



Committee on the Rights of the Child Secretariat
Office of the High Commissioner for Human Rights (OHCHR)
Palais Wilson - 52 rue des Pâquis
CH-1201 Geneva
Switzerland
By e-mail: crc@ohchr.org

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Information on Georgia for consideration by the Committee on the Rights of the Child at the Pre-Sessional Working Group of its 90th Session (27 September - 1 October 2021)

Introduction

1. We respectfully submit this report for consideration in advance of the pre-sessional working group of the 90th session of the Committee on the Rights of the Child (“the Committee”) taking place between 27 September - 1 October 2021, of the **List of Issues Prior to Reporting in relation to Georgia**. Equality Now is writing to express our concerns with regard to access to justice for sexual violence against children and adolescent girls, including in the context of harmful practices (child marriages and bride kidnappings) and other procedures and practices which effectively deny access to protection for survivors in violation of the Convention on the Rights of the Child (“the Convention”). We are recommending questions be asked to Georgia by the Committee on the effective protection of children from all forms of sexual violence.
2. Equality Now submits this report in partnership with the Georgian Young Lawyers’ Association (GYLA).
3. **Equality Now** is an international human rights NGO with ECOSOC status with the mission to achieve legal and systemic change that addresses violence and discrimination against all women and girls around the world. Founded in 1992, Equality Now is a global organisation with partners and members in every region. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now’s work.
4. **Georgian Young Lawyers Association (GYLA)** is a non-governmental organisation which aims to protect human rights and promote good governance in Georgia through strategic litigation, advocacy and awareness-raising on human rights. Over the last 20 years, GYLA has been implementing a number of projects dedicated specifically to the

recognition and protection of domestic violence victims' rights, combating domestic and gender-based violence.

5. The legal provisions and practices detailed in our submission highlight the failure of the State to comply with its duty under Article 2 (legislation required to abolish discrimination based on sex) and Article 24 (3) (effective measures to abolish traditional practices) of the Convention.
6. In its Concluding Observations of 2017, the Committee recommended Georgia take various measures to address child sexual exploitation and abuse, including by collecting data on child sexual abuse, reinforcing the victim identification process, training relevant actors, providing a helpline, raising awareness, and strengthening resource allocation and collaboration with UNICEF and NGOs (para. 24). The Committee also recommended Georgia take awareness-raising measures to reinforce the implementation of the law setting the age of marriage as 18 (para. 25).
7. In the last few years, the Georgian government has been taking a number of steps to address violence against women and girls, including sexual violence. The measures include, among others: training of over 60 prosecutors and granting them specialisation in prosecuting sexual violence crimes (March 2021, supported by Council of Europe, UN Women and Equality Now); a manual for effective sexual violence investigation, prosecution and adjudication is being developed (by collaborative effort of Equality Now, Council of Europe, UN Women, the Prosecutor's Office and the Ministry of Internal Affairs), which will assist investigators, prosecutors and judges in examining sexual violence cases against women. In 2020, a law was adopted on combating crimes of sexual violence, including against minors, which provides for creating a registry for sex offenders and imposing certain restraining measures on perpetrators.¹ In June 2021, the Ministry of Internal Affairs of Georgia started a campaign with the purpose of preventing child marriage, involving awareness raising and other activities all over Georgia.
8. In addition to the information provided below, we supplement this report with, "COURAGE, Survivors of child marriage share their stories," a publication by Equality Now & Goga Khatiashvili that is accessible online.²

Sexual violence against adolescent girls, including in the context of harmful practices (child marriages and bride kidnappings)

9. The 2017 National Survey on Violence against Women revealed that 9 per cent of women in Georgia reported having experienced childhood sexual abuse.³ Furthermore, a 2018 study conducted by UNICEF found that child marriage remains a major threat in the

¹ Law of Georgia on Combating Crimes against Sexual Freedom and Inviolability, 17.03.2020, available at: <https://matsne.gov.ge/ka/document/view/4792146?publication=2>

² COURAGE, Survivors of child marriage share their stories (2020), accessible at: https://d3n8a8pro7vymx.cloudfront.net/equalitynow/pages/3497/attachments/original/1607280277/Georgia_Child_Marriage_-_PDF_ENG_-_05.pdf?1607280277

³ Concluding observations on the fourth periodic report of Georgia.

region with 14 per cent of women aged 20-24 reporting to have been married before age 18.⁴ As reported by the Public Defender's Office, in 2020 alone, investigation started in 47 cases of bride kidnapping.⁵ This runs contrary to the obligation of Georgia to protect children from sexual violence and harmful practices and the recommendation made by the Committee in its concluding observations on the fourth periodic report of Georgia, welcoming the abolition of legal provisions allowing the marriage of children before the age of 18 and recommending Georgia develop awareness-raising campaigns and programmes to reinforce the implementation of the law.⁶

10. In Georgia, the criminal justice system's response and government policy against the rape of minors (Article 137.2.d of the Criminal Code) and statutory rape,⁷ remain problematic. The authors of this submission note that many times, when rape is committed against a girl under the age of 16, law enforcement chooses to classify the crime as statutory rape (under Article 140 of the Criminal Code), rather than rape (under Article 137). This further stigmatises the child and sticks the label of "instigator" on the child in the eye of the public, rather than classifying her as the victim of violence, the consequences for which would be stricter sanctions.
11. Sexual intercourse of an adult with a person under the age of 16 (statutory rape) is a criminal offence (Article 140 of Criminal Code). In many cases, investigation for statutory rape starts when, as a result of an informal marriage, a girl gives birth and the birth registry reports the incident to the police. Even though statutory rape is a serious crime under the Criminal Code envisaging imprisonment between 7 and 9 years, this punishment is never applied when it comes to statutory rape within 'marriage' or committed with the purpose of entering 'voluntarily' into marriage. Perpetrators are only given fines and conditional sentences.⁸ Moreover, child marriage is not considered a form of forced marriage and in the absence of physical evidence of sexual intercourse, such as pregnancy, state authorities usually fail to identify such cases.
12. The use of the criminal justice system is not and should never be used as the only measure for combating sexual violence in relation to child 'marriages' and bride kidnappings. Comprehensive and multi-sectoral prevention and support programmes, including focusing on economic empowerment, need to also be put in place to holistically tackle this issue. However, the current policy on sexual violence committed within a child 'marriage' sets the scene for impunity, downgrades the criminal nature of these acts and fails to have any deterrent effect.

⁴ Regional Data on Child Marriage. The Montenegro Multiple Indicator Cluster Survey (MICS). UNICEF. https://www.unicef.org/georgia/sites/unicef.org.georgia/files/2019-11/child_marriage_en.pdf

⁵ Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms, 2020, p. 204

⁶ CRC/C/GEO/CO/4, para 25

⁷ The commission of an offence which envisages sexual intercourse knowingly by an adult with a person who has not attained the age of 16, Article 140 of the CCG

⁸ The 2015 Report of the Prosecutor's Office available at: <http://femicide.ge/res/docs/140analizi.pdf> Though over the years the situation has not changed. See also See GYLA's research on Significant Issues of Domestic Violence and Violence against Women, 2019. Available at:

https://gyla.ge/files/news/%E1%83%A4%E1%83%9D%E1%83%9C%E1%83%93%E1%83%98/Significant%20Issues%20of%20Domestic%20Violence%20and%20Violence%20Against%20Women%20eng_full.pdf

Suggested Questions for State Party's List of Issues

26. We respectfully urge the Committee to raise the following questions with the Georgian government:

- What plans, apart from awareness raising and the steps referenced above (see para. 7), does the Government have to combat sexual violence and harmful practices, including child marriages and bride kidnappings, against children and adolescent girls, particularly with girls from ethnic minorities?
- What plans, apart from awareness raising and the steps referenced above (see para. 7), does the Government have to combat impunity of sexual violence crimes committed as a result of child 'marriage' and ensure that the strict criminal policy is put in place and that it is complemented with comprehensive and far-reaching prevention measures and support programmes for adolescent girls?
- What measures is the Government taking to make sure that children are provided with child-friendly and age-appropriate information about how to detect sexual violence and whom to apply to for help?
- What measures is the Government taking to make sure that sexual violence against children is proactively detected and that investigation, prosecution and adjudication is conducted in a child-friendly and victim-centred manner that prevents secondary victimisation of children?
- What measures is the Government taking to strengthen the number and role of social workers and psychologists to provide support to victims of sexual violence?