UNESCO and WHO standards, is still not incorporated in school subjects. Policies fail to ensure the inclusion of Comprehensive Sexuality Education (CSE) in both formal and informal educational systems in Georgia. There is a lack of political will to integrate this education into the formal system. Attempts have been made to include sexuality education as a component of a healthy lifestyle, particularly within biology and civic education subjects, but these efforts have been limited and cover only certain aspects such as early marriage, pregnancy, STDs, and sex-related physiological concerns.<sup>26</sup>

### **Recommendations**

- Make sexual and reproductive health services including abortion and post-abortion care more accessible;
- Raise awareness and make quality contraception services more accessible;
- Integrate sexuality education in formal and informal educational system.

---

<sup>23</sup> Sexual and Reproductive Health and Rights in Georgia, Coalition for Reproductive Health and Rights, Report, 2020, p. 3.

<sup>24</sup> Ibid; See also CEDAW/C/GEO/CO/6 Concluding Observations on The Sixth Periodic Report of Georgia, 2023, paras. 37-38.

<sup>25</sup> CEDAW/C/GEO/CO/6 Concluding Observations on The Sixth Periodic Report of Georgia, 2023, para. 33.

<sup>26</sup> Sexual and Reproductive Health and Rights in Georgia, Coalition for Reproductive Health and Rights, Report, 2020, p. 10.

## **Annex**

Union Sapari

11/a Akaki Gakhokidze, Tbilisi, Georgia

Phone: +995 322 307 603, +995 599 407 603

Email: unionsapari@gmail.com