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**Info Submission to the**

**Office of the United Nations High Commissioner for Human Rights**

**Violence and its Impact on the Right to Health**

**Submitted by**

**The Public Defender (Ombudsman) of Georgia**

**January 2022**

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**Background**

The Public Defender (Ombudsman) of Georgia is a **constitutional institution** **(NHRI with “A” Status)**, which oversees the observance of human rights and freedoms within its jurisdiction on the territory of Georgia. It advises the government on human rights issues and scrutinizes the state’s laws, policies and practices, in compliance with international standards, and provides relevant recommendations. **It identifies human rights violations and contributes to the restoration of the violated rights and freedoms**. *The Constitution of Georgia*, *the Organic Law of Georgia on the Public Defender of Georgia* and other legislative acts regulate the Public Defender’s status and competencies.

The Public Defender of Georgia studies the facts of human rights violations both on the basis of the received applications and on its own initiative. The Public Defender studies the cases relating to:

* Decisions of public institutions;
* Violations of human rights and freedoms during the court proceedings;
* Violations of the rights of detainees, prisoners or individuals whose liberty had been otherwise restricted;
* Compliance of normative acts with the Second Chapter of the Constitution of Georgia;
* Constitutionality of the norms regulating the referendums and elections, as well as the elections (referendum) held or to be held on the basis of these norms.

Besides, the Public Defender is authorized to examine the cases of human rights violations guaranteed by the Georgian legislation and international treaties and agreements, to which Georgia is a party.

In order to ensure the protection of human rights and freedoms, the Public Defender of Georgia:

* **Submits proposals, comments and recommendations** concerning the Georgian legislation and draft laws to **the Parliament of Georgia or other relevant bodies**;
* **Addresses the state agencies, local self-government bodies, public institutions and public officials with proposals and recommendations** concerning the restoration of the violated human rights and freedoms;
* **Addresses relevant investigative authorities** with proposals to launch investigation and/or criminal persecution;
* **Addresses relevant agencies with proposals concerning disciplinary or administrative responsibilities** of the individuals, whose actions caused violations of human rights and freedoms;
* **Performs the *amicus curiae* function** at Common Courts and the Constitutional Court of Georgia;
* Submits constitutional claims to the Constitutional Court;
* **Appeals to the President and Prime Minister** in writing, if s/he considers that the means in disposal of the Public Defender are not sufficient;
* In special cases, appeals to the Parliament of Georgia to set up a temporary investigative commission and consider a specific issue.

**The Public Defender of Georgia performs function of the National Preventive Mechanism** under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this capacity, the Public Defender regularly checks the situation and treatment of the detainees, prisoners or individuals whose liberty had been otherwise restricted, convicts, as well as the inmates of psychiatric institutions, houses for older persons and orphanages.

Moreover, on 27 October 2014, the Public Defender of Georgia was named as the **structure for ensuring implementation, promotion and protection of the UN Convention on the Rights of Persons with Disabilities.**

Additionally, together with the *Organic Law of Georgia on the Public Defender of Georgia*, *the* *Law of Georgia on Gender Equality* (Article 14(1)) **empowers the Public Defender to protect gender equality**, monitor the given field and respond to the violations of gender equality within the framework of its competencies. The Public Defender contributes to the elimination of gender inequality through effective and accountable management of cases and monitors the compliance of government and public institutions with national and international obligations on human rights and gender equality. Activities of the Public Defender in gender equality cover both, internal institutional development, as well as contribution to the process of achieving gender equality in Georgia. **The** **Public Defender is also a Femicide Monitoring Watch in the country.**

The mandate of the Public Defender was further strengthened by the adoption of *the Law of Georgia on Elimination of All Forms of Discrimination* by the Parliament of Georgia on 2 May 2014 (hereinafter the “Anti-Discrimination Law”). It authorizes the Public Defender to supervise the implementation of the Anti-Discrimination Law and eliminate all forms of discrimination and ensure equality (Article 6). It also determined the Public Defender and courts of general jurisdiction as legal remedies for the right to equality. It is noteworthy that following recent legislative amendments the Public Defender is entitled to refer to the national courts and **demand the** **enforcement of the recommendations addressed to both - public authorities/institutions and legal persons of private law (regarding discrimination cases)**, in cases where the perpetrator fails to take into consideration and fulfil the recommendation of the Public Defender.

Moreover, in 2019 the Public Defender was determined as the institution responsible for **monitoring the protection of the rights of a child and implementation of supporting programs under the new Code on the Rights of the Child** (entered into force in September 2020).

**Violence and its Impact on the Right to Health**

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

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| Type of Stakeholder (please select one) | Member State  Observer State  Other (please specify):  National Human Rights Institution |
| Name of State  Name of Survey Respondent | The Office of Public Defender (Ombudsman) of Georgia |
| Email | [info@ombudsman.ge](mailto:info@ombudsman.ge) |
| Can we attribute responses to this questionnaire to your State publicly\*?  \*On OHCHR website, under the section of SR health | Yes No  Comments (if any): |

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# Key questions

1. Please describe, share data and information on the characteristics, number of cases, and the profile of victims and perpetrators in your country/ies or region(s) regarding:
   1. gender based violence against women
   2. gender based violence and other forms of violence against children:
   3. gender based violence against LGBTI or other persons based on real or imputed sexual orientation, sex characteristics, and gender identity:
   4. violence against persons with disabilities, including GBV.
   5. gender based violence against men
   6. conflict gender based violence, including sexual violence
   7. Please share analysis and available evidence on the impact of COVID on the above.

The Public Defender’s Office of Georgia (PDO) is the first state institution, which established a structural unit on gender equality issues in 2013. PDO pays special attention to the collection and analysis of gender statistics and for this reason, PDO requests information from different state authorities, which is reflected later in the Annual Parliamentary Report and/or various special reports.

Currently, the PDO does not have renewed data on the number of cases committed in 2021, and the profiles of victims and perpetrators in the country. However, PDO has requested all the relevant statistical data from the state agencies and it will be reflected in the Public Defender’s Annual Parliamentary Report on the Situation of Protection of Human Rights and Freedoms in Georgia 2021. The statistics and other relevant information regarding previous years, is available at the following link: <<https://bit.ly/3GuKuVW>>. Statistical information can also be accessed on the official page of the Ministry of Internal Affairs of Georgia (MIA): <<https://info.police.ge/cat?id=88>>.

Generally, cases studied by the PDO demonstrate many problematic issues, in particular, timely identification/prevention of gender-based crimes and other violence against children, women, and other persons as listed above, proper administration of justice, and their protection from secondary victimization. The MIA has no complete segregated statistics on violence against people with disabilities and other vulnerable groups.

In addition to that, the General Prosecutor's Office of Georgia and the MIA do not collect such statistical data. Statistical information is processed according to the articles of the Criminal Code of Georgia. Consequently, data cannot be processed specifically in relation to the facts of male homicide.

1. Please describe whether the legal framework prohibits and sanctions these forms of violence and the definitions and forms of violence included in the legal system. Please explain redress options for survivors of violence, (the pathway they go through if they decide to file a complaint), levels of impunity and if access to comprehensive physical and mental care for GBV-survivors is recognized as a form of reparation.

Georgian legislation regarding gender-based crimes, violence against children, women, and other persons, as listed above, still does not fully comply with the mandatory human rights instruments ratified by Georgia, for example, in relation to crimes of sexual abuse and sexual exploitation of children. In 2020, the Public Defender of Georgia conducted the first large-scale research evaluating national legislation and administration of justice on cases of sexual abuse and sexual exploitation of children using interdisciplinary, victim-centered approaches. The used methodology has also reflected the international human rights standards. For more details regarding the question of inquiry, please consider the report, available at: <<https://bit.ly/31VYk4B>>.

Besides, the existing legislation on sexual crimes is still problematic. The Parliament of Georgia failed to support the amendments on the definition of “rape” (Article 137) in the Criminal Code of Georgia. As a result, the definitions of sexual violence are still not based on the victim's lack of free and voluntary consent and fail to comply with international human rights standards.

In addition to that, systemic shortcomings in combating violence against women and domestic violence still remain challenging. Effective involvement of social workers in the process of investigating cases of domestic violence is still challenging. It is also problematic for the abuser to take a mandatory training course focused on violent attitudes and behavior change.

Empowerment of victims of violence, their provision with housing and financial support is still problematic. The rule of timely, adequate and effective compensation for the women victims of violence and victims of domestic violence has not been developed yet. As for the protection of victims, Georgia has the following mechanisms: Restraining and Protective orders; 5 State shelters and 5 Crisis centers. The victims of violence have access to free consultations of a lawyer and a psychologist.

1. Please share examples of the types of structural and institutional violence with origins within the State, (perpetrated or condoned by the State) or perpetrated by those not representing or affiliated to the state in your country/ies of region, and who is affected. In particular, describe structural/institutional violence in medical settings against women and girls, LGBTI persons and persons with disabilities or any other individuals or groups relevant in your country/ies or regions.

The most alarming illustration of structural and institutional violence with origins within the State should be named Ninotsminda St. Nino boarding school’s case, where 57 children were residing in April 2021. The Public Defender has been noting for years that the monitoring carried out at the St. Nino children's boarding school in Ninotsminda revealed serious cases of violence against children and even inhuman treatment. Minors living in the boarding school were isolated from society and the satisfaction of their individual, even basic needs were problematic. However, the state agencies did not fulfil in a timely manner their obligations to protect the children's rights. At the same time, the best interests of 56 juveniles in state care, was ignored as the respective agency failed to exercise actual oversight over the institution licensed by it. The Public Defender has issued a special report, which describes all the details about the St. Nino children's boarding school in Ninotsminda. The report will be available in English by the end of January at: <<https://bit.ly/3nMyk3B>>.

Moreover, the Public Defender is actively monitoring the development of the human rights situation related to women's sexual and reproductive health in Georgia. The state maternal health program is still limited to aspects related to physical health and does not include psychological support services for pregnancy, childbirth, and the postpartum period.

During pregnancy and childbirth, woman's individual needs are often neglected, for instance, the lack of professional translators in medical institutions is problematic. This issue, in fact, precludes the patient from accessing confidential services. Unnecessary and harmful procedures are still common (shaving, pressure, sometimes-physical violence). Such practices are recognized as degrading, harmful practices to women.

1. Please also share information on the impact of criminalization of sex work, same sex relations, transgender persons, abortion, drug abuse, harmful practices in obstetric care, female genital mutilation on the violence experienced by the affected individuals and their enjoyment of the right to health.

The sensitivity of law enforcement officials towards the LGBT+ community is still low. A study of cases of violence against LGBT+ community demonstrates that in some cases when applying to the police, they become victims of degrading treatment, homophobic attitudes, abuse and/or other forms of discrimination. As a result, there are cases where LGBT+ individuals refrain from cooperating with law enforcement agencies.

According to the General Prosecutor’s Office of Georgia, in 2020 a memorandum was signed between the MIA and the General Prosecutor’s Office of Georgia and Supreme Court on collecting statistical information on hate crimes. Despite the memorandum, the collection of information in this regard remains a problem. In particular, if violence happens between lesbian/gay/bisexual/transsexual couples, it cannot be mentioned in official statistics, since the Georgian legislation does not foresee such definition.

And lastly, territorial and financial access to safe abortion services remains a challenge. This barrier is exacerbated by the 5-day mandatory reflection period for abortion services, which is particularly problematic in the case of women living in the regions and rural areas.

1. Please share information on the health and other type of responses provided by the State and/or other actors in your country/ies or regions in focus to survivors of each/some of the aforementioned forms of violence. Please assess what works well and not so well, and whether COVID-19 impacted the response and how.

Cases of violence, including sexual abuse, against children, women, and other aforementioned persons, are subject of special concern. This is as a result of challenges such as timely detection of violence, comprehensive and effective response to detected facts, lack of rehabilitation services, inadequate coordination between responsible agencies for the prevention of violence, law qualification of professionals working with the survivors of violence as well as the scarcity of human as well as other resources. According to the Public Defender's review of the situation since the outbreak of the COVID-19 pandemic, the state has faced new challenges in all aspects. In particular, regarding children, the increased risk of violence against children was mainly due to the transition to distance learning, isolation, and the ban of entrepreneurial/economic activities for private law entities, leaving people without jobs and income. In cases of violence against children, it has become challenging and time-consuming to carry out appropriate procedures. In addition, the transition of public services to remote working mode-including psycho-social services, which was challenging before the pandemic, has put the efficiency of the service even at a higher risk. The Public Defender has conducted **Child Rights Impact Assessment of COVID-19 Related States Measures in Georgia,** will be available in English by the end of January at: <<https://bit.ly/3nMyk3B>>.

1. Please specify the budget allocated in your country/ies in focus, to health related response to survivors of all/some forms of violence mentioned above. Please indicate the percentage of the national budget devoted to this; the percentage of the international aid provided or received for this. Please explain the impact of Covid 19 to the funding of responses to all/some forms of violence in your State/institution.

Not Available.

1. Please describe the needs of survivors of the abovementioned forms of violence as identified by your State/institution. Please share survivor-self identified needs and those of their families, with a focus on health emergency and long-term needs.

The increased risk of domestic and other forms of violence against children, women, as well as other most vulnerable groups due to the measures adopted by the state as the response to COVID-19, has once again demonstrated that it is crucial to increase the staff of social workers and psychologists in the regions to detect child abuse cases and take measures aiming to ensure safety and support for the victims. It is also crucial to mention that every official and specialist working with victims, witnesses, and alleged perpetrators, must have a specialization, including in juvenile justice, and go through relevant training courses, including on sexual violence against children and women, enabling them to develop skills on communicating with victims and other relevant persons. Additionally, one of the most crucial areas that require an improvement regarding the needs of survivors of the abovementioned forms of violence is the necessity to strengthen and implement effective and continuous psycho-social rehabilitation services. It is also paramount to increase the capacity of relevant state agencies' human and other resources. For example, in 2020 (updated data is not yet available), 12 psychologists were employed in the state care agency in the country to work with thousands of children and their family members on various problems. Besides, the economic empowerment of victims is very problematic. Municipalities do not have the long-term services (provision with housing and financial support) to support them.

1. Please share examples of good practices and examples of comprehensive health responses to survivors of violence and indicate efficient multi-sectorial efforts at the community, national, regional and international levels by State or non-State actors.

One of the most decisive good practices and improvements worth mentioning regarding children is a soon-to-be-opened center for psychological and social services for those who have been victims of violence. The center for psychological and social assistance to child victims of violence follows the model implemented in the Nordic countries, and it will offer children multiple services, in a child-friendly environment. The Barnahus model represents a multi-disciplinary approach to child survivors of violence and aims to facilitate the legal process and ensure that the child receives necessary support and treatment. It should also be mentioned that the state agencies have taken into account the majority of recommendations issued by the Public Defender in the special report: "Administration of Justice on Cases of Sexual Abuse and Sexual Exploitation of Children". This report also emphasizes the need for the specialization of every official and specialist working with a child.

1. Please describe State and other actors initiatives and measures to prevent these forms of violence, specific budget allocated to prevention, and good practices in this regard.

Different state agencies, including the MIA, is conducting relevant awareness-raising campaigns to make people aware of their rights and obligations, as well as their protection guarantees. In addition, important changes are made in legislation. For example, on 20 September 2019, the Parliament of Georgia adopted the Code on the Rights of the Child, which explicitly prohibited corporal punishment of children in all settings. Besides, some specialists are retrained and trained. However, based on PDO’s assessment, it is pivotal to increase the efforts and improve prevention, identification, and response mechanisms, including to better combat the root causes of violence.

And lastly, as a result of the implemented legislative changes, from September 1, 2020, with the issuance of a restraining order, it is possible to establish electronic surveillance against the perpetrator in case of a real threat of repeated violence. Additionally, the MIA developed a risk assessment document, which allows to assess the risks of violence and to plan preventive measures.