



United Nations Georgia Country Team Report prepared in accordance with paragraph 15(B) of resolution 5/1 of the Human Rights Council For the Second Universal Periodic Review of Georgia

I. INTRODUCTION

This report is a joint undertaking of the United Nations Country Team (UNCT) in Georgia for the period of second half of 2011 to early-2015. It does not aim to be exhaustive but rather will highlight the main issues, which are addressed by the UNCT work in the country through Agencies' mandates. UNICEF, UNHCR, UNFPA, UN OHCHR and UN Women have contributed towards preparation of this report.

II. BACKGROUND AND FRAMEWORK

The Government of Georgia that came to power after the October 2012 elections declared human rights its priority. Former Council of Europe Human Rights Commissioner Mr. Thomas Hammarberg was appointed EU Special Adviser on Constitutional and Legal Reform and in September 2013 presented a report on the key human rights issues.¹ The Hammarberg report served as the basis for the Government's National Human Rights Action Plan which was prepared with assistance of the EU and a number of UN agencies and finalized in February 2014. On March 13, 2014 Georgia became a party to the International Convention on the Rights of Persons with disabilities. In July 2014 Georgia presented periodic reports to CEDAW and to the Human Rights Committee. On 7 May 2014, following the President's signature, a major piece of legislation, the Law of Georgia *on the Elimination of All Forms of Discrimination* has entered into force.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

1. Rights of the Child

Achievements:

Children in the justice system: The Government developed a Juvenile Justice Code covering all children in contact with criminal and administrative justice systems. This Code is to be submitted to the Parliament in spring 2015. Individual approach and sentence planning programme for children are functional in the penitentiary, probation systems, and in pre-trial detention facilities for juveniles. Specialization for professionals was introduced in prosecution, legal aid services and judiciary. Free legal aid services are accessible to all children in conflict with the law. Significant progress has been made in reducing the number of children held in detention, including through the establishment of successful diversion and mediation programmes.

Education: The preschool attendance of young children (3-5 years) has increased from 46% in 2012 to 58% in 2013². In 2014 the Parliament of Georgia developed a Law on Early and Preschool Education (EPE), which was registered by the Parliament on 23 December 2014. The Government committed to improving national monitoring systems on out of school children and children at risk of dropping out.

A Child's Right to Clean Water, Safe Sanitation and Hygiene: The Government developed national technical regulations and a monitoring framework for WASH in schools, as well as a teachers' guide and students' text-books on WASH for grades 1-4.

¹The report by Thomas Hammarberg *Georgia in Transition* can be accessed at http://eeas.europa.eu/delegations/georgia/documents/virtual_library/cooperation_sectors/georgia_in_transition-hammarberg.pdf

² UNICEF Georgia, Welfare Monitoring Survey, Tbilisi, 2013

Health care: Maternal micro-nutrient supplementation has been introduced for all pregnant women and an agreement was reached on the introduction of flour fortification.

Social protection: The number of children living in extreme poverty (below USD 1.25 per day) is projected to fall by 50,000 from 9% in 2013 to 3.3% as the result of increased social benefits and revision of the Targeted Social Assistance scheme, which was approved by the Cabinet at the end of December.

Child Care: Significant progress was made to end institutional care and to ensure a family environment for every child. The number of children growing up in institutions decreased from 4,600 in 2005 to 88 in 2014. Children will be better protected from violence as a result of the revision of 10 different laws adopted by Parliament in October 2014, which widened the scope of the definition of violence to include neglect, introduced mandatory reporting of cases of violence against children by professionals working with children and prohibits corporal punishment in family settings. UNICEF supported the development of Government mechanisms to support children living and working on the streets.

Main Issues/Gaps:

Children in the justice system: Despite the progress, the Georgian legal framework related to the rights and guarantees for children across the legal spectrum remained patchy. Substantial issues remain to be addressed to ensure that all children have access to prompt, age-appropriate justice proceedings; these including revision of national primary and secondary civil, administrative violations and criminal legislation and corresponding guidelines, as well as institutionalization of a child-friendly approach across the entire justice system. Georgia lacks a comprehensive data collection and evaluation system to record cases related to children and their outcomes. Children in Georgia cannot address their individual grievances on rights violations under the Convention on the Rights of the Child and national laws and seek remedy in court.

Education: Early Learning and School Readiness: Almost half of all children still do not have access to early childhood education. Significantly lower enrolment rates are found among children living in poverty and in rural areas, children with disabilities, refugee and ethnic minority children. The national early learning and school readiness workforce is not adequately skilled, motivated and supported to ensure children's holistic development, due to the limited availability of pre- or in-service training, poor motivation of teachers, low status of the profession, poor remuneration and lack of supportive supervision. Especially in rural areas, many kindergartens operate in buildings with poor infrastructure, including for water, sanitation and hygiene.

Including All Children in Quality Learning: According to PISA Plus Report of 2009, two thirds of all 15-year-olds are not proficient in literacy, math and science in Georgia. Georgia does not have existing monitoring mechanisms for out-of-school children and children at risk of dropping out.

A Child's Right to Clean Water, Safe Sanitation and Hygiene: Many schools and preschool institutions across the country remain with devastated WASH conditions for students and teachers.

Health Care: The infant mortality rate (IMR) is 12 per 1,000 live births.³ The highest rate of mortality occurs in the early neonatal period. Inequities between rural and urban areas persist; infants born in the capital, Tbilisi, are 1.9 times more likely to survive than those born outside. Challenges remain with high maternal mortality ratios (MMR), at 41 deaths per 100,000 live births.⁴ The Government mandates Primary Health Care professionals to conduct home visiting to families with young children (0-3 years of age); however, in reality these services are not available.⁵ About 500,000 Georgians, mainly women and children, suffer some form of malnutrition.⁶

Social protection: High level of vulnerability is caused by poverty dynamics characterised by very high movement in and out of poverty,⁷ meaning that any sudden shock (unemployment, illness, death in the family) may push a family into poverty.

Child Care: Children with disabilities still comprise the majority of children living in the last remaining state-run institutions. Alternative and community based services to provide quality care of children with severe disabilities remain insufficient. Over 40% of the Georgian public continues to stigmatize children with disabilities, underscoring the broader societal challenges.

³ UN Inter-agency Group for Child Mortality Estimation, Levels and Trends in Child Mortality, Geneva, 2013

⁴ UN Inter-agency Group for Maternal Mortality Estimation, Trends in Maternal Mortality, Geneva, 2013

⁵ UNICEF Georgia, Improving the quality of primary health care in Georgia with the specific focus on services for mothers and children, Georgia Tamburlini, 2014

⁶ UNICEF Georgia, Improving Health and Building Property, Tbilisi, 2012, p. 6

⁷ Ibid, p24

Recommendations:

Children in the justice system: (i) Revise the legal framework for children, including child victims and witnesses of crime and children participating in civil and administrative proceedings; (ii) Ensure comprehensive specialization of justice professionals including sustainable capacity building; (iii) Create child friendly environment in court, prosecution, police and other settings; (iv) Strengthen ministerial and independent child's rights monitoring mechanisms; (v) Develop a comprehensive data collection system on children in contact with the law. **Education:** (i) The Parliament of Georgia to adopt the Early and Preschool Education law; (ii) Government to increase investment in education supporting expansion of inclusive and quality education for all; (iii) Government to implement the compulsory school readiness programme. (iv) State universities to develop and adopt a full fledged pre-service and certification training on early childhood education. **Health Care:** (i) Introduce mandatory wheat flour fortification through the amendment of the Law on Prevention of Iodine and other Micronutrients and Vitamin Deficiency Disorder; (ii) Ensure the promotion of breastfeeding through the enforcement of the Law on International Code of Marketing of Breast Milk Substitutes; (iii) Introduce micro-nutrient supplementation for children 7-24 months old (iv) Introduce regionalized perinatal care; (v) Introduce and systematic implement a home visiting service to support families with young children (0-3 years of age) on parental education, identifying risk factors for the child and pregnant women, and linking with other social services for a greater continuum of comprehensive services; (vi) Strengthen the maternal and child management information system through establishing registries for a) medical births, b) pregnancy terminations, c) birth defects, and strengthening the analytical capacity for decision making. **Social protection:** (i) Implement the revised methodology and the new benefits schemes of the Targeted Social Assistance Programme. Develop a proactive and child-sensitive social protection system that promotes social inclusion and the right to a family environment. **Child Care:** (i) Align current laws on children with disabilities with international standards and support their implementation; (ii) Develop alternative services/alternative care system to provide quality care of children with severe disabilities; (iii) Reinforce the capacities of professionals (social workers, teachers, etc.) as regards to the identification, referral and protection of children victims of violence through the development of training; (iv) Further improve social work professional supervision and social service monitoring systems through training of Social Workers; (v) Further develop PDO capacities as regards to the monitoring of alternative care services

2. Reproductive Health

Achievements: Georgia implemented several waves of health reforms and special emphasis was made on strengthening maternal and child health. In February, 2013 the government has launched the universal health care programme, which in addition to primary care, includes planned surgical operations; treatment of oncological diseases and delivery, for all women, including management of complications during pregnancy. The government provides funding for the antenatal care service package through various state programmes; since 2014 folic acid is provided to all pregnant women and iron supplements - in cases of iron deficiency anaemia during pregnancy. The breast and cervical cancer screening programme has been providing free of charge services to the target population of women countrywide since 2011. The government has launched the perinatal regionalization pilot programme for stratified maternal and child care provision.

Over the last decade positive trends in reproductive health indicators were observed: the maternal mortality rate (MMR) has been reduced by more than half from 49.2 in 2000 to 27.7 in 2013; The use of all methods of family planning among married women has increased from 40% (1999) to 53% (2010), with an increase in use of modern contraceptive methods from 20% (1999) to 35% (2010). The total induced abortion rate (TIAR) dropped from 3.7 in 1999 to 1.6 in 2010.

Main issues/gaps: Despite the progress, Maternal health care remains a challenge in Georgia: The 54% reduction in MMR has been significant, however attainment of the $\frac{3}{4}$ reduction target set by the Millennium Declaration national goals still remains a challenge. Concerns remain with the inadequate quality of pre- and postnatal care and emergency obstetric care, absence of clinical quality audit mechanisms resulting in unjustified high rate of caesarean sections ($\approx 37\%$ per 1,000 live births).

Although the Total Induced Abortion Rate (TIAR) has seen 50% reduction in the last decade, abortions continue to be widely practiced and, more importantly, constitute one of the main family planning methods. There is a prevailing opinion among some parts of the society that abortions are one of the

main reasons of the low fertility rate in the country. In an attempt to tackle the problem of abortions, the changes in the legislation have been introduced in 2014 expanding the waiting time for abortion procedure from 3 to 5 days and strengthening government monitoring on implementation of pre-abortion counselling services. The mandatory waiting period may be viewed discriminatory against women questioning their capacity for independent decision making.

The use of modern family planning methods continues to be low in Georgia. The study on gaps published by UNFPA in 2013 revealed weaknesses in the government capacity to provide supportive environment for effective family planning (FP) services along with a lack of infrastructure and human resources on the supply side to provide these services. The role of primary health care in the delivery of FP services is very limited. There are also problems on the demand side that is related to low population awareness, knowledge and use of contraceptive methods, that has been only improving slowly. According to the UNFPA 2013 Report, the reproductive and sexual health (SRH) needs of adolescents and youth are going largely unmet in Georgia; the healthcare providers lack the skills to provide information, counseling and confidential services.

The 2014-2020 State Concept on Georgia Healthcare System titled “Universal Healthcare and Quality Control for Protecting Patients’ Rights” was approved by the government in December 2014 (Decree 724) includes *Support to maternal and child health* among the 10 priorities identified and mentions that the state will consider recommendations on inclusion of contraceptive supply and counselling services in the state funded schemes.

Recommendations: (i) Include Reproductive Health on the top of state Health Strategy and ensure sustainable government investments towards achieving universal access to quality SRH and Family Planning services, including at the Primary Health Care level in order to contribute to reduction of total induced abortion rate and maternal mortality and morbidity; (ii) Ensure introduction of the health care services quality control and continuous improvement system, including maternal death confidential and near miss cases routine audits at the facility level; (iii) Reconsider extension of a waiting period for abortion procedure to 5 days, according to the internationally available evidence and adopted guidelines, emphasizing that barriers to access to abortion services do not have any impact on women’s decision to perform abortions and, at the same time, create risks of unsafe abortions; (iv) Increase youth and adolescents’ access to sexual and reproductive health services and information (including Family Planning) through sustainably integrating the Youth Friendly SRH services at the Primary Health Care level and SRH education in the formal and informal education system.

3. Right to development

Population and Development

Achievements: One of the main achievements in this area is undertaking by the government is the 2014 General Population and Housing Census, which will provide indispensable data for evidence-based policy formulation. Also in 2014 the Government of Georgia in partnership with UNFPA in 2014 undertook the Population Situation Analysis (PSA) in Georgia - the in-depth study, which provides a lot of information with regard to the inter-linkages among population dynamics, economic growth and sustainable development, as well as with reproductive health and gender issues to be used for the development of national policies and their implementation.

In order to address the issue of Ageing the Roadmap for Mainstreaming Ageing in Georgia has been elaborated by the government in 2014 through a participatory process.

Main issues/gaps: Country’s new development strategy *Georgia 2020* is mainly focused on economic and financial matters, and issues related to population dynamics are not adequately integrated. In general, country lacks sound and evidence-based demographic strategy demonstrating inter-linkages among the population dynamics and social and economic development.

Though the Roadmap for Mainstreaming Ageing has been elaborated, it still needs to be translated into government action plan and programmes, to increase access to healthcare and social protection for the elderly.

Recommendations: (i) Develop evidence and rights-based demographic strategy. (ii) Support elaboration of the Action Plan for implementation of the Roadmap for Mainstreaming Ageing, its implementation, as well as operational monitoring.

4. Right to privacy, marriage and family life

A. Gender-biased sex selection

Achievements: To fulfil the recommendations as per the Parliamentary Assembly of the Council of Europe (PACE) Resolution 1829 (2011) on prenatal sex selection, a comprehensive qualitative and quantitative research has been undertaken in Georgia in 2014 on the issue of gender-biased sex selection. Recognizing the problem, in October 2014 the government issued an Order regulating the artificial termination of pregnancies. The Order stipulates that artificial termination of pregnancy for the purpose of sex selection is not permitted except for the cases when it is necessary to avoid sex-linked hereditary diseases.

Main issues/gaps: According to the official statistical data, since the 1990s the departure from the natural average sex ratio at birth (SRB) of 105 boys for 100 girls has been observed, reaching worrying proportions: skewed Sex ratios at birth (111.8 in 2008-12) indicating strong preference for sons suggests that the practice of sex-selective abortions exists. This implies gender discrimination. It had been estimated that in 2010 about 25,000 girls aged 0-19 years were “missing” from the country's population owing to the sex imbalances at birth that occurred since the 1990s.

Recommendations: (i) Analyze the causes and factors that lead to the skewed Sex Ratio at Birth in Georgia to formulate broader policy process in which the government needs to address the issue without endangering access to safe reproductive health services; (ii) Disseminate knowledge, raise awareness and engage civil society organizations; (iii) Train health professionals about their responsibilities in the growing sex imbalances at birth and involve the medical community in combatting prenatal sex discrimination through the development of a code of conduct and ethical guidelines; (iv) Review gender equality laws and monitor their enforcement to prevent direct or indirect discrimination against women.

B. Early marriage/Child marriage

Achievements: In 2014 the set of recommendations were elaborated through a participatory process to strengthen prevention and address this harmful practice. In October 2014, amendments to the Criminal Code of Georgia have been introduced ensuring the criminalization of the forced marriages within the Georgian legal system, including a new article that stipulates that forcing a person into marriage (including unregistered one) will be punished by a 200-400 hours community work or by imprisonment up to 2 years. Moreover, the same deliberate action against a minor envisages imprisonment from 2 to 4 years.

Furthermore, to contribute to increased awareness of young people about their rights, since the end of 2014 the Ministry of Education and Science initiated the process of integration of gender equality and sexual and reproductive health education in the formal education system, according to the international standards.

Main issues/gaps: Early marriages are quite common in Georgia. The existing data shows that up to 17% of women of age 20-24 were married or in union before age 18. Marriages are officially registered mostly after age 18, due to this reason the statistical data of registered marriages among the age-groups under 18 is limited and not reliable. According to the Civil Code, the minimum age for marriage is 18 years of age, but marriages can take place from 16 with parents' consent or in special circumstances. This makes the law practically ineffective. According to the Georgian Civil Code, marriage of a minor doesn't have legal effect and is considered to be void. There are exceptions and inconsistencies in the legislation, for instance, according to the Civil Code, an individual is legally considered a minor until the age of 18. However, there are two exceptions by which someone ceases, legally, to be a minor and become an adult: if she or he gets married at the age of 16, or heads a specific enterprise. In addition to state-registered marriages, the state also recognizes marriages performed in the Orthodox Church, according to the 2002 Constitutional Treaty (Concordat) between the Georgian state and the Georgian Orthodox Church. In reality only civil marriages registered in the office of the Civil Registry of Georgia are legally recognized.

According to the UNFPA study early marriage is a nationwide social problem, but the reasons that trigger child marriage are not homogenous and vary according to religious, ethnic, and regional factors. Traditions and patriarchal values coupled with poverty and lack of education are the main trigger behind child marriage in rural areas, including in the regions populated by ethnic and religious minorities. According to a UN Women recent report, in Kvemo Kartli region 32 % of married women among ethnic minorities were married before the age of 18, while 5% of married women got married at the age of 13-14, and 16 % at the age of 15-16. 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), girls drop out of school. Neither the state nor the public recognizes child marriage as a problem. Hence child marriage is not adequately researched and addressed by the state.

Recommendations: (i) Ensure full integration of age-appropriate information on Gender Equality, sexual and reproductive health and reproductive rights (SRH&RR) and family planning in the school curriculum, according to international standards, and monitor its implementation; In addition, special training programmes should be provided for teachers and principals to improve their vocational skills and education in this area; (ii) Conduct a comprehensive quantitative and qualitative research study into the issue of child marriage and its consequences to inform development of policy and intervention strategies; (iii) Consider the review of the legislation on exceptions regarding the minimum legal age for marriage to strengthen preventive power of the legislation; (iv) Integrate the issue of early marriage into the national policies and action plans related to human rights, gender equality, youth development and civic integration to ensure the implementation of international and national instruments related to children's and women's rights in Georgia. (v) Adopt effective initiatives to integrate ethnic minority communities into the wider society; (vi) Create and enforce an enabling environment for married adolescent girls to return to schools and continue education.

(iii) Secret Surveillance

Achievements: A Personal Data Inspector has been appointed in 2013 with the mandate to oversee implementation regulating the protection of the personal the legality of data processing based on the principles of objectivity, impartiality, equality before the law and legality.

Main issues/gaps: A wide campaign against arbitrary telephone tapping and covert surveillance was launched by NGOs in 2014. The major aim pursued by the campaign was to introduce amendments to Georgian legislation to provide sufficient guarantees against arbitrary surveillance. The civil society claims that the Parliament adopted amendments in 2014, which worsen the legislation on human rights protection, and create risks of unjustified government interference in citizens' private lives. As a result of those amendments : 1) Ministry of Internal Affairs (MIA) retains technical means enabling it to receive telecom data in real time; 2) Personal Data Protection Inspector, who was supposed to exercise oversight on the lawfulness, becomes a participant in secret investigations; 3) internet monitoring remains without oversight, 4) MIA has the right to copy any databanks from electronic communications companies without a court's permission 5) The law no longer determines which identifying data the MIA is authorized to copy and store.

Recommendations: (i) Restore the role of the Personal Data Inspector as solely an oversight mechanism; (2) address illegal surveillance by revising the surveillance legislation in line with international standards and in consultation with the Venice Commission, (3) investigate allegations of abuses of right to communicate privately.

5. Gender Equality

Achievements and best practices: Georgia joined CEDAW without reservations in 1994. The principles of equality, regardless of one's sex, are embedded in Georgia's Constitution and all the other major legislative acts. Moreover, there has been formulated a *State Concept on Gender Equality* (2006), laws against trafficking in human beings and domestic violence (2006) with relevant action plans, *Gender Equality Law* (2010) and Gender equality Action Plans (2007-2009; 2011-2013; 2014-2016) and National Action Plan on Women, Peace, and Security (2012-2015). There is room for improvement in the *Gender Equality Law* as it defines discrimination solely on the basis of sex. In this regard, the new *Law of Georgia on the Elimination of All Forms of Discrimination* adopted in May 2013, states unacceptability of discrimination on the basis of one's gender identity and sexual orientation along with other grounds (Article 1).

Certain progress has been made also in terms of the establishment/development of national machineries in the field of women's empowerment and gender equality; there are now a standing Council on Gender Equality in the Parliament; an Assistant to the Prime Minister on Human Rights and Gender Equality Issues ; a working group on Gender Equality and Women's Rights (overseeing the implementation of Gender Equality National Action Plan), an inter-agency Council on the Measures to Eliminate Domestic Violence (responsible for the implementation/development of domestic violence policies) and National Coordination Group on Women, Peace and Security (overseeing the implementation of the commitments

undertaken by the government around women, peace and security agenda). In addition, the Public Defender of Georgia established a Gender Equality Department followed by the adoption of relevant gender equality action plans and gender mainstreaming strategy. In June 2014, Georgia signed the CoE Istanbul Convention and declared political commitment to ratify it in 2015. The first wave of legislative amendments to harmonize Georgian legislation with the Istanbul Convention principles was adopted in October 2014.

Main issues/gaps: Effective implementation of these normative acts and policies is lagging behind along with necessary level of political will and commitment to achieve substantive gender equality. As of today:

a) Gender equality is not a priority on the development agenda of the government (the above-mentioned institutional mechanisms and action plans are weakly funded and gender equality agenda is mainly driven by international and local development actors). The poverty, unemployment, lack of access to resources, limited state assistance and benefits are worsening women's social and economic conditions, especially in rural areas.⁸ Women's limited access to land and other economic resources requires special consideration and tackling, because women's economic empowerment lies at the heart of sustainable development in general and in rural areas in particular.⁹

b) *De jure* provisions on gender equality are not effectively translated into *de facto* condition and position of women in the country (women occupy 12% of elected seats in both national local levels,¹⁰ gender wage gap constitutes 35%¹¹ and 1 in every 11 women admits that she has been a victim of physical violence from her husband or a partners in her lifetime¹²)

c) Women's human rights awareness is still low and so it the society's overall sensitivity to gender equality and women's rights concerns.¹³

Recommendations: (i) Improve existing national non-discriminative legal framework by making relevant amendments to Gender Equality Law to synchronize it with newly adopted Non-discrimination Law in terms of the definition of discrimination and harmonization of protection mechanisms; (ii) Improve legislative basis on domestic violence and widen it through introducing the notion of gender-based violence, *inter alia* by ratification of the Council of Europe Istanbul Convention (signed by Georgia on 19 June 2014); (iii) Develop and put in place monitoring mechanism for the enforcement of acting Domestic Violence Protective and Restrictive Orders to ensure their effectiveness and minimize the risk for reoffending *inter alia* by supporting the establishment and institutionalization of specialized police units on Gender Based Violence and Domestic Violence; (iv) Ensure improved implementation of Domestic Violence Law (2006) by provision of state funding for the Domestic Violence Crises Centers and engagement of social workers in domestic violence prevention and response; (v) Provide further funding from the state budget to increase human and technical capacity of newly established gender equality mechanisms in the executive branch of the government and support establishment of effective gender equality institutional mechanisms on local levels; (vi) strengthen the existing Gender Equality Council at the Parliament, including through establishing its secretariat at the Parliament, in support of effective operation for the Council; (vii) introduce a more rigid mechanism of temporary special measures e.g. mandatory quotas to increase women's participation in the elected structures on national and local levels. To this end, analyse the impact of the electoral system on women's chances to be elected and respectively keep gender equality in mind once reforming the electoral system (this reform is planned by the government). Also develop a strategy towards improving gender balance on the decision-making positions in the public sector; (viii) incorporate gender responsive budgeting and planning in national and local-level policies and programmes; (ix) Study and address the causes and consequences of existing

⁸ 17.99% of the population is living below USD 1.25 a day, Human Development Report, 2014.

⁹ According to official data, as of 2013, only 56.8% of women are considered as economically active, while the respective indicator for men stands at 77.3 %. Accordingly, percentage of employed women equals to 49.8 % of the total female population, while the respective figure for men is 64.5 % (GEOSTAT, http://www.geostat.ge/?action=page&p_id=145&lang=geo, last visit June 18, 2014.)

¹⁰ Since the parliamentary elections in October 2012, 17 women won seats in Parliament out of 150 MPs, making 11% of the members. The number of women in local self-governance bodies has been decreasing from election to election. On June 15, 2014 there were held local self-government elections followed by the second round on 12 July in 13 municipalities out of 59 and in eight cities out of 12, including in the capital – Tbilisi. The elections resulted in the election of 11 % of women mostly in Sakrebulo (the same result as in the previous elections conducted in 2010). None of the elected mayors of the 12 self-governing cities are women and out of 59 elected municipal executives there is only one woman. For the time being, women hold 3 ministerial positions (Education and Science; Justice; Foreign Affairs) out of 19 members of the Cabinet.

¹¹ Juna Miluka, UN Women Technical Assistance to GEOSTAT in Measuring the Gender Wage Gap in Georgia, August 2014, 9.

¹² UNFPA, *National Survey of Domestic Violence against Women in Georgia*, Tbilisi, 2009, 33.

¹³ UNDP/ACT Research, *Public Perception Study on Gender Issues in Politics and Business*, Tbilisi, 2013.

gender pay gap; (x) improve the health system's response to domestic violence and sexual violence against women in Georgia as an integral part of the multi-sectoral response, among others by implementation of the recommendations on *Health System Response to Intimate Partner Violence and Sexual Violence against Women and Children*, incorporating HIV prevention and response measures; (xi) Design policies and strategies to prevent discrimination and improve condition and position of different groups of minority women, especially those belonging to ethnic minorities and sexual minorities; (xii) Design policies and strategies to improve rural women's access to economic resources and services, local-level decision-making processes as well as healthcare and social services, including pre-school education facilitates for their children; (xiv) Integrate the issue of early marriage into the national policies and action plans related to gender equality, youth development and civic integration, to ensure the implementation of international and national instruments related to children's and women's rights in Georgia; (xv) Advance the monitoring of the exercise of reproductive rights through strengthening the Public Defender's office.

6. Refugees, Asylum-Seekers, and Internally Displaced Persons

As of January 2015, Georgia hosts 265,588 persons of concern to UNHCR, comprising of 857 refugees and humanitarian status holders (including 415 Syrians in Abkhazia), 1,257 asylum-seekers, 262,704 internally displaced persons (IDPs), including persons in an IDP-like situation, and 770 stateless persons.¹⁴

Achievements: By adopting the State Migration Strategy and Action Plan, the Government demonstrated its commitment to meet international standards in the field of migration. By adoption of *the Law on Refugee and Humanitarian Status*¹⁵, Georgia made a big step forward in developing the national framework to meet international standards. In 2014, Georgia acceded to *the 1954 Convention and the 1961 Convention*, and established a formal statelessness determination procedure¹⁶ in 2012. *The new Organic Law of Georgia on Georgian Citizenship*¹⁷, adopted in April 2014, seeks to address previous gaps and gray areas and avoids statelessness of a child at birth (save the cases of children born to two foreigners, where naturalization of such a child is subject to 5 years of residence on the territory of Georgia) and reduces statelessness by eliminating loss of citizenship due to residence abroad. *The Law of Georgia on Forcibly Displaced Persons*¹⁸, effective March 2014, has clarified a number of issues and enhanced the protection of this population against discrimination.

Main Issues/Gaps: (i) Access to the territory and non-penalization for illegal entry: The new *Law of Georgia on Legal Status of Aliens and Stateless persons*¹⁹ has introduced new visa regime and foreigners may obtain a Georgian visa only at Georgian representations abroad, which are not in most cases available in countries of origin of asylum-seekers (e.g. Iraq and Syria). According to Article 6 (4) of the Law, in exceptional cases, a Georgian visa may be issued on humanitarian grounds, but asylum-seekers are not explicitly mentioned among recipients. The existing legislation does not contain a non-penalization clause in line with Article 31 of the 1951 Convention. Article 344 of *the Criminal Code of Georgia* does not cover cases of asylum-seekers who have to use forged documents (visa, passport, travel document) to flee their country of origin. This gap in legislation creates confusion in practice and led to the detention of asylum-seekers and initiation of criminal proceedings in a number of cases, and may lead to violation of the fundamental principle of *non-refoulement*; (ii) Fair and Efficient Asylum Procedure: The Government does not have sufficient human and financial resources to address the significantly increased number of asylum-seekers. As a result, there is substantial backlog. A number of challenges in the asylum procedure still to be addressed: (a) undue and informal influence of the Ministry of Interior for

¹⁴ UNHCR has been waiting for the final 2014 data from the MRA, some changes in statistics are possible;

¹⁵ *Georgia: Law No. 5370-IIS of 2011 on Refugee and Humanitarian Status* [Georgia], 6 December 2011, available at: <http://www.refworld.org/docid/5225a49f4.html> [accessed 15 December 2014]

¹⁶ National Legislative Bodies / National Authorities, *Georgia: Ordinance #523 of 2014 Approving the Procedures for determining the Status of Stateless Person in Georgia*, 1 September 2014, available at: <http://www.refworld.org/docid/511cb8d82.html> [accessed 15 December 2014]

¹⁷ *Georgia: Organic Law of 2014 on Georgian Citizenship* [Georgia], 30 April 2014, available at: <http://www.refworld.org/docid/53835fe14.html> [accessed 18 December 2014]

¹⁸ *Georgia: Law of 2014 on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia* [Georgia], 6 February 2014, available at: <http://www.refworld.org/docid/44ab85324.html> [accessed 18 December 2014]

¹⁹ *Georgia: Law of 2014 on the Legal Status of Aliens and Stateless Persons* [Georgia], 5 March 2014, available at: <http://www.refworld.org/docid/5343d0c24.html> [accessed 18 December 2014]

undisclosed “security concerns”; (b) influence of political considerations, which prevail over individuals need for protection; (c) RSD eligibility specialists lack continuous training opportunities and proper internal quality control mechanism within the relevant department dealing with refugee issues; (d) unsystematic use of country of origin information (COI) during all stages of the state RSD procedure; and (e) female RSD Officers and translators are not always available throughout the asylum procedure. One of the main reasons for denial refugee status as related in written decisions remains “threat to national security”. The MIA remains reluctant to reveal details, referring to secret internal materials and sources. Neither rejected asylum-seekers and refugees nor their legal representatives have access to MIA secret evidence and material, which undermines the adversarial system of justice. (iii) Access to the right to effective remedy: asylum applicants who receive a negative decision have only *ten days to appeal* the decision. This time frame is unreasonably short because in most cases, asylum-seekers cannot speak the Georgian language, are unfamiliar with the legal system, and may lack access to free legal aid in order to appeal their application. This is also in contrast to the right of citizens of Georgia to a 30-day period for appeal in administrative procedures. (iv) Lack of Local Integration Strategy and Action Plan and assistance policy: acknowledging the importance of the local integration, in 2011, Georgia pledged to “*increasingly take over responsibilities related to accommodation of and assistance to asylum-seekers*” and “*continue efforts towards the full integration of refugees*”²⁰. Despite that, Georgia has not significantly progressed in development of its local integration strategy, action plan and assistance policy towards refugees and humanitarian status holders, as well as in allocation of proper financial and human resources to address their needs. In 2014, UNHCR and the government conducted participatory assessment with refugees and humanitarian status holders. The main findings are that refugees and humanitarian status holders experience difficulties with housing, access to health care, social assistance, education and employment opportunities. In 2013, there was 100% rejection of Chechens seeking Georgian citizenship, including women and girls. The great majority of naturalization requests from refugees have been denied, in a substantial reversal of prior practice, due to undefined “*security considerations*”. In addition, the new *Organic Law of Georgia on Georgian Citizenship* has introduced Georgian language and knowledge of history as mandatory requirements for naturalization of refugees. These requirements may affect naturalization of socially vulnerable, elderly or illiterate refugees. The government has suspended the refugee status of some children of naturalized refugees, in contravention of international norms. Refugee children with suspended status have encountered difficulties in accessing formal education and medical care. This is a violation of the principle of family unity and may lead to separation of the refugee family.

Recommendations: (i) Amend the *Law of Georgia on Refugee and Humanitarian Status, the Criminal and Administrative Codes of Georgia* in order to bring these laws in line with the 1951 Convention; uphold the principle of *non-refoulement* and establish a fair, effective and objective system of access of asylum-seekers to the territory and asylum procedures by providing visas on humanitarian grounds; and ensure that the detention of asylum-seekers is only used as a last resort, and where necessary, for as short a period as possible and apply alternatives to detention. (ii) Increase allocated funds for refugees status determination and protection of asylum-seekers, refugees and humanitarian status holders; continue enhancement of refugee status determination procedures in line with international standards; avoid undermining refugee protection while addressing legitimate security concerns; and ensure that all asylum-related decision, including national security risk cases, are properly justified and asylum-seekers and refugees or their representatives have access to evidences and materials. (iii) Amend the *Law of Georgia on Refugee and Humanitarian Status* and other relevant legislation to provide rejected asylum-seekers with reasonable time for appeal; and amend the *Law of Georgia on Free Legal Aid*, in order to ensure that asylum-seekers, refugees and humanitarian status holders have access to independent, qualified and free legal advice and representation. (iv) Establish a special division responsible for assistance to asylum-seekers and local integration of refugees and humanitarian status holders and allocate proper state funds to address these issues; develop local integration strategy and action plan based on the identified needs of refugees and humanitarian status holders; encourage Georgia to implement its national citizenship legislation in favour of refugees; facilitate naturalization of refugees and humanitarian status holders by waiving language and history knowledge requirements and providing support on

²⁰ UN High Commissioner for Refugees (UNHCR), *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, page 74, available at: <http://www.refworld.org/docid/50aca6112.html> [accessed 18 December 2014]

administrative matters without application to the state authorities of the country of origin of refugees; and encourage Georgia to revoke the decisions on suspension of refugee status.

7. Stateless persons

Main issues/Gaps: Georgia is not yet a party to *the 1997 European Convention on Nationality* and *the 2006 Council of Europe Convention on the avoidance of statelessness in relation to State Succession*. Although Georgia has acceded to *the 1954 and 1961 Conventions*, there is a need for a comprehensive legal research on compliance of the national legislation with these international instruments, as well as an assessment on challenges and shortcomings faced by stateless persons in practice. The MIA plays again (as in the refugee status determination) the key role in providing its advisory opinion without proper justification of reasons and evidences. The rejected individuals may have difficulties with enjoyment of their right to effective remedies as they do not have valid documents and experience the same problems with lack of free legal aid and access to material as in the case of rejected asylum-seekers. Main deficiency of the new Organic Law of Georgia on Georgian Citizenship is that it does not facilitate naturalization of stateless persons. Acquisition of nationality by stateless persons who have strong links to Georgia based on factors such as birth on the territory, descent or long-term residence is a crucial mean of giving them a stake in society and fully welcoming them by formally acknowledging their roots.

Recommendations: (i) accede to the Council of Europe *1997 European Convention on Nationality* and *the 2006 Council of Europe Convention on the avoidance of statelessness in relation to State Succession*; undertake revision of the Georgian national legislation relating to the statelessness issues in order to bring it further in line with *the 1954 and 1961 Conventions* and assessment of protection needs and problems of stateless persons in practice; (ii) amend the Organic Law on Georgian Citizenship to facilitate access to citizenship for stateless population, in particular in case of their birth or long-standing residence in Georgia; (iii) amend the Law of Georgia on Free Legal Aid, in order to ensure that stateless persons have access to independent, qualified and free legal advice and representation.

8. Combating discrimination

Achievements: On 7 May 2014, the *Law on the Elimination of All Forms of Discrimination* has entered into force. The law identifies local the Public Defender's office as responsible for monitoring the implementation of this law.

Major Issues/Gaps: Number of allegations have been reported by the Public Defender and NGOs with regard to discrimination of the Muslim community as well as of the Jehovah's Witnesses. Applications submitted by local LGBTI organizations are pending before the European Court of Human Rights alleging physical and verbal abuse during attacks perpetrated by counter-demonstrators during a small peaceful demonstration organised in Tbilisi on 17 May 2013 to commemorate the International Day Against Homophobia and Transphobia.

Recommendations:

(i) Take effective measures to combat any form of social stigmatization of homosexuality, bisexuality or transsexuality as well as hate speech, discrimination or violence based on sexual orientation or gender identity. (ii) Provide effective protection to LGBTI persons and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity in accordance with article 53, para. 3¹, of the Criminal Code. (iii) Take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBTI persons and defenders of their rights. (iv) Continue to provide the Office of the Public Defender with increased financial and human resources that are commensurate with its expanded role and enable it to carry out its new functions effectively. (v) Empower the Office of the Public Defender to issue binding opinions and to request initiation of legal proceedings under its mandate to monitor the implementation of the anti-discrimination legislation, or set up a separate independent monitoring body and extend such powers to it. (vi) Ensure that perpetrators are adequately sanctioned and victims of discrimination are provided with effective and appropriate remedies.