



THE RIGHTS OF LGBT+ PEOPLE IN GEORGIA

Public Defender of Georgia
2021

AUTHOR: LIKA JALAGANIA

This publication was prepared by the Public Defender's Office of Georgia, within the framework of UN Joint Programme for Gender Equality in Georgia, implemented by UN Women, the United Nations Development Programme (UNDP) and the United Nations Population Fund (UNFPA), funded by the Government of Sweden.

The content of this publication does not reflect the official views of UN Women, the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the Government of Sweden. Responsibility for the information and views expressed therein lies entirely with the author(s).

CONTENTS

Acronyms	4
Definition of Terms	5
1. Preamble	7
2. The Methodological Framework for the study	8
3. Public Attitudes towards the LGBT+ Group in Georgia	10
4. A brief overview of Equality Legislation and Policy Development in Georgia	12
5. Protection Against Discrimination and Equality	13
5.1. Overview of SOGI-based non-discrimination standards and anti-discrimination mechanisms in national law and policy	13
a) Hate Speech	15
b) Discrimination of Transgender* people and Legal Gender Recognition	17
5.2. Impact of the COVID-19 Pandemic on Anti-Discrimination Policies	18
6. Hate Crimes	20
6.1. Current situation and State measures	20
a) Victim Protection and Assistance Mechanisms	24
6.2. Impact of the COVID-19 Pandemic on Hate Crime-Related Policies	25
7. Freedom of Assembly and Expression	26
7.1. Current situation and State measures	26
July 5-6 Events, 2021	27
7.2. Impact of the COVID-19 Pandemic on exercising Freedom of Assembly and Expression	30
8. Access to Education	31
8.1. Current situation and State measures	31
8.2. Impact of the COVID-19 Pandemic on the Right to Education	34
9. Labor Rights and Employment Access	35
9.1. Current situation and State measures	35
9.2. Impact of the COVID-19 Pandemic on Labor Rights	38
10. Right to Health	40
10.1. Current situation and State measures	40
10.2. Impact of the COVID-19 Pandemic on the Right to Health	42
11. Social Protection and Housing Policy	43
11.1. Current situation and State measures	43
11.2. Impact of the COVID-19 Pandemic on the Right to Housing	44
12. Right to Respect for Private and Family Life and Intimate Partner Violence	46
12.1. Current situation and State measures	46
Intimate Partner Violence	47
12.2. Impact of COVID-19 on exercising the Right to Respect for Private and Family Life	49
Conclusion and Recommendations	50

ACRONYMS

CEDAW	UN Committee on the Elimination of Discrimination Against Women
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ICCPR	International Covenant on Civil and Political Rights adopted by the UN
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICPD	International Conference on Population and Development
SDG	Sustainable Development Goals
SRHR	Sexual and Reproductive Health and Rights
UNFPA	United Nations Population Fund
WHO	World Health Organization
CC	The Criminal Code of Georgia
SOGI	Sexual Orientation and Gender Identity
ILO	International Labor Organization

DEFINITION OF TERMS

Gender: A set of characteristics (anatomical, physiological, biochemical, genetic) that distinguishes the female and male organism.

Gender Identity: a person's gender self-perception when he or she attributes himself or herself to any gender. A person can self-identify as a man or a woman. In some instances, an individual's gender self-perception may fall somewhere between the social constructs of masculinity and femininity, or may transcend them entirely. Gender identity may or may not correspond to a person's birth gender. Due to the fact that gender identity is a private matter, it is not visible to others. Sexual orientation is distinct from gender identity.

Gender (self-)expression: the external manifestation of gender, most notably in "masculine" and "feminine" clothing, appearance, manners, speech, and other behaviors. Sexual orientation or gender identity are not always associated with gender expression.

Gender nonconformity and gender variation: the outward manifestation of an individual's protest and opposition to established gender "norms" and "conformities." Gender nonconformity can occur regardless of whether a person's gender identity is combined with sex at birth.

Gender Dysphoria: a psychological and psychiatric diagnosis used to describe the stress that some individuals experience as a result of the difference between their gender at birth and their gender self-esteem.

Sexual Orientation: an individual's sustained physical, romantic, emotional, and/or spiritual attraction to another person. It includes lesbian, gay, bisexual, and heterosexual orientations.

LGBT(+): an acronym used to refer to gay, lesbian, bisexual, and transgender people. (with a "+" sign to recognize the limitless sexual orientations and gender identities used by members of our community).

Lesbian: a woman who is emotionally and physically attracted to another woman.

Gay: synonymous with a homosexual. The term is often used only in relation to men and refers to a man who is emotionally and physically attracted to another man.

Transgender/Trans*: an umbrella term for people whose gender identity, expression, and behavior are different from the typical characteristics of their biological sex. The term also refers to Transsexual, Transgender People, Cross-dressers, and Gender-nonconforming People. Transgender people may have a heterosexual, homosexual, or bisexual orientation.

Transgender Man: a person who was born female, but identifies himself as a man. Transgender men are also referred to as FtM (Female-to-Male).

Transgender Woman: a person who was born male but identifies herself as a woman. Transgender women are also referred to as MtF (Male-to-Female).

Transsexual: a person whose gender identity differs from the sexual affiliation granted at birth. Often transgender people seek body correction through hormones or surgery to match it to their own gender identity.

Men who have sex with men (MSM): the term refers more to sexual behavior than to identity. It is used to describe the behavior of all men who have sex with men, regardless of their sexual orientation and gender identity.

Cisgender: the term cisgender refers to a person whose gender identity and gender self-expression correspond to the biological sex given to him or her at birth and the social expectations that apply to his or her gender.

Heterosexuality: an emotional, romantic, and sexual connection/feeling towards a person of the opposite sex and gender.

Heterosexism: the belief that heterosexuality is superior (religiously, morally, socially, emotionally, et al.) to other sexual orientations, the presumption that all people are heterosexual, and the belief that all people ought to be heterosexual. As an institutionalized system of oppression, heterosexism negatively affects LGBTQ people as well as some heterosexual individuals who do not conform to the traditional understanding of masculinity and femininity.

Homophobia/transphobia: irrational fear and hatred of lesbians, gays, bisexuals, and transgender people based on prejudice, and similar to racism, xenophobia, anti-Semitism, and sexism.

1. PREAMBLE

In recent years, some improvements in the legal status of the LGBT+ community in Georgia have been noted. Unlike in previous years, the State has increased its cooperation with NGOs and community organizations, as evidenced by the inclusion of some LGBT+ needs in the country's government policy documents, most notably human rights action plans. The legislative environment has also changed, granting relevant rights to the LGBT+ community at the legislative level. However, these efforts were largely constrained by international organizations' obligations, including ensuring the implementation of the Association Agreement between Georgia and the European Union, rather than by policies designed to address genuine needs.

As a result of not basing changes in state policy on an understanding of oppression on the basis of sexual orientation and gender identity, as well as systemic inequality, there is a significant disconnect between the legal/formal environment and the legitimate concerns of the LGBT+ community; this has also contributed to the growth of homophobic sentiments and violent, radical groups in the country, opposing women's and LGBT+ people's rights and posing a real threat to the economy. Despite these obstacles, the state's efforts to avoid and eliminate these threats are ineffective and frequently based on ignorance policies. The state has taken no additional steps to promote systematic human rights education, which would contribute to the spread of the principles of peaceful coexistence, tolerance, and solidarity among diverse groups. On the contrary, inconsistency in government policies and public hate statements toward the LGBT+ community exacerbate the group's plight in Georgia and expose them to violence and discrimination.

Heterosexism in society, as well as restrictions or self-restrictions associated with "coming out," have a disproportionately negative impact on the LGBT+ group's social and economic status, exercise of the right to health, and protection of labor rights. As a result, LGBT+ people face significant obstacles in defending their rights and are at risk of being discriminated against or subjected to unequal treatment in almost every aspect of life. As a result, the interdependence of these challenges creates a cycle of social exclusion, from which emancipation is associated with significant difficulties.

The COVID-19 Pandemic and the ensuing stringent government directives have exacerbated the significant challenges confronting the LGBT+ community. Naturally, this situation has impacted all members of society, but it has been especially severe for vulnerable groups that have already faced significant social, economic, and health challenges (including mental health challenges) in the years preceding the pandemic. Additionally, the pandemic has made it significantly more difficult for LGBT+ people to access informal support spaces, leaving them isolated in the face of an increased risk of violence and limited opportunities for support.

The following desk research examines the LGBT+ community's pre- and post-pandemic situation. The study's objective is to conduct an in-depth examination of the legal status and practices of LGBT+ people, to analyze, evaluate, and develop appropriate recommendations for the legislative environment, implementation effectiveness, and monitoring tools related to discrimination based on sexual orientation and gender identity (SOGI) and homo/transphobic crime, with the goal of narrowing the gap between the legislative framework and the de facto situation.

2. THE METHODOLOGICAL FRAMEWORK FOR THE STUDY

Research methodology

The report relies on desk research and qualitative research to examine the legal status of LGBT+ people and make evidence-based recommendations.

Desk Research

The study and analysis of the international obligations assumed by the State of Georgia within the framework of the desk research include a reflection of the obligations directly assumed by Georgia as well as an overview of internationally established standards.

To assess the status of compliance with national obligations, the report relies on public information from relevant agencies, as well as processing and analyzing the data received. On the other hand, the report conducts a thorough examination of national court decisions pertaining to a particular area of the state legislative framework (if any) and an analysis of commitments defined in state policy; more precisely, the report examines the following national documents:

National legislation

- The Constitution of Georgia
- Law of Georgia on the Elimination of All Forms of Discrimination
- Law of Georgia on Gender Equality
- The Criminal Code of Georgia
- Administrative Offences Code of Georgia
- Labour Code of Georgia
- Law of Georgia on Public Service
- Law of Georgia on Health Care
- Law of Georgia on Patient Rights
- Law of Georgia on General Education
- Law of Georgia on Higher Education
- Other relevant laws or by-laws

Policy documents

- Human Rights Strategy of the Government of Georgia (2014-2020)
- Action plans of the Government of Georgia (The Government's 2014-2020 Action Plans)
- National Maternal and Newborn Health Strategy of the Government of Georgia for 2017-2030 and its Action Plan for 2017-2019
- The Permanent Parliamentary Gender Equality Council of Georgia Action Plan for 2018-2020
- Other relevant action plans, strategies, and programs

Qualitative Research

Qualitative research is one of the study's instruments; it entails focus groups and the processing/analysis of collected data. The focus group discussion will be guided by a pre-designed questionnaire that incorporates several critical questions for each of the structure's issues.

Focus groups will be held with the following demographics:

- LGBT+ community organizations (2 focus groups)

Note: *Throughout this study, the acronym "LGBT+" is used; however, when referring to the content of a specific document/source, the acronym used in that document/source is used (e.g., LGBTQI, LGBT, LGBTI, LGBTIA, et al.). As a result, this acronym may be used in a variety of ways throughout the study, and it should not be interpreted as denoting a new group but rather as an interchangeable acronym.*

3. PUBLIC ATTITUDES TOWARDS THE LGBT+ GROUP IN GEORGIA

According to studies conducted in Georgia in recent years, homophobic attitudes persist in society,¹ aided by the state's ignorance about stigma and prejudice against LGBT+ people, hate speech propagated by politicians, and a lack of public acknowledgement of the group's challenges.

Relevant state agencies ignore public attitudes toward the LGBT+ community and the underlying causes of discrimination. As a result, only NGOs and other research organizations identify and analyze the legal status and negative attitudes toward the LGBT+ community.

According to a 2016 study, "society exhibits a markedly negative attitude toward issues concerning the LGBT group's legal equality and toward LGBT activists/human rights activists."² According to the research, attitudes toward individual rights vary by age and education level: students and respondents in the 18-24 age group demonstrate a significantly higher level of receptivity toward individual rights. However, the differences between the upper age groups and respondents with varying levels of education become insignificant.³ Individual rights attitudes are influenced by education, widespread myths, homophobic stereotypes, and the degree of religious fundamentalism. Politicians' hate speech directed at the LGBT+ community and gender equality in general contributes significantly to the development of such attitudes.

In terms of societal attitudes, a quantitative survey conducted by UNFPA in Georgia in 2020 found that 83 percent of men were ashamed of having a homosexual child, while 74 percent of women shared this sentiment. The belief that homosexual women/men should not be allowed to work with children continues to be held by 83 percent of men and 64 percent of women, with 81 percent of men responding that they would not have a homosexual friend, compared to only 54 percent of women.⁴

The CRRC survey also reveals an interesting trend: when asked who they would not want their neighbors to be, homosexuals come in third place, accounting for 24% of responses, behind criminals (27%) and drug addicts (25%).⁵

According to the results of a quantitative and qualitative survey conducted by the Council of Europe, when asked how critical minority rights protection is for Georgia's development, the LGBT+ group received the lowest positive response (33%), while 42% stated that LGBT+ rights protection is not important at all.⁶

1 UNFPA, G. (2020). Men, Women, and Gender Relations in Georgia: Public Perceptions and Attitudes. Tbilisi: UNFPA and UNDP.

2 Agdgomelashvili E. "From Prejudice To Equality: study of societal attitudes, knowledge and information regarding the LGBT community and their rights", WISG, 2016, page 120.

3 *ibid.*

4 *ibid.*

5 CRRC. (2020). A Decade of Change: Opinions and Values in Georgia, (2009-2019). Tbilisi: CRRC- Georgia, Caucasus Barometer.

6 CoE, C. (2018). Hate Crime, Hate Speech, and Discrimination in Georgia: Attitudes and Awareness. Tbilisi: The Council of Europe.

According to this latest study, regression analysis revealed that several different factors influence how LGBT+ people perceive the importance of human rights protection. Gender is one of these variables. Men, in particular, are significantly less likely to support the protection of LGBT+ community rights than religious minorities' rights. In terms of rights in general, the data analysis revealed that those who are more knowledgeable about minorities' rights would almost certainly prioritize protecting the rights of LGBT+ people.⁷

According to studies, there is still a negative bias toward LGBT+ people, which is frequently expressed through discrimination and hate crimes, putting LGBT+ people at constant risk and resulting in their social and economic exclusion.

7 *ibid.*

4. A BRIEF OVERVIEW OF EQUALITY LEGISLATION AND POLICY DEVELOPMENT IN GEORGIA

Georgian legislation and policies have significantly changed in recent years, allowing for the legal recognition of the LGBT+ community. Georgia's commitment to international organizations to eliminate discrimination on the basis of sexual orientation and gender identity was one of the reasons for improving the legal environment. Georgia was required by the Association Agreement with the European Union to adopt legislation prohibiting all forms of discrimination, including sexual orientation and gender identity, among other protected grounds of discrimination.

In 2014, the Georgian Parliament passed the Law on the Elimination of All Forms of Discrimination, which included sexual orientation and gender identity among other protected grounds of discrimination. However, the limited mandate initially assigned to the law's enforcement mechanisms failed to provide an adequate standard of protection for discrimination victims and the elimination of discrimination, either in individual cases or in general practice. To ensure the law's effectiveness, it was amended only in 2019, which strengthened the law enforcement mechanism and, as a result, provided the Public Defender with additional opportunities to respond to discrimination.

Notable is the inclusion of significant LGBT+ rights measures in the Georgian government's Human Rights Action Plans. Since 2014, Government Plans have included some activities aimed at ending discrimination based on sexual orientation and gender identity, though their implementation status has frequently been purely formal. LGBT+ rights were also included in the 2018-2020 Government Human Rights Plan. However, a specific sub-chapter devoted to this subject was added to the plan in 2020.⁸

Despite legislative changes, implementing the equality policy effectively remains a challenge. This is especially true for the LGBT+ community, which is one of the most vulnerable groups in Georgia, stigmatized and discriminated against in numerous ways. Despite numerous legislative acts and national action plans committing the state to protecting LGBT+ people's rights, these changes have not been reflected in practice due to the state's superficial and ad hoc approach. As a result, changes do not reflect the increased quality of life enjoyed by members of the LGBT+ community.⁹

8 In the course of this research, in its 2020 Performance Report, the Parliament of Georgia had not yet approved the report on implementing the Government Human Rights Plan for 2018-2020; therefore, its detailed assessment is not possible.

9 Social Exclusion of LGBTQ Group in Georgia, Quantitative Research Analysis, Author of the research: Lika Jalagania, 2020.

5. PROTECTION AGAINST DISCRIMINATION AND EQUALITY

5.1. Overview of SOGI-based non-discrimination standards and anti-discrimination mechanisms in national law and policy

Although the rights of LGBT+ people have always been a subject of international law, the 1990s saw the most visible implementation of the principle of non-discrimination on the basis of sexual orientation and gender identity.¹⁰ The major international treaties, such as the United Nations' International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), do not include the SOGI markers explicitly. However, in subsequent explanatory documents or decisions, these markers are considered for non-discrimination purposes.

The special procedures mandate established by the decision of the UN Human Rights Council in 2016 was of particular importance in the UN system - Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity.¹¹ Among other responsibilities, the Independent Expert's mandate includes analyzing and gathering information on LGBT+ human rights violations, evaluating the compliance of specific state laws and policies with international standards, planning and conducting special visits to the country, and making recommendations to specific states and target groups. In 2018, the UN Independent Expert paid a visit to Georgia.¹² During the visit, the Independent Expert thoroughly assessed the State's measures to protect the LGBT+ group's rights and the group's and its supporters' actual situation, the results of which were summarized in the report developed as a result of the visit. Along with numerous positive steps, the report provided a critical assessment of significant challenges, including widespread discrimination in labor, services, health, and social protection.¹³

At this point, it's worth noting that the European Commission Against Racism and Intolerance (ECRI) has placed a premium on the high rate of homophobia in its member states in recent years, and thus requires member states to combat discrimination based on sexual orientation and gender identity. ECRI's report on Georgia highlights the country's high rate of homophobic discrimination and violence and "recommends taking steps to combat intolerance and discrimination against LGBT individuals." This should be accomplished in close collaboration with the LGBT community and the Public Defender, who should be assisted in establishing an LGBT unit. Additionally, convenient elements for raising awareness in schools should be developed.¹⁴

10 One of the first comprehensive documents founded on the principle of non-discrimination on the grounds of sexual orientation and gender identity is the Yogyakarta Principles (2007), the document created by a collective agreement of international human rights experts and activists to eliminate all forms of discrimination and violence on the grounds of sexual orientation and gender identity. The law shall prohibit any discrimination and ensure equal protection of the rights of all. see: https://outrightinternational.org/sites/default/files/Activists_Guide_Yogyakarta_Principles.pdf

11 See in detail: <https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx>

12 It is noteworthy that an Independent Expert arrived in Georgia at the request of the state.

13 Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Visit to Georgia, 15 May 2019, see: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR>

14 European Commission against Racism and Intolerance, report on Georgia (fifth monitoring cycle) adopted on 8 December 2015, published on 1 March 2016, par. 108, see: <https://rm.coe.int/fourth-report-on-georgia-georgian-translation-/16808b5775>

Georgia adopted a new law in 2014 prohibiting all forms of discrimination, including sexual orientation and gender identity. Despite the fact that the law was adopted, the provisions did not allow for its effective enforcement. The legal mechanisms for protection, in particular the limited mandate of the Public Defender of Georgia and the time limit for appealing, did not comply with international standards. The Public Defender of Georgia has repeatedly addressed the Georgian Parliament regarding the importance of strengthening its mandate and amending relevant legislation, but no substantive changes to the law were made until 2019.

Both issues were regulated in 2019, and an entry was added to Georgia's Organic Law on the Public Defender, extending the Public Defender's mandate to private individuals through similar legal regulation to that of public agencies, and legal entities under private and natural law were required to submit information to the Public Defender.¹⁵ Additionally, under Georgia's Organic Law on the Public Defender, the Public Defender "is authorized to file a lawsuit in court as a plaintiff under Georgia's Civil Procedure Code if the legal entity, other organizational formation, association of persons without forming a legal entity, or entrepreneurial entity has not responded to or taken into account the Public Defender's recommendation and there is sufficient evidence to support discrimination."¹⁶ It should be noted that, as a result of these amendments, the rate at which the Public Defender's recommendation is implemented by private law legal entities has increased significantly. The respondents considered 36% of the recommendations/general suggestions made to individuals and the private sector. The rate of implementation/consideration of the Public Defender's recommendation in the public sector is 50%.¹⁷

The extension of the time period for filing an appeal with the court is significant. According to the amendment to Article 3632 of the Civil Procedure Code of Georgia in 2019;¹⁸ a person may file a lawsuit within one year of hearing or should have heard about the circumstances that he or she believes are discriminatory. Additionally, the Code of Civil Procedure clarified the process for addressing the fact of discrimination in labor relations; specifically, under Article 363² paragraph 21, an individual who considers himself or herself a victim of discrimination has the right to bring a court action even if the employment relationship in which they were discriminated against has ended. Clearly, such amendments to the appeals time limit will benefit victims or third parties in the identification, preparation, and subsequent appeal to the court of the fact of discrimination.

Despite significant legislative changes, ensuring the right to equality and non-discrimination in practice continues to be a significant challenge in Georgia. According to the Georgian Public Defender, since 2014, as a result of increased awareness of discrimination on the basis of sexual orientation and gender identity, discrimination cases on the basis of sexual orientation and gender identity have increased. Despite widespread discrimination against the group, appeals to the Public Defender remain low. For example, in 2019, only 14% of 155 discrimination-related appeals to the Public Defender reported discrimination on the basis of SOGI. In 2020, only 6% of 113 applications to the Office of the Public Defender reported possible discrimination based on SOGI. See Table №1.

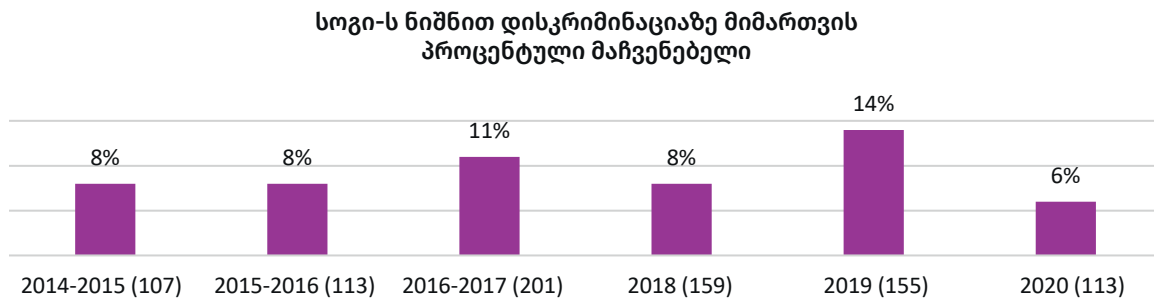
15 Article 23, paragraph 1; 2; 5.

16 Paragraph h).

17 Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2020, page 6, see: <https://ombudsman.ge/res/docs/2021050611590027208.pdf>

18 Article 3632, Part 1.

Table №1. Percentage of appeals to the Public Defender on the grounds of SOGI by years.



According to LGBT+ community organizations' experiences, the most prevalent form of SOGI discrimination is unequal treatment in the form of refusal to provide a service, product, or promotion.¹⁹ Discrimination is also prevalent in higher education institutions, both through discriminatory textbooks and alleged discrimination by lecturers employed by schools and administration.²⁰

The Government of Georgia's Action Plan contains several commitments to end discriminatory practices; however, these measures are insufficient to combat discrimination. The Georgian government's 2018-2020 Action Plan omitted a section on SOGI regulation. This section was also not approved at the end of 2019, indicating that the LGBT+ community's issues are not a state priority.

Once again, the foregoing demonstrates a lack of public awareness regarding the elimination of discrimination, which must be combated through effective state measures.

a) Hate Speech

According to the Council of Europe's 1997 Recommendation, hate speech encompasses all expressions that spread, incite, promote, or justify racial hatred, xenophobia, anti-Semitism, or other forms of intolerance, including expressions of nationalism, ethnocentrism, discrimination, and bigotry directed at minorities or migrants.²¹

Hate speech is a pervasive form of discrimination against LGBT+ individuals. Hate speech propagated by politicians and public officials is particularly problematic in Georgia, where it has a significant negative impact on social acceptance and the scope of violence against the LGBT+ community. In recent years, politicians' hate speech and their use of derogatory language toward the LGBT+ community have had dire consequences for society, legitimizing violence and increasing violence against the LGBT+ community. While politicians' hate speech does not contain an incitement to public violence, it aims to prioritize and dominate the will of the majority at the expense of minorities' oppression; indirectly, it establishes a solid foundation for reinforcing violence and perpetuating negative attitudes toward the LGBT+ community.

¹⁹ Report on Activities of The Coalition For Equality, 2020, page 47, see: http://equalitycoalition.ge/files/shares/saqmianobiis-angaariSi_2019.pdf

²⁰ *ibid.*

²¹ The Council of Europe, Recommendation №R (97) 20 of the Committee of Ministers on "hate speech", 1997.

Over the years, political homophobia has been actively used as a pre-election strategy to sway the electorate's will and win over supporters.²²

According to Georgian law, hate speech is not subject to such regulation. However, Article 2.5 of Georgia's Law on the Elimination of All Forms of Discrimination prohibits encouraging discrimination, and this prohibition applies even if hate speech does not meet the criminal liability standard. Furthermore, the Criminal Code of Georgia prohibits inciting public violence,²³ a severe form of hate speech that poses an immediate threat of violence. However, despite numerous instances of individuals using radical homophobic language toward LGBT+ individuals and inciting public violence, including on the air of "Alt-Info," the homophobic television station that broadcasts violence, this standard has yet to be implemented in practice. Interestingly, the Communications Commission ruled in July 2020 that the television network Alt-Info violated the law by broadcasting obscenity. The offense was inspired by the Alt-Info programs "Alt-Interview" and "Alt-Analytics," which aired on July 5, 6, 7, and 12.²⁴ Additionally, it is critical to note that the broadcast material aired on the television station did not contain obscenity but rather hate speech and incitement to violence, which, unfortunately, the Communications Commission did not address.²⁵

In addition, it poses a particular problem that in September 2021, the Georgian National Communications Commission granted the violent and homophobic platform "Alt-Info" an authorization to broadcast nationwide,²⁶ despite the fact that the "Alt-Info" platform spread misogynistic, xenophobic, homophobic, discriminatory, and hate speech messages and that the platform's founders and presenters were participants and organizers of the violent contraction that occurred in Georgia on July 5.

The foregoing demonstrates that there are no effective mechanisms in place in the country to deal with and prevent hate speech, nor to prevent politicians and the media from propagating such language. The Council of Europe's European Commission Against Racism and Intolerance has repeatedly urged Georgia to take effective measures to establish a framework for regulating hate speech in order to protect specific groups from discrimination directed at other groups.²⁷ However, before examining the necessity of regulating all manifestations of hate speech and conducting a compliance analysis in the context of Georgia, the state must ensure that, at the very least, appropriate legal measures against the radical manifestation of hate speech - public incitement to violence - are in place.

b) Discrimination of Transgender* people and Legal Gender Recognition

The circumstances concerning the legal status of trans* people in the LGBT+ group are particularly dire in Georgia. Despite the increased visibility of transphobia concerns in recent years, the state has taken no steps to improve the conditions of trans* people or to establish adequate safeguards for the protection of their rights.

22 see: <https://mythdetector.ge/ka/research/radikalizatsia-religiis-sakhelit-da-politikuri-oponentebis-cinaaghmdgvin-ristvis-iqenebs> It should be noted that the fact mentioned in the source happened during the self-government election campaign, which means that politicians use hate speech even when LGBT + issues are not on the agenda. They instrumentalize homophobia without context and, consequently, base their political strategies on it.

23 The Criminal Code of Georgia, Article 239¹

24 The Communications Commission has deemed the television company Alt-Info to have violated the law by broadcasting obscenity, see: <https://formulanews.ge/News/54406>

25 Analytical document of the organization "Media Rights", see: https://drive.google.com/file/d/1sD8ixJKChh0v7jKF4tM7UNCgvCKfs4AY/view?fbclid=IwAR329zT_l3MH8cBT5eyz7vQgwSkD-FZqXW26CjLrfQnwr3WZi9AjZ07ysLQ

26 see: <https://formulanews.ge/News/56414>

27 ECRI report on Georgia, Fifth monitoring cycle, 2015.

Trans* people face a unique set of obstacles as a result of the absence of legal gender recognition, which reinforces discriminatory practices and prevents the trans* community from exercising their constitutional rights equally. As a result, discriminatory attitudes and practices pervade all spheres of life, subjecting individuals to persistent and systematic inequity.

Legal Gender Recognition entails establishing the legal framework necessary for an individual to live as their preferred gender. International human rights instruments have repeatedly emphasized the critical nature of trans* people receiving legal gender recognition. The Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 2048(2015) on discrimination against transgender people, which calls on states to:²⁸

- Develop quick, transparent, and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people on birth certificates, identity cards, passports, educational certificates, and other similar documents; make these procedures available for all people who seek it, irrespective of age, medical status, financial situation or current or previous detentions;
- Abolish sterilization and other compulsory medical treatment, including a mental health diagnosis, as a necessary legal requirement to recognize a person's gender identity in laws regulating the procedure for changing a name and registered gender;
- Remove any restrictions on the right of transgender people to remain in an existing marriage upon recognition of their gender; ensure that spouses or children do not suffer a loss of rights;
- Consider including a third gender option in identity documents for those who seek it;

The resolution has also been affirmed in recent European Court of Human Rights case law. For example, in one of the most recent judgments in the case, *X. and Y. v. Romania*, the Court held that there had been a violation of Article 8 (right to respect for private life) when two transgender persons' requests for recognition of their gender identity and for the necessary administrative corrections were denied on the grounds that those making such requests were required to provide proof of gender reassignment surgery. The situation was exacerbated further by Romania's lack of clear and transparent legislation or procedures governing Legal Gender Recognition. The Court observed that national courts had placed the applicants, who did not wish to undergo gender reassignment surgery, in an impossible position: either they had to undergo surgery against their better judgment – and thus forego full exercise of their right to physical integrity – or they had to forego recognition of their gender identity, which also fell within the scope of respect for private life.²⁹

In Georgia, the issue of Legal Gender Recognition is not judicially regulated, and the general procedures for considering this process are also obscure. Georgia's only regulatory statute dealing with this subject is the Law on Civil Status Acts. Gender reassignment is one of the grounds for amending the civil status acts, according

28 PACE, Resolution 2048 (2015), *Discrimination against transgender people in Europe*, par. 6.2., see: <https://pace.coe.int/pdf/d553e6df013e8a0c8d587204abdc69e4c66e8875191093ea7788766390d33743/resolution%202048.pdf>

29 *AFFAIRE X ET Y c. ROUMANIE*, (Requêtes nos 2145/16 et 20607/16), STRASBOURG, 19 Janvier, 2021, par. 165, see. In French only: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-207364%22%5D%7D>

to Article 78 of the law.³⁰ The law, however, does not define “gender reassignment” or outline any procedures associated with it. As a result, legal gender recognition is entirely dependent on the practice of local courts and administrative agencies, which, according to the practical experiences of community organizations, impose unjustified preconditions on legal gender recognition. Individuals undergoing this administrative procedure, in particular, are subjected to unnecessary, coercive, and, in some cases, life-threatening medical/surgical procedures in order to use this administrative procedure and legally live with the preferred gender.³¹ The Independent Expert on Protection Against Violence and Discrimination on the Basis of Sexual Orientation and Gender Identity (SOGI) Report analyzes the issue of legal gender recognition in detail, highlighting the barriers mentioned above that prevent trans* people from living their preferred gender, and finds established practices to be inconsistent with international human rights standards. According to the report, such practices can result in severe and permanent physical and psychological suffering and pain, particularly if they are forced. Coercion may constitute a violation of the right to be free of torture and other inhuman or degrading treatment or punishment. Additionally, coerced sterilization violates a person’s right to bodily integrity, self-determination, and dignity, and may serve as justification for continued discrimination against transgender people.³² Without legal gender recognition, transgender people face discrimination in all spheres of life, including employment, housing policy, and social protection, resulting in social exclusion and violence, as well as restrictions on their freedom of movement.

For these reasons, the Independent Expert advises Georgia that the gender recognition system that enables transgender people to change their names and gender markers on identification documents should be a straightforward administrative process based on the applicant’s self-determination, accessible, and, to the extent possible, free of charge.³³

Notably, three cases against Georgia have been filed with the European Court of Human Rights regarding legal gender recognition, in which local community organizations represent trans applicants. Despite the fact that the court has begun communication on the cases, it has not yet issued rulings.

5.2. Impact of the COVID-19 Pandemic on Anti-Discrimination Policies

Rapid Gender Assessment of the Covid-19 Situation in Georgia prepared by UN Women names the possible increase in discrimination as one of the negative consequences of the pandemic. 8% of respondents reported experiencing an increase in discrimination during the pandemic, 5% expressed uncertainty, and the remaining (86%) responded negatively.³⁴

30 Article 78, paragraph g.

31 Universal Periodic Review (UPR) Georgia, UPR third Cycle, 37th Working Group Session, January 2021, Joint Stakeholders’ submission of 8 July, 2020 by Women’s Initiative’s Supporting Group (WISG) and by ILGA-Europe on “Discrimination on the basis of sexual orientation and gender identity in Georgia”, par. 34-35, see: https://wisg.org/Data/docs/publications/report/WISG%20and%20ILGA-Europe_%20joint%20UPR%20submission_Georgia_Jan%202021.pdf

32 A/HRC/41/45/Add.1, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, 15 May, 2019, par. 67, see: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR1uGxuj6lMh0KqfYO9D1vUNMQv4SWO0LSiwgZcH7UQCeSdyIM71tmToyZo>

33 *ibid.*, par. 68.

34 Rapid Gender Assessment of the COVID-19 Situation in Georgia, 2020, see: <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/rga%20unw-geo.pdf?la=en&vs=5941>

According to the Special Report of the Public Defender of Georgia, the situation relating to the novel coronavirus has negatively affected the equality of individual groups. In some instances, the measures taken to halt the virus's spread discriminated against specific individuals. The Public Defender has identified a disproportionate number of cases of discrimination on the basis of nationality, age, and gender.³⁵

As part of the current study, representatives of community organizations participated in focus groups to evaluate the effectiveness of the state's anti-discrimination policies. They stated that under the current circumstances, an unprecedented number of members of the LGBT+ community are attempting to flee the country and immigrate. Among them are young people in Georgia who had certain expectations.³⁶

35 Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2021, see: <https://ombudsman.ge/geo/190308041856angarishebi/tanastorobis-mdgomareobis-shesakheb-sakhalkho-damtsvelis-me-7-spetsialuri-angarishi>

36 Focus group with representatives of LGBT+ community organizations, 16.09.2021; 30.09.2021.

6. HATE CRIMES

6.1. Current situation and State measures

Hate crime is a term that refers to a criminal act that is motivated in whole or in part by prejudice and negative attitudes toward a specific group. According to the OSCE Office for Democratic Institutions and Human Rights' current definition, hate crimes are "any criminal offense, including offenses against persons or property, in which the victim, premises, or target of the offense are chosen for their actual or perceived connection, attachment, affiliation, support, or membership in a [specific] group."³⁷

Numerous measures have been taken by the international community to combat hate crimes motivated by sexual orientation and gender identity. Monitoring mechanisms at the United Nations and the Council of Europe increasingly call on states to ensure the prevention of hate crimes.

In recent years, Georgia's policy on sexual orientation and gender identity crimes has improved significantly. State agencies have taken significant steps to improve the quality of crime response and to create unified statistics for law enforcement and the judiciary. It should be noted, however, that the state's response to homophobic and transphobic crimes continues to fall short of efficiency, promptness, and impartiality. The state has not yet developed a unified strategy for combating hate crimes, despite the fact that such crimes have a negative social impact and may pose a significant threat to establishing the pluralism and equality principles in society and establishing a democratic and secure environment.

In 2018, the Georgian Ministry of Internal Affairs established the Human Rights Protection and Investigation Quality Monitoring Department, a step toward implementing the UN Universal Periodic Review (UPR) Recommendation, the ECRI Recommendations to Georgia, and the Public Defender's Recommendation. The latter suggests that "the Georgian authorities establish a specialized unit within the police to deal with specifically racist and homophobic/transphobic hate crimes." When establishing this unit, authorities should consult with the Public Defender, relevant non-governmental organizations, and international organizations.³⁸ Despite these recommendations, the unit was crammed with overly broad thematic blocks. Additionally to supervising the police response to crimes motivated by discrimination and intolerance, its mandate includes oversight of domestic violence and violence against women, human trafficking, crimes committed by/against minors, crimes against life, and crimes against health.³⁹ To some extent, the unit's significantly broad scope of work impedes its practical effectiveness. Additionally, contrary to the preceding recommendations, this unit serves as the oversight body for ongoing criminal investigations and does not conduct criminal or administrative legal investigations or responses. As a result, as stated in the 2018 ECRI Report on Georgia, this department cannot be considered a substitute for a specialized investigative unit within the police.⁴⁰

37 OSCE/ODIHR annual report for 2006, page 9. see: <http://www.osce.org/odihr/26759?download=true>

38 *ibid.*

39 see: <https://police.ge/ge/ministry/structure-and-offices/adamianis-uflebata-datsvis-departamenti>

40 ECRI CONCLUSIONS ON THE IMPLEMENTATION OF THE RECOMMENDATIONS IN RESPECT OF GEORGIA SUBJECT TO INTERIM FOLLOW-UP, Adopted on 5 December 2018, Published on 5 March 2019, see: <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e>

The Memorandum signed in September 2020 between the National Statistics Office of Georgia, the Ministry of Internal Affairs of Georgia, the Prosecutor's Office of Georgia, and the Supreme Court should be positively assessed in terms of identifying hate crimes.⁴¹ The Memorandum envisages the accountability of the agencies to share information, produce statistics, and publish a joint report.⁴² GEOSTAT published its first Joint Report in 2021,⁴³ which includes information about the crime and motive as defined by the applicable Criminal Code, as well as the alleged perpetrators' age and gender, as well as the geographical location of the crime. While this report represents a significant advancement in the production of joint statistics, it is worth noting that the gathered data has limited analytical capabilities. Given the report's broad coverage of hate-motivated crimes (age, race, sex, disability, religion, sexual orientation, and gender identity, among others), it does not allow for the data breakdown and statistical decomposition of crimes committed on the basis of a specific marker, such as the perpetrator's/age, victim's the perpetrator's/relationship, victim's or the gravity or nature of the crime. Simply put, the report does not connect disparate variables in a way that would allow for analysis of the causes, prevalence, or nature of crimes.

According to the report, in October-December 2020, the Ministry of Internal Affairs of Georgia initiated an investigation into 13 possible crimes⁴⁴ based on intolerance on the grounds of sexual orientation and gender identity, while the Prosecutor's Office of Georgia launched prosecution of 5 cases (sexual orientation - 3, gender identity - 2).⁴⁵ According to the 2020 report of the Prosecutor's Office of Georgia,⁴⁶ the criminal proceeding was launched against 17 individuals based on intolerance on the grounds of sexual orientation and gender identity. In the case of crimes committed on the grounds of sexual orientation (8 in total), six cases were prosecuted under Article 126 (violence) of the Criminal Code, and 2 cases - under Article 1571 (disclosure of secrets of personal life). Prosecution of gender-based crimes (9 in total) was launched in six cases under Article 126 (violence), in two cases under Article 151 (threat), and Article 1261 (domestic crime).

Compared to 2020, the rate of criminal prosecution by the Prosecutor's Office of Georgia on the grounds of SOGI was higher in 2019. Specifically, out of 30 cases, 11 prosecutions were launched on the grounds of sexual orientation and 19 on gender identity.⁴⁷ The most common forms of crime this year are violence and threats, as well as cases of domestic violence. In the mentioned year as well, the most common forms of crime are violence and threats, along with domestic violence cases.⁴⁸

Along with criminal offenses motivated by SOGI, the issue of compiling statistics on hate crimes should be isolated. Administrative offense judgments do not identify discriminatory motives for violent acts committed against victims. Due to the fact that applied administrative law does not specifically identify discriminatory motives as aggravating circumstances of administrative liability and does not permit their mention, they

41 see: <https://www.geostat.ge/ka/single-news/1941/urtierttanamashromlobis-otkhmkhrivi-memorandum>

42 *ibid.*

43 Joint Report of Data on Crimes Committed on the grounds of Intolerance with Discrimination Basis, October-December 2020, see: https://www.geostat.ge/media/36779/diskriminaciis-nishnit_2020_IV.pdf?fbclid=IwAR1TRZdklfuunM_i3sVTPy5vOZdVFETtIF09Krnflb5lb7AjjEfvVWE98s

44 *ibid.*

45 *ibid.*

46 Prosecutor's Office of Georgia, Analysis of Crimes Motivated by Intolerance on the grounds of Discrimination, the period of 9 months, 2020, see: <https://pog.gov.ge/uploads/2fa0e929-sheuwynareblobiT-motivirebuli-danashaulebis-analizi-2020-w.pdf>

47 Prosecutor's Office of Georgia, Analysis of Hate-motivated Crimes, the period of 11 months, 2019, see: <https://pog.gov.ge/uploads/e308b918-siZulviliT-motivirebuli-danaSaulebis-analizi-2019-weli.pdf>

48 *ibid.*

cannot be reflected in statistics either.⁴⁹ The Public Defender considers this practice problematic, which significantly complicates the production of statistics on alleged hate cases and increases the likelihood that hate-motivated illegal acts will go unnoticed.⁵⁰

It is noteworthy that generally, statistics produced by NGOs and community organizations working on the issues related to LGBT+ group in Georgia present dissimilar data on the scale of hate crimes and incidents. According to a survey conducted by the Women's Initiatives Supporting Group, during the period 2015-2018, 226 respondents became victims of hate crimes or incidents in Georgia.⁵¹ According to the survey conducted by Social Justice Center in 2020,⁵² 52% (N=320) of respondents have experienced violence at least once in their lifetime, entirely or in part, on the grounds of their sexual orientation and/or gender identity. 56% of respondents have experienced physical, psychological, and/or sexual violence at least once in the last two years. Research reveals that violence is most commonly manifested in threats (violence and loss of life) and physical abuse, most often observed on the street and online.⁵³ 48.4% of respondents have experienced psychological, and 29.4% have experienced physical violence in the last two years.⁵⁴

Additionally, a survey conducted in 2021 found that seven out of ten respondents (N=155, 73.5 percent) have been victims of hate crime at least once in the last two years. Among them, one in every three victims (N=147, 30.3 percent) has been subjected to physical or sexual violence or harassment, while 68.7 percent (N=145) have been subjected to psychological violence.⁵⁵

The 2019 UN Independent Expert Report on Georgia on Sexual Orientation and Gender Identity Protection and Discrimination confirms the above-mentioned crime scale. Explicitly stating that "beatings are frequent, harassment and bullying are persistent, and exclusion from education, work, and health settings appears to be the norm."⁵⁶ Community organizations' practical experience and research indicate that trust in law enforcement agencies is substantially low, leading to the under-reporting of crimes to the police. According to the survey mentioned above, 66% of LGBT+ respondents do not trust the Ministry of Internal Affairs of Georgia, 74% do not trust the Prosecutor's Office of Georgia, and 58% do not trust the judiciary.⁵⁷ Such a low level of trust poses a substantial barrier to detecting and responding effectively to homo/transphobic crimes. At the same time, the under-reporting of crimes does not indicate that such crimes are not committed or are rarely committed but that there is a shortcoming in the criminal justice system, which needs to be addressed through complex approaches and fundamental reforms,⁵⁸ considering that the homophobic attitude of the

49 Public Defender's Report on Positive Obligations of Law Enforcement Officers to Protect the Equality of Vulnerable Groups, 2021, page 19-20. see: <https://ombudsman.ge/res/docs/2021051415512039554.pdf>

50 *ibid.*, page 20.

51 Agdgomelashvili E. "From Prejudice To Equality: LGBTQI persons in Georgia", 2018.

52 Lika Jalagania, "Social Exclusion of LGBTQ Group in Georgia", 2020, see: <https://socialjustice.org.ge/ka/products/lgbtk-jgufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

53 *ibid.*, pages 90-105.

54 *ibid.*, pages 90-105.

55 Unpublished study: Agdgomelashvili and others, "Impact Assessment of COVID-19 Anti-Pandemic Restrictions and Anti-Crisis Measures on the LGBTQI Community", WISG, 2021.

56 see: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR>

57 *ibid.*, page 67.

58 Jalagania L., "Operational Guideline On Investigation and Prevention of Crimes based on Sexual Orientation and Gender Identity", Social Justice Center, 2017.

police enables to maintain under-reporting of crimes and a low level of trust. However, it is important to remember that “access to justice is a right and not an obligation of crime victims. The ultimate objective is not to have all victims actually report to the police, but to ensure that all victims are offered a real possibility of doing so.”⁵⁹

Domestic crime committed on the basis of SOGI should be mentioned separately, as evidenced by statistics produced by NGOs and LGBT+ community organizations. Domestic violence is a risk factor for the LGBT+ community in Georgia. According to studies, “institutional heterosexism toward members of the LGBT community, a high level of homophobia, and social exclusion they face outside the family make them more vulnerable to domestic violence and perpetuates the cycle of violence.”⁶⁰ The Georgian law enforcement system’s detection of such crimes is critical to combating them. As a result, policymakers and law enforcement agencies must have a sufficient understanding of and prioritization for this type of violence in order to plan and implement effective preventive policies against it.⁶¹

Despite widespread violence in Georgia, the number of appeals to law enforcement agencies is disproportionately low, owing to a lack of trust. Inadequate or non-response to critical societal issues erodes trust in law enforcement. A case in point is the police department’s failure to take appropriate criminal action against a possible criminal act committed by an ultra-conservative and violent group in 2019. Additionally, law enforcement agencies will abstain from taking positive action against acts of violence committed by violent radical groups on July 5-6, 2021, and perpetrators will remain unpunished. These practices violate the rule of law and make it impossible to create an environment that encourages victims of homophobic/transphobic violence to file complaints and ensures their protection.

a) Victim Protection and Assistance Mechanisms

Hate crimes can have a significant impact and consequence on marginalized groups. Victims of these types of crimes are more likely to feel fear, insecurity, guilt, and shame. As a result, the trauma associated with intolerance crimes is significantly more severe, even when the unlawful behavior itself is not extreme.⁶²

Victim protection as a whole aims to encompass both individual measures and a broad understanding of crime and its consequences. Eliminating the harm caused by homophobic and transphobic crime and restoring victims’ rights is one aspect of implementing the due diligence standard. According to the United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences, the goal of restoring victims’ rights should be to eliminate structural subordination, gender hierarchies, systemic marginalization, and structural inequality, all of which are root causes of violence against women. As the Special Rapporteur notes, its purpose should be to restore the victim to their pre-violence state, rather than to have transformative potential.⁶³

59 FRA, Ensuring justice for hate crime victims: professional perspectives, 2016, page 13, see: <https://www.refworld.org/pdfid/574fcf384.pdf>

60 Jalagania L. and Chutlashvili K., “Domestic Violence based on SOGI, legislative gaps and policy challenges”, Social Justice Center, 2018.

61 *ibid.*

62 FRA, Ensuring justice for hate crime victims, a professional perspective, 2016.

63 A/HRC/23/49, Paragraph 75, see: <https://undocs.org/A/HRC/23/49>

The Witness and Victim Coordinator institution is the only system providing support to victims of violence in law enforcement agencies in Georgia. The institute of coordinator has existed within the system of the Prosecutor's Office since 2011, and it became operative in the Ministry of Internal Affairs in 2019.⁶⁴

Notable is the addition of Chapter VIII of the 2018 Amendments to the Code of Criminal Procedure, which expanded the Witness and Victim Coordinator's rights and responsibilities. According to the Code, a prosecutor or investigator may appoint a Witness and Victim Coordinator to a criminal case in order to facilitate the witness's and victim's participation in the litigation process, assist in reducing the stress caused by the crime, and avoid re-victimization and secondary victimization.⁶⁵ In addition, the Witness and Victim Coordinator provides information to the witness and victim about legal, psychological, medical, and/or other services needed for them and, if necessary, assists with contacting the relevant body/organization.⁶⁶ It is essential that in criminal proceedings, the coordinator prioritizes communication with victims of domestic violence, crimes committed on discriminatory grounds, or sexual violence.

However, despite introducing the Witness and Victim Coordinator mechanism, the number of coordinators is limited throughout Georgia;⁶⁷ therefore, they can not provide effective communication and practical support to victims. In addition, the practice of community organizations also indicates that the coordinator's work is often reflected in the formal delivery of information regarding the trial and is less of a mechanism for their emotional or psychological support.

According to a survey conducted by the Women's Initiatives Supporting Group (WISG) in 2021, almost three out of five respondents (58.3%, N=123) expressed that they required the help of a psychologist to deal with the consequences of violence. 37 out of 123 knew where to get the assistance; however, they did not ask for help, 14 respondents were unavailable to use it, and 4 did not know about the service. More than half of the respondents in need received services (55%, N=68), of which 52 were through community organizations.⁶⁸

According to the same study, social workers' and lawyers' services are in second to third place in terms of demand. One-fifth of victims of violence require medical assistance (21.3%, N=45). Four out of five received the required service (N=35), and 39 respondents stated they would use the resources of support groups for victims of violence; however, they had no information regarding the existence of such services. In addition, due to the violent experience, 27 respondents required shelter. 3 out of 27 respondents received assistance from the community organizations, 5 sought out other resources, 4 did not apply, and the rest did not know where to get those services.⁶⁹

As already mentioned, in response to these needs, the state has not developed a unified and interagency approach to protecting and assisting victims of hate crimes, although this is provided for in Chapter 15 of

64 see: <https://police.ge/ge/shinagan-saqmeta-saministroshi-motsmisa-da-dazaralebulis-koordinatoris-samsakhuri-amoqmedda/12442>

65 Article 581, Part 1 and 2.

66 Article 58², Part 1' (d).

67 WISG, SHADOW REPORT to the Pre-sessional Working Group for the 81st session of the Committee on the Elimination of Discrimination Against Women (CEDAW) Upcoming Pre-Sessional Working Group (05 Jul 2021 - 09 Jul 2021), State party: Georgia, Discrimination and Violence Against Lesbian, Bisexual, Trans and Intersex Women in Georgia, see: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GEO/INT_CEDAW_ICO_GEO_45025_O.pdf

68 Unpublished study: Agdgomelashvili and others, "Impact Assessment of COVID-19 Anti-Pandemic Restrictions and Anti-Crisis Measures on the LGBTQI Community", WISG, 2021.

69 *ibid.*

the Government Action Plan. In particular, although the action plan envisaged the development of an initial version of the shelter concept for vulnerable groups identified by the SOGI mark,⁷⁰ it was not fulfilled. As a result, state-funded services do not cover victims' social and psychological needs, and Witness and Victim Coordinators refer victims to non-governmental organizations (NGOs)/community organizations. It may indeed be more secure and trustworthy for victims of crimes committed on the basis of the SOGI to communicate with and utilize the services offered by community organizations. This should not, however, preclude the state from establishing and developing free, physically accessible, and knowledge-based services through its agencies. The need for this is particularly critical in regions where most LGBT+ community organizations do not have regional offices. Given their limited resources and funding,⁷¹ they do not reach and meet the needs of community members in all regions of Georgia.

It is also noteworthy that the Agency of State Care is working on developing a concept of a service tailored to LGBT+ people by the end of 2021, which should be considered a progressive step.

6.2. Impact of the COVID-19 Pandemic on Hate Crime-Related Policies

As stated in the report of the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity,⁷² COVID-19 Pandemic caused substantial damage to the state of LGBT+ individuals. Government directives imposed during the Pandemic, including isolation and stay-at-home measures, significantly increased stress and the risk of violence by family members, especially directed towards youth.

Unstable socioeconomic circumstances have lowered the likelihood of escaping a violent environment. Assuring people's psychological well-being has become more difficult and, in some cases, more intricate. Referrals to various services, particularly mental health and psychological support services, have increased significantly, according to an Independent Expert.⁷³

Concerns identified by the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity have also emerged in Georgia. In its statement, the Coalition for Equality expressed that the LGBT+ group was left out of the Anti-crisis Plan⁷⁴ announced by the Georgian government on April 24, 2020.⁷⁵ "Numerous queer people who face housing difficulties during the Pandemic are frequently survivors of domestic violence or have been renounced and disowned by their families as a result of their sexual orientation and gender identity. They have severed ties with their families, making return either dangerous or impossible. The state's structural and systemic homo/bi/transphobia, which reproduces these attitudes on a societal level, has manifested itself for many years in a lack of political will to change the heavy legacy of negative attitudes toward queer people and develop a progressive social policy aimed at eliminating SOGI-based discrimination and associated economic, employment, and healthcare inequalities."⁷⁶

70 Section 15.3.4.

71 WISG, SHADOW REPORT to the Pre-sessional Working Group for the 81st session of the Committee on the Elimination of Discrimination Against Women (CEDAW) Upcoming Pre-Sessional Working Group (05 Jul 2021 - 09 Jul 2021), State party: Georgia, Discrimination and Violence Against Lesbian, Bisexual, Trans and Intersex Women in Georgia.

72 A/75/258, UN SOGI IE, Report to the UN General Assembly: THE IMPACT OF THE COVID-19 PANDEMIC ON THE HUMAN RIGHTS OF LGBT PERSONS, 2020, see: <https://undocs.org/A/75/258>

73 *ibid.*

74 see: http://gov.ge/index.php?lang_id=GEO&sec_id=541&info_id=75972

75 Coalition for Equality – The Needs of Groups Beyond the Scope of the State Anti-crisis Plan, May 1, 2020.

76 *ibid.*

7. FREEDOM OF ASSEMBLY AND EXPRESSION

7.1. Current situation and State measures

The right to assemble and express oneself is one of the fundamental guarantees of participation in society's political life and of having a voice. For marginalized groups, peaceful assembly and demonstration are frequently the most effective means of expressing their concerns. As a result, despite its contentious nature, the right to peaceful assembly enjoys a high level of protection in the international legal system, and the extent to which this right is violated is subject to appropriate assessment tests.

Crucial to the Georgian context is the European Court of Human Rights' decision in *Identoba And Others v. Georgia* (2015), in which the court critically assessed the State's failure to meet its positive obligations. The court stated that "given the attitude of a segment of Georgian society toward sexual minorities, the authorities were aware of or should have been aware of the risks of impending tensions associated with the applicant's street march commemorating International Day Against Homophobia." As a result, they were required to exhaust all available means prior to the demonstration, including advocating a tolerant, conciliatory position through unequivocal public statements and warning potential offenders of possible sanctions. Additionally, the results of the LGBT procession demonstrated that the number of patrol police stationed at the demonstration site was insufficient. Given the predictability of street clashes, the authorities would have been considerate only if they had taken additional personnel measures, such as mobilizing a special police force.⁷⁷

Since 2012, the negative experience of protecting freedom of assembly and expression has aided in the incitement of violence in public spaces, which has also manifested itself in the State's failure to secure both the LGBTQ+ fundamental right to freedom of expression and assembly and to punish those who violate it.⁷⁸ As a result, May 17 (IDAHOT), as the International Day Against Homophobia, Transphobia, and Biphobia, has become a day of the manifestation of institutional and homophobic attitudes in society from year to year.

It is noteworthy that despite numerous public calls for violence by these groups, law enforcement agencies have not reacted with an adequate and appropriate response. For example, in June 2019, a series of public calls for violence (public calls for violent actions)⁷⁹ were made by an ultra-conservative and violent group against the "Pride March" performance as part of Tbilisi Pride Week. They announced creating "People's Legions" and patrolling the streets. However, even though the Ministry of Internal Affairs formally launched an investigation into this fact⁸⁰, it has not yielded any results so far.⁸¹

The events that took place in Tbilisi during the film premiere of "And We Danced"⁸² on November 8, 2019, should also be mentioned. Violent groups gathered in front of the cinema confronted both the audience and the police officers openly. On the spot, 27 administrative offenses were investigated, including assaulting

77 ECHR, *Identoba and Others v. Georgia*, par. 99.

78 Legal Situation of LGBT Persons in Georgia, Jalaghania Lika, EMC, 2015.

79 See: <https://oc-media.org/tbilisi-pride-cancelled-after-location-leaks-online/>

80 See: <https://imedineews.ge/ge/dzalovnebi/108905/shssm-lgbtqpraidis-tsinaagmdeglegionissheqmnis-shesakheblevan-vasadzis-gantskhadebisshemdeg-gamodzieba-daitsko>

81 General proposal of the Public Defender of Georgia on the issue of preventing and combating discrimination: <http://www.ombudsman.ge/geo/qvela-zogadi-tsinadadeba/sakhalkho-damtsvelma-khelisuflebas-lgbt-temistsarmomadgenlebis-gamokhatvis-tavisuflebis-datsvisken-moutsoda>

82 The movie is about the Queer issues.

police officers and causing damage to a police car. However, the State's inattention to the violent group's leaders' statements prior to the premiere, in which they made public threats and urged supporters to disrupt film screenings, should be viewed negatively.⁸³

Such actions indicate the practice of mobilizing ultra-conservative and violent groups and cultivating homophobic and transphobic attitudes in society, which the State can not counteract with effective preventive or punitive mechanisms.⁸⁴ As a result, it contributed to strengthening a culture of impunity.

The State leaders' proclivity to discuss LGBTQ+ people and violent counter-demonstrators as two opposing sides has also been particularly troubling over the years. Additionally, the Special Report of Georgia's Public Defender confirms that "one of the most serious issues is the government's treatment of violent groups such as those with differing opinions and the right to assembly, placing their calls for violence within the legal framework that guarantees individuals' right to peacefully express their views." This approach violates both national and international standards of assembly freedom. Running counter-demonstrations by violent groups solely for the purpose of restricting the rights of others is an abuse of the right, and their acts of violence are not protected by the freedom of assembly. Thus, in order to fully realize the right to peaceful assembly in the country, the authorities must change their approach in time and take effective preventive or proactive measures in each case to protect peaceful assembly participants from violent groups."⁸⁵

July 5-6 Events, 2021

The LGBTQ+ group and their supporters - the civil movement Tbilisi Pride, the Shame movement, and other civil activists - organized a series of Pride events during the week of July 1-5. July 5 was to be the culmination of these events, concluding at 6:00 p.m. with a March of Dignity through Tbilisi's central districts.

As soon as the event was announced, radical, ultra-right, conservative, and violent groups in Georgia started mobilizing through social networks, publicly circulating hate speech against Tbilisi Pride, and calling for violence, including through television (Alt-Info)⁸⁶.

Although Tbilisi Pride communicated with law enforcement agencies about the July 5 event, the Ministry of Internal Affairs did not bring an appropriate number of police officers to the site and did nothing to prevent peaceful protests from being disrupted by counter-demonstrators.

On the evening of July 4, radical and violent groups began occupying the area around Rustaveli, attempting to seize the organizers of the March of Dignity's space and obstruct the event. On July 5, representatives of violent groups, including Alt-Info and their organized groups, took over the entire area directly in front of the parliament. It was especially disturbing when the counter-demonstration organizers and clergy publicly expressed hate speech and called for violence against marchers and journalists. These calls were made

83 See: <https://oc-media.org/georgian-ultraconservative-groups-vow-to-prevent-queer-romance-film-premier/>

84 Gerliani T., Pataridze M., Legal Assessment of the July 5-6 Events - Preliminary Analysis, Center for Social Justice, 2021, see: <https://socialjustice.org.ge/ka/products/5-ivlisis-movlenebis-samartlebrivi-shefaseba-pirveladi-analizi>

85 Special Report of Public Defender of Georgia – "Right to Peaceful Assembly and Manifestation – Sphere Protected by the Right and Standard of Management of Assembly", 2020, page 11, see: <https://ombudsman.ge/res/docs/2020061620213679437.pdf> See also: Gerliani T., Pataridze M., Legal Assessment of the July 5-6 Events - Preliminary Analysis, Center for Social Justice, 2021: <https://socialjustice.org.ge/ka/products/5-ivlisis-movlenebis-samartlebrivi-shefaseba-pirveladi-analizi>

86 See: <https://formulanews.ge/News/56414>

specifically to disperse peaceful protesters and incite physical violence.⁸⁷

According to the Law of Georgia on Assemblies and Demonstrations⁸⁸, law enforcement agencies were required to take appropriate action to disperse the assembly or demonstration immediately before the situation deteriorated. Despite the counter-use demonstration's of hate speech and violence, law enforcement agencies failed to take appropriate action to put an end to the protest. Additionally, as previously stated, insufficient law enforcement officers were deployed on the scene to assess the risks and take appropriate measures.

As a result of the pre-organized counter-demonstrations and calls for violence, the situation at various locations along Rustaveli Avenue deteriorated prior to the March of Dignity, culminating in mass violence directed at media representatives covering the counter-demonstration. According to Human Rights Center monitors on the ground, "the number of police officers on the scene during the violent events was critically low." The police were frequently unable to protect journalists who were severely beaten by violent demonstrators."⁸⁹

Violent and homophobic groups also carried out a group attack on the offices of the Shame movement and Tbilisi Pride. As a result, citizens received various types and degrees of health damage. Office inventory and other material property were also damaged.⁹⁰

As a result, the organizers of the March of Dignity and their supporters were denied the right to peaceful assembly and demonstration. Furthermore, as a result of mass and group violence, 55 journalists and camerapeople sustained varying degrees of physical injury, various items belonging to various individuals were damaged, and journalists were unable to perform their professional duties.⁹¹ One of the operators, Lekso Lashkarava, who was being treated at home after receiving severe injuries on July 5, was found dead in his apartment on July 11.⁹² This group violence against LGBTQ+ people and journalists is one of the most serious and large-scale organized attacks in the history of Georgia, which has caused significant damage to the media, LGBTQ+ people, their supporters, and the democratic development of the country in general.

Despite the severity of the violence, Georgian law enforcement agencies have failed to take appropriate action. On July 5, 2021, the Office of the General Prosecutor of Georgia identified 53 individuals as victims of group violence and criminal proceedings were initiated against 27 individuals, but no criminal charges for organizing gang violence were filed, even after the Public Defender of Georgia initiated criminal proceedings against specific individuals. Furthermore, no charges of publicly inciting violence have been brought, which should be interpreted as an alarming message and an indirect justification for the violence. Such state inaction in large-scale acts of violence is wholly inconsistent with international and national standards. According to the European Court of Human Rights, "true freedom of peaceful assembly cannot be limited

87 „Organizing July 5, Part 1”, published on Publica, see: <https://www.facebook.com/publika.ge/videos/2693540917616640/>

88 In organizing or holding an assemblage or manifestation, it is prohibited "to call for actions that are intended to propagate war or violence and that incite national, regional, religious or social hostility and pose obvious, direct and essential threat to actions", Article 11.

89 Human Rights Center (HRC), Right of Peaceful Assembly and Manifestation in Georgia, 2021, pages 40-41, see: <http://hrc.ge/files/reports/163RIGHT%20OF%20PEACEFUL%20ASSEMBLY...-geo-%20Main%20flaws%20in%20law%20and%20practice,%202021.pdf>

90 see: <https://formulanews.ge/News/53042>

91 Proposal of the Public Defender of Georgia to the Prosecutor General to launch criminal proceedings against Zurab Makharadze over organizing group violence on July 5, 2021, see: <https://ombudsman.ge/res/docs/2021090615354912875.pdf>

92 It has not yet been determined whether Lekso Lashkarava's death directly resulted from the severe physical injuries received on July 5.

solely to the state's obligation to refrain from interfering: this wholly negative concept contradicts the idea and purpose of Article 11 of the Convention." If necessary, this provision may also necessitate positive action in the area of interpersonal relationships. This positive commitment is especially critical for those who hold unpopular views or are members of minorities, owing to their increased vulnerability."⁹³

A clear example of the legitimacy of violence is the public response of politicians to the facts of severe violence⁹⁴. In terms of the domination of the majority's opinion, they set an alarming trend at the expense of suppressing and oppressing the opinion of minorities. While individual interests sometimes depend on the group interests, the European Court of Human Rights has repeatedly stated in its case law that democracy does not always simply mean the advantage of the majority. A balance is needed to avoid the abuse of dominant opinions and ensure fair and equitable treatment of minorities.⁹⁵ According to the court, "a peaceful demonstration may irritate or upset people who oppose the ideas or statements that the demonstration promotes. In any case, participants should have the State support to demonstrate without fear of physical retaliation from opponents. Such fears can deter associations or groups advocating common ideas and interests from openly expressing their views on highly controversial issues affecting society. In a democracy, a counter-demonstration cannot be turned into a hindrance to exercising the right to demonstrate."⁹⁶

Violence erupted again on July 6 as citizens gathered outside the Georgian Parliament to support LGBTQ+ rights and journalists. This peaceful gathering became the target of another violent counter-demonstration, and the number of law-enforcing organs was still critically small on the site.⁹⁷ After the peaceful demonstrators unfurled a flag bearing LGBT + symbols, the situation became significantly tense - participants in the counter-demonstration began throwing various objects, injuring several members of the peaceful assembly. Due to the fact that the police deployed on the scene were unable to deal with the mass of counter-demonstrators, they were able to evacuate the peaceful demonstrators from the gathering area via a specially constructed cordon. However, as previously stated, the fact that persons engaging in peaceful assembly are denied the right to demonstrate is in direct violation of international human rights standards.⁹⁸

In response to the disproportionate measures taken by the State on the facts of the violence committed on July 5-6, the Public Defender of Georgia addressed two proposals to the Prosecutor General's Office of Georgia. In addition to describing the factual circumstances of the violent acts committed on July 5 and 6, she also called for appropriate legal actions, pointing out the necessity of the prosecution of at least two people for public incitement to violence on July 5⁹⁹ and for organizing and directing the July 5 violence.¹⁰⁰

93 ECHR, *Identoba and Others v. Georgia*, *ibid.*, par. 94.

94 Statement by the Prime Minister: <https://palitraneews.ge/video/dghes-daanonsebuli-marshis-chatareba-mimachniamizansheutsonlad-is-sheitsavs-samokalako-dapirispirebis-saftrkhes-premeri>

95 ECHR, *Identoba and Others v. Georgia*, par. 93.

96 *ibid.*, par. 95.

97 See: <https://civil.ge/ka/archives/431033>

98 OSCE/ODIHR – VENICE COMMISSION GUIDELINES ON FREEDOM OF PEACEFUL ASSEMBLY (2ND EDITION), adopted by the Venice Commission at its 83rd Plenary Session, 2010.

99 Proposal of the Public Defender of Georgia to the Prosecutor General to launch criminal proceedings against Spiridon Tskipurishvili over organizing group violence on July 5, 2021, 03.09.2021, see: <https://ombudsman.ge/res/docs/2021090615354933553.pdf>

100 Proposal of the Public Defender of Georgia to the Prosecutor General to launch criminal proceedings against Zurab Makharadze over organizing group violence on July 5, 2021, 03.09.2021, see: <https://ombudsman.ge/res/docs/2021090615354912875.pdf>

7.2. Impact of the COVID-19 Pandemic on exercising Freedom of Assembly and Expression

The COVID-19 pandemic has challenged the effective implementation of fundamental human rights practices. According to the UN Special Rapporteur on the Right to Freedom of Peaceful Assembly and Demonstration, despite the current social and health crisis, it is crucial that states adhere to the basic principles of democratic participation.¹⁰¹ This means avoiding unreasonable restrictions by states, particularly ensuring access to peaceful and secure gatherings, not only in open physical spaces but also online. In the case of Georgia, the reason for restricting LGBT + group gatherings was not the COVID-19 pandemic. However, according to the UN Special Rapporteur, governments have used the pandemic crisis recklessly to quell opposition and minority voters.¹⁰² Accordingly, the Government of Georgia must take all measures to prevent unjustified interference with the effective exercise of the right of assembly and expression without discrimination against all groups.

101 “States responses to Covid 19 threat should not halt freedoms of assembly and association” – UN expert on the rights to freedoms of peaceful assembly and of association, Mr. Clément Voule, see: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>

102 *ibid.*

8. ACCESS TO EDUCATION

8.1. Current situation and State measures

International instruments call on states to take appropriate measures to prevent and eliminate violence in schools and universities. Bullying and discriminatory practices by the representatives of educational institutions should be closely observed. According to the UNESCO Convention on the Prohibition of Discrimination in Education¹⁰³, which entered into force in Georgia in 1993, education should be focused on full personal development. It should strengthen the respect for human rights and freedoms; promote understanding, tolerance, and friendship between groups of different people; and maintain peace in the community.¹⁰⁴

Georgian legislation formally ensures the observance of the principle of non-discrimination in the existing national legislation on education. For example, according to the Law of Georgia on General Education, “a student has the right to be protected from ill-treatment, neglect, and abuse.”¹⁰⁵ The legislation also contains general provisions on protection against discrimination¹⁰⁶. However, none of the laws establish proactive mechanisms for protection against discrimination, nor do they include obligations to protect against sexual or other types of harassment.

The mechanisms against bullying are implied under the general provisions of the Law on General Education of Georgia and the Law on Higher Education prohibiting violence and the internal regulations of schools and universities/colleges. The definition of bullying itself is not given in Georgian legislation or any by-law. However, as stated in the response letter of the School Resource Officer of the LEPL Educational Institution¹⁰⁷, “the definition formed by the UNICEF guides the Resource Officer. According to this definition, bullying is aggressive, deliberate behavior that involves inequality of power.”¹⁰⁸ Roland’s definition (1988) is also used to clarify the definition, especially for students, stating that “bullying is long-term physical and mental violence by one individual or group against another individual who is unable to defend himself in a particular situation.”¹⁰⁹ However, it should be noted that the School Resource Office does not deliver statistics on bullying or other forms of violence based on SOGI.¹¹⁰

The present study’s focus group discussions revealed that school is not regarded as a safe space for the LGBTQ+ community. Rather than that, it frequently serves as the catalyst for traumatic experiences. For instance, according to information gleaned from a focus group discussion, one trans* student dropped out of school as a result of the bullying experience. The Equality Movement was actively involved in the mediation process that resulted in the school being able to open with the assistance of social workers. Regrettably,

103 UNSECO, Convention against Discrimination in Education 1960, see: http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html

104 UNSECO, Convention against Discrimination in Education 1960, Article 5.

105 Article 9, Paragraph 8.

106 Law of Georgia on General Education, Article 8, Article 13, Article 14; Law of Georgia on Higher Education, Article 3.2 (h); Article 3.3 (j).

107 Response letter of the Resource Officer of the LEPL Educational Institution, MES 7 21 0000989535, 28.09.2021.

108 *ibid.*

109 *ibid.*

110 *ibid.*

the student did not continue his studies as a result of the emotional stress he endured at school.¹¹¹ As representatives of LGBTQ+ community organizations point out, this is not an isolated case. In general, stress and emotional background affect the involvement in the learning process. A discriminatory or non-accepting environment at school often affects not only participation and attendance in the teaching process but also the quality of learning.¹¹²

No in-depth research has been conducted in Georgia on the practice of bullying and incitement of discriminatory behavior by teachers based on sexual orientation, gender identity, and gender expression. However, small studies have been conducted at different times, including the Independent Expert Report on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity¹¹³, which shows that Georgian public schools are not free from such practices. Moreover, teachers often incite the strengthening of stereotypes and encourage discriminatory behavior.¹¹⁴ It indicates the need for the Georgian education system to raise teachers' awareness and work with them constantly. According to the information obtained from the Office of School Resource Officers, since 2019, they have been implementing pilot projects in 11 public schools to prevent and respond to violence.¹¹⁵

Along with the mechanisms necessary to prevent violence and discriminatory behavior, international standards imply that a student's right to an education includes the right to a comprehensive education on human sexuality, appropriate to the child's age and development.¹¹⁶ However, despite the steps taken by the State in this regard¹¹⁷, adolescents' knowledge of human sexuality is still scarce. Students and adolescents do not have complete information about their bodies, relationships, reproductive health, and sexuality.¹¹⁸ As international mechanisms point out, children and young people have the right to receive in-depth, scientifically proven, and culturally sensitive education about sexuality.¹¹⁹ Sex education is inextricably linked to the right to be

111 Focus group with LGBTQ+ community organizations, „Equality Movement”, 30.09.2021.

112 Jalaghania L., „Social Exclusion of LGBTQ Group in Georgia”, 2020.

113 Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Visit to Georgia, 2019, par. 81-85.

114 Equality Movement, Queer Bullying in Schools, 2020, see: <http://www.equality.ge/tag/%E1%83%A5%E1%83%95%E1%83%98%E1%83%90%E1%83%A0-%E1%83%91%E1%83%A3%E1%83%9A%E1%83%98%E1%83%9C%E1%83%92%E1%83%98>

115 At the beginning of the pilot project, with an intensive training course “Identification and Prevention of Violent and Destructive Behavior” (before integration into the schools' pilot program in 2019), 830 teachers were trained in 2018, while 84 teachers were trained in 2019. From 2019 to the present, training within the frames of the project and various types of bullying-related, informational, educational, and cognitive activities have been conducted for 2168 teachers, 9984 parents/legal representatives, and 32281 students, Response letter of the Resource Officer of the LEPL Educational Institution, MES 7 21 0000989535, 28.09.2021.

116 Recommendation 24 of the UN Committee on the Elimination of Discrimination against Women (CEDAW), 1999, Paragraph 18. UN Committee on the Rights of the Child, General Comment No15, 2013. Recommendation 24 of the UN Committee on the Elimination of Discrimination against Women (CEDAW), 1999, Paragraph 18.

117 Teaching reproductive health issues has become more focused on the new national curriculum. With the support of the UNFPA Georgia Office, the standards for primary (grades I-VI), basic (grades VII-IX), and intermediate (grades X-XII) levels were revised and approved. Age-appropriate information on sexual and reproductive health, reproductive rights, and gender equality were upgraded in accordance with the standards of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization.

118 Public Defender of Georgia, Sexual and Reproductive Health and Human Rights: National Assessment, 2019, See: <https://ombudsman.ge/res/docs/2019072913513745197.pdf>

119 The UN Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Lanzarote Convention, the Istanbul Convention, the European Social Charter, etc.

free from violence and discrimination, to the best possible standard of health, to information, and to a high-quality, inclusive education. The UN Special Rapporteur on Sexual Education stated explicitly in a 2010 report that sexual education is a distinct right that should be linked to other rights, given their universality and indivisibility.¹²⁰

As for the need to revise textbooks, according to the Public Defender,¹²¹ a number of important steps have been taken to review textbooks. For example, by incorporating specialists recommended by the Public Defender into the Textbook Grading Commission, it was possible to eliminate content from study materials that contained discriminatory, stereotypical views. However, the Public Defender asserts that the process continues to violate applicable standards. Additionally, obstacles have been identified in terms of content integration in order to advance gender equality.¹²² In addition, the need for human rights and gender equality training for reviewers was also revealed.

In comparison to school spaces, university spaces may offer a higher level of protection due to the students' age. However, there is a dearth of information regarding possible instances of discrimination and sexual harassment, making it difficult to draw any conclusions about the scope of the aforementioned forms of discrimination. According to a quantitative survey conducted by the Women's Initiative Support Group in 2021, six out of every ten LGBTQ+ respondents who have studied in any educational institution for the last two years (143 respondents) indicated that they were forced to leave school; eleven respondents were not permitted to attend a lecture or lesson; and nineteen respondents indicated that they were required to perform additional tasks than other students.¹²³

Internal regulations and mechanisms for the prohibition of sexual harassment and discrimination have been developed by only a part of the educational institutions with codes of ethics and internal regulations.¹²⁴ However, some discrimination cases are difficult to detect because of their hidden nature, i.e., unfair evaluation of student papers (related to gender equality) and the tendency to create a hostile environment when evaluating them.¹²⁵ It means that university spaces are also not free from stereotypical and discriminatory practices, and appropriate measures are needed to create an equal educational environment for all students.

120 CoE, Comprehensive sexuality education protects children and helps build a safer, inclusive society, 2020, See: <https://www.coe.int/en/web/commissioner/-/comprehensive-sexuality-education-protects-children-and-helps-build-a-safer-inclusive-society>

121 Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2020.

122 See: <https://ombudsman.ge/res/docs/2020122517134623546.pdf>

123 Unpublished study: Agdgomelashvili and others, Assessing the impact of anti-pandemic restrictions and anti-crisis measures caused by the new coronavirus on the LGBTQI community, WISG, 2021

124 For example, Tbilisi State University, Ilia State University, Free University, GIPA - Institute of Public Affairs, Grigol Robakidze University, etc.

125 For example, there has been a dispute between Ivane Javakhishvili Tbilisi State University and its former student A.T. for three years. The plaintiff has three main demands - to have the opportunity to defend his dissertation again in a healthy environment, establish a mechanism to study the fact of appeals, and, most importantly, sexual harassment and various forms of discrimination in the university. Another TSU student, G.Kh., was also the victim of possible discrimination and unfair assessment on the basis of submitting a paper on the problem of sexual violence. He was not allowed to appeal against any possible discriminatory action against him through the relevant university mechanism due to its absence. See: „Writing a Master Thesis on Gender Issues May Result in Low Scores for the Law Students, 12.08.2021, See: <https://edu.aris.ge/news/samagistro-nashromis-wera-genderul-sakitxebze-iuridiuli-fakultetis-studentebs-shehadzloa-dabal-qulad-daudjdet.html>

8.2. Impact of the COVID-19 Pandemic on the Right to Education

The pandemic crisis has severely harmed the effective exercise of the right to education. The UN Special Rapporteur on the right to education noted that, despite the numerous innovative methods used by states to ensure education continuity during a pandemic, they could not compensate for the consequences of being unprepared for a crisis of comparable magnitude. “Past failures in establishing a strong and sustainable educational system have created an environment conducive to dramatic negative consequences for the most marginalized and vulnerable groups.”¹²⁶ According to the rapporteur, structural inequality is most evident in marginalized groups, and the existing failure will be exacerbated if states do not take proper immediate action.¹²⁷ Education inequity has a cumulative effect, resulting in increased and persistent inequality. The crisis has also demonstrated how inextricably linked and dependent the right to education is to other rights, such as the right to adequate housing, the right to an adequate standard of living, the right to work, and the child’s right to be free from all forms of violence.¹²⁸

Access to higher education has also been exacerbated by the education crisis, particularly for students who have become unemployed or whose parents have lost their jobs and are unable to pay their tuition fees. According to representatives of LGBTQ+ community organizations who participated in this study’s focus groups, access to education and training resources has become especially difficult for students from rural areas who traveled to the capital to study.¹²⁹ As representatives of regional community organizations have noted, all students who utilized their services in the regions were forced to pause or discontinue their studies. Some returned to their hometown/village, while others found work in the service industry. According to community organization representatives, this will significantly impede students’ ability to obtain an education and continue their studies in the future.¹³⁰

Part of the students left the capital and went to their families in the regions because they could no longer pay their rent. They found it difficult to continue their education online due to poor internet access.¹³¹ The UN Special Rapporteur notes that the lack of access to educational resources and the Internet is a newly emerging problem of discrimination but also acknowledges that this problem is a result of pre-existing structural inequality, including the social and economic status, gender and sex, language, religion, ethnicity, disability, and more.¹³²

Community organizations also noted that they had been repeatedly approached during the pandemic, including by trans* people, for funding their studies. However, given the organizations’ limited resources, only a few of them were able to find some support.¹³³

126 A/HRC/44/39, Report of the Special Rapporteur on the right to education, Right to education: impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities, 2020, par. 20.

127 *ibid.*, par. 21-30.

128 *ibid.*, par. 31.

129 Focus group with LGBTQ+ community organizations, 30.09.2021.

130 Focus group with LGBTQ+ community organizations, Representative of Identoba Youth, 30.09.2021.

131 Focus group with LGBTQ+ community organizations, Representative of Identoba Youth, 30.09.2021.

132 A/HRC/44/39, Report of the Special Rapporteur on the right to education, Right to education: impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities, 2020, par. 23.

133 Focus group with LGBTQ+ community organizations, 30.09.2021.

9. LABOR RIGHTS AND EMPLOYMENT ACCESS

9.1. Current situation and State measures

In terms of eliminating discrimination in the workplace, the key EU directives, which the State has committed to implementing in the EU-Europe Atomic Energy Union and their Association Agreement¹³⁴, are important. The agreement entered into force in July 2016. The Association Agreement sets out the issues of employment, social policy, and equal opportunities in Annex XXX, which sets out a separate list of directives related to the prohibition of discrimination in the workplace and gender equality (Directive 6). Among these directives, the prohibition of discrimination on the grounds of sexual orientation is directly incorporated by Council Directive 2000/78/EC of 27 November 2000¹³⁵, which establishes a general framework for equal treatment in employment and occupation and sets out the obligation to prohibit discrimination not only in the workplace but also in the process of employment. In particular, under Article 3 of the Directive, equality obligations apply to the conditions of access to employment, including selection criteria and all hierarchical levels of the professional hierarchy, including promotion.¹³⁶

According to a report by the UN Independent Expert on Georgia on Discrimination on the Grounds of Sexual Orientation and Gender Identity, the practice of discrimination in the workplace is another significant challenge for LGBTQ+ people.¹³⁷ Trans people are particularly vulnerable. The problem of legal gender non-recognition poses significant barriers for trans people to access employment with decent working conditions, leading to unofficial and poor working conditions. Some of them (mostly trans women) may engage in commercial sex work, making them even more unprotected and vulnerable to violence.¹³⁸ This is confirmed by recent studies, according to which 61.4% of trans sex workers named the difficult economic situation as the main reason for their involvement in sex work. When assessing the difficulties associated with sex work, respondents indicated the stress related to financial instability (79.5%) and existing life or health risks (77.3%).¹³⁹

A study conducted in 2018¹⁴⁰ shows that 28.2% of lesbian and bisexual women were subjected to discrimination in the workplace because of their sexual orientation and gender expression, while in most cases, there was discrimination in the process of employment - 21.4%; 11.2% and 6.5% were subject to inequality in opportunities and discrimination in the promotion process, respectively.¹⁴¹ According to the study, the problem of discrimination in the labor market arises for lesbian and bisexual women who look gender-conformist/non-binary. Overall, the discriminatory experience in the private sector (32.6%) is substantially greater than the practice of unequal treatment in the public sector.¹⁴²

134 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, Annex XXX, See: <https://matsne.gov.ge/ka/document/view/2496959?publication=0>

135 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

136 Directive 2000/78/EC, Article 3, Paragraph a)

137 Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, 2018, par. 72.

138 Bakhtadze K., Discrimination and Hate Crime against LGBT Persons, 2015, WISG, p. 39.

139 Jalaghania L., Social Exclusion of LGBTQ Group in Georgia, 2020, p. 151.

140 Aghdgomelashvili E., From Prejudice to Equality: LGBT persons in Georgia (part II): LGBTI persons in Georgia, WISG, 2018.

141 *ibid.*

142 Aghdgomelashvili E., From Prejudice to Equality: LGBT persons in Georgia (part II): LGBTI persons in Georgia, WISG, 2018.

According to a survey conducted in 2020¹⁴³, 93.1% of LGBTQ+ respondents agree with the opinion that “LGBTQ+ people have less access to employment than others.” It indicates not only discriminatory practices and workplaces but also the anticipation of discrimination, which may create significant barriers for the LGBTQ+ group in their job search, leading them to agree to work where there may be a more acceptable environment but no social benefits or adequate salaries (Precarious labor). That is also confirmed by the distribution of the survey participants by employment sector, which shows that most respondents are employed in the arts, entertainment, and leisure (32.7%) sectors and accommodation and catering (19.20%).¹⁴⁴

It is important to note that a decent job should include not only adequate pay and fair organization in terms of labor administration but also the provision of a safe working environment. That is why LGBTQ+ people need to have a homophobia-free and healthy work environment where they do not have to control their self-expression and make extra efforts to protect themselves from direct or indirect disclosure of their identity.¹⁴⁵ In the reality of Georgia, young people from the LGBTQ+ group often have to choose between education and employment due to the social crisis and high poverty rates in the country.¹⁴⁶ This choice is often faced by young community members who do not have the support of their families and can not benefit from their financial assistance. As a rule, young people engage in precarious labor instead of getting an education, which eventually leads to a cycle of “Queer Precarity”¹⁴⁷ from which they rarely manage to escape.

The International Labor Organization (ILO) considers the employment of young people in decent working conditions to be of particular importance. An analytical document prepared by the ILO Statistics Department on indicators for school-to-workplace transition states that young people engaged in precarious work that does not provide decent working conditions cannot be considered a group that has undergone a complete transition into “labor” (school-to-workplace transition).¹⁴⁸

The ILO Resolution on Youth Employment of 2005 states that many young people in the world do not have access to decent labor. “A significant number of young people are unemployed, looking for a job or working for unacceptably many hours in informal and vulnerable jobs, without opportunities for personal and professional development. They are employed in low-skilled positions that do not meet their capabilities and do not provide career advancement opportunities. Against their will, they are locked up in part-time, temporary, and seasonal work, often in the precarious working conditions of a substantially poor and informal economy, both in urban and rural areas.”¹⁴⁹ As a result, “they do not have an adequate income, access to education and continuing education, social protection and security.”¹⁵⁰

143 Jalaghania L., *Social Exclusion of LGBTQ Group in Georgia*, 2020, p. 143.

144 *ibid.*, p. 137.

145 *ibid.*, p. 143.

146 Focus group with representatives of LGBTQ + community organizations, 30.09.2021.

147 Weiss M. and Hollibaugh A. “Queer Precarity and the Myth of Gay Affluence”, 2015, See: <https://newlaborforum.cuny.edu/2015/10/15/the-myth-of-gay-affluence/>

148 ILOSTAT, *From school to work: An analysis of youth labour market transitions*, 2019, See: https://ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_732422.pdf

149 ILO, *Resolutions adopted by the International Labour Conference at its 93rd Session (Geneva, June 2005)*, Resolution concerning youth employment, par. 5, See: https://learning.itcilo.org/ilo/youthemployment/PDF/resolutions_en.pdf

150 *ibid.*

According to the ILO, although jobs cannot be created directly by the State in response to these failures, governments need to ensure labor safety and productivity growth through appropriate legislation, which is a key foundation for decent labor. The State should take measures to “transfer” young people involved in the informal economy to the formal and create appropriate conditions to promote the skills and knowledge needed for youth employment.¹⁵¹

Georgian legislation has undergone significant changes in creating decent working conditions and prohibiting unequal treatment in the workplace. On September 29, 2020, as a result of the reform of the labor legislation, the Labor Code of Georgia became substantially closer to the EU directives and the requirements of the International Labor Organization. Therefore, the amendments to the Labor Code expanded its scope of discrimination to include access to all forms of professional orientation, professional development, vocational training, and retraining at all levels of the professional hierarchy (including practical professional experience).¹⁵² It should also be noted that the Labor Code considered the employer’s direct obligation to take measures to protect the principle of equal treatment of employees in the institution, including the provisions prohibiting discrimination in the labor regulations and other documents and ensuring their implementation.¹⁵³

Amendments to the Labor Code have defined the Labor Inspectorate as a law enforcement mechanism, including a body responsible for overseeing the implementation of employers’ obligations of non-discrimination, whose activities are regulated by the Organic Law of Georgia on Labor Safety in addition to the Labor Code. According to the Labor Code, the inspection is also authorized to apply an administrative penalty.¹⁵⁴ However, it should be noted that the inspection mandate duplicates the Public Defender’s functions in the field of equality. The Public Defender considers that the mandate of the Labor Inspection Service should be limited to a general policy on equality in employment, and a mechanism for reporting individual cases of alleged discrimination to the Public Defender should be introduced.¹⁵⁵ It may be especially important for women and LGBTQ+ victims of various forms of discrimination in the workplace, as dealing with these types of cases and communicating with victims requires substantial sensitivity and specific knowledge.

It should also be noted that despite the positive changes, the Labor Code of Georgia did not take into account the obligation to re-establish the minimum wage by the relevant state institutions, although it was envisaged in the first package of amendments. Regulating the issue of remuneration in labor laws is just one component of the fight against inequality. In order to effectively enforce the principle of equal pay, the regulation of the minimum wage is critical in ensuring decent work and eliminating labor discrimination against women. The importance of the minimum wage is reflected in the ILO Convention №100 as a basic means of enforcing the principle of equal pay, as according to the ILO, an adequate minimum wage policy creates significant leverage for people employed in low-paid jobs.¹⁵⁶

In Georgia, the issue of the minimum wage has been left out of the relevant regulation, and the current

151 *ibid.*, par. 9.

152 Labour Code of Georgia, Article 5.

153 Labour Code of Georgia, Article 23, Part 4.

154 Labour Code of Georgia, Article 76; 77; 78.

155 See: <https://www.ombudsman.ge/geo/akhali-ambebi/sakhalkho-damtsveli-miesalmeba-shromis-kanonmdeblobashi-gankhortsiebul-tsvlilebebs>

156 ILO, Equal pay, An introductory guide, 2013, pages 50-51, See: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_216695.pdf

retrograde norm is detrimental to the interests of employees¹⁵⁷, which violates the principle of decent work. In particular, the minimum wage in Georgia is still 20 GEL according to the decree N351 of the President of Georgia issued on June 4, 1999.¹⁵⁸ Although the decree contains a norm that serves to revise the minimum wage according to the country's socio-economic situation¹⁵⁹, it has not undergone actual changes to date. Fundamental reform of minimum wage regulations is critical to the State through active cooperation with the social partners and civil society. The minimum wage should reflect the reality in Georgia and correspond to the socio-economic situation of the country and the needs of workers.¹⁶⁰

In this regard, it should be noted that the ILO Convention №131 specifically addresses the issue of minimum wage¹⁶¹ and refers to its role in protecting workers' rights and meeting the basic needs of the countries concerned, even though Georgia has not ratified the Convention. As already mentioned above, the importance of this regulation is given in the ILO Convention №100, the implementation of which Georgia undertook back in 1993.¹⁶²

9.2. Impact of the COVID-19 Pandemic on Labor Rights

The COVID-19 pandemic did the most damage to the employment sector and, as a result, to the LGBTQ+ community's economic situation. The economic crisis wreaked havoc on socially vulnerable and marginalized groups. Because the majority of community members were employed in the service sector, the cessation of employment in these sectors automatically resulted in job losses and a precipitous decline in income. Self-employed individuals and those working in the informal sector were also placed in a difficult position. As with the rest of the community, this group was left without income as a result of the workplace's lack of social protection mechanisms. They were unable to locate any recipients of state assistance under the anti-crisis plan.

According to the Women's Initiatives Supporting Group's survey, 12.8% of LGBTQ+ respondents reported being without income during the quarantine period. Additionally, the median income of the LGBTQ+ community (survey respondents) was GEL 900 prior to the pandemic, but was reduced threefold (300 GEL) during the quarantine. Currently, respondents' median monthly income is GEL 500, which is 45 percent less than the pre-pandemic level.¹⁶³

157 Friedrich-Ebert-Stiftung (FES), "Evaluation of minimum wage policy compliance with socio-economic development and international obligations of Georgia", 2016, See: http://www.fes-caucasus.org/fileadmin/Publications/2016/Studie_GEO.pdf

158 Article 1, See: <https://matsne.gov.ge/ka/document/view/112786?publication=0>

159 Article 5.

160 GTUC, PDO, "Checking the Accordance of the Minimum Wage politics of Georgia in light with the socio-economic development and international obligations", 2016, pages 5-6, see: http://www.fes-caucasus.org/fileadmin/Publications/2016/Studie_GEO.pdf

161 None of the ILO instruments sets a "minimum wage". ILO: General Survey of 1992, par. 27; However, there is an explanation from the ILO Committee of Experts, which states that "the minimum wage is the minimum amount owed to an employee for a period of work or service, calculated based on the time spent or the result obtained by the employee. An individual or collective agreement may not reduce the minimum wage determined by the law, and its amount must meet the minimum requirements of the worker and his family, taking into account the economic and social situation of a particular country"; *ibid.*, par. 42.

162 See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102639

163 Unpublished study: Agdgomelashvili and others, "Assessing the impact of anti-pandemic restrictions and anti-crisis measures caused by the new coronavirus on the LGBTQI community", WISG, 2021.

It should also be noted that 68.1% of respondents in the above survey (N=113) who lost their job due to pandemic measures or were temporarily unable to get their wages said that the employer did not apply to the State in order to obtain compensation/assistance.¹⁶⁴

The survey respondents' self-assessment of their economic situation, as well as analysis of employment and income prior to, during, and after the pandemic, including November 2020, revealed that the economic situation of the survey participants deteriorated dramatically. As a result, four out of five respondents named financial assistance as one of the various needs resulting from pandemic-related constraints (80.4 percent). Half of the study's participants (49.8 percent) reported experiencing food insecurity. Almost as many respondents indicated that they were having difficulty paying their utility bills (49.3 percent). Over a third (34.6 percent) of survey respondents indicated that they were having difficulty paying their rent and required assistance.¹⁶⁵

The crisis caused by the pandemic in the regions was so severe that community organizations had to provide material assistance not only to members of the LGBTQ+ community but also to their families.¹⁶⁶ In addition, community members whose admission to universities and other colleges coincided with a pandemic crisis faced the choice of continuing their studies or finding a job (in the service sector). As a focus group with LGBTQ+ community organizations showed, community members often chose employment because of their poverty.¹⁶⁷

164 *ibid.*

165 *ibid.*

166 Focus group with representatives of LGBTQ + community organizations, 30.09.2021.

167 Focus group with representatives of LGBTQ + community organizations, 30.09.2021.

10. RIGHT TO HEALTH

10.1. Current situation and State measures

According to Article 5 of the Constitution, Georgia is a social state that is responsible for public health and social protection, while Article 28's first paragraph states that "a citizen's right to affordable and high-quality health care services shall be guaranteed by law." Article 6 of Georgia's Patient Rights Law states that "patients may not be discriminated against on the basis of race, skin color, language, sex, genetic heritage, belief and religion, political and other opinions, national, ethnic, or social origin, property and social status, place of residence, illness, sexual orientation, or negative personal attitude".¹⁶⁸ The similar norm on the prohibition of discrimination is enshrined in the Law of Georgia on Health Care.¹⁶⁹

Despite the fact that Georgian law protects LGBT+ people from discrimination, unequal treatment is still prevalent in the medical sector. However, referrals based on discriminatory behavior or negative experiences are extremely rare. Not only are there documented instances of discrimination, but there is also an expectation of discrimination among the LGBT+ community as a result of widespread homophobic attitudes and stigma in society. As a result, even when members of the LGBT+ community had no negative experiences with medical personnel, they frequently avoided visiting the doctor, except in cases of absolute necessity.¹⁷⁰ In addition, various studies show that in the cases when LGBT+ community members need to use medical services (and this is in some ways related to their identity or sexual behaviour) they refrain from providing exhaustive information to the doctor¹⁷¹ which might harm their health and effectiveness of their treatment.

According to the survey conducted in 2020 14.4% of the respondents (N=46) noted that during last two years they have become the victims of discrimination while receiving medical services, though 78.3% has not referred to anyone. Perceiving the acts of discrimination less seriously (25.0%) and the risks of violation of confidentiality (19.4%) were named as the main reasons.¹⁷² However, apart from the discriminatory practice the lack of financial accessibility on healthcare services represent the substantial problem for LGBT+ community members. 22.5% cannot afford medical services which shall be assessed as an alarming result.

In addition, problems related to the mental health is manifested among LGBT+ group with special severity. 43.1% of the respondents in the above mentioned survey noted that they have mental health problems and according to the self assessment of 37.1% this is partially related to the stigma on sexual orientation or gender identity, discriminatory practices or the stress of inacceptance. Among the specific mental health problems following were named at the highest frequency: depression (74.3%), anxiety disorder (71.4%), post traumatic stress disorder (32.1%) and substance dependence (31.4%).¹⁷³ However, it should be noted that the data was collected before the COVID-19 pandemic which means that the picture will be drastically changed towards the negative trend, which might be caused by not only the anxiety and the problem of vagueness

¹⁶⁸ Article 6.1.

¹⁶⁹ Article 6.1.

¹⁷⁰ Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020.

¹⁷¹ Ratiani Ts. and others "Discrimination and Hate Crime againsts LGBT Persons", 2015, see: https://women.ge/data/docs/publications/WISG_discrimination_and_hate_crime_against_lgbt_persons_KA_EN_2015.pdf

¹⁷² Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020, page 155.

¹⁷³ Ibid., page 166-169.

related to the global crisis, but also by the lack of socialization, living in stressful environment and isolation. To fight mental health problems, in general, it is needed to identify and understand the underlying causes of it which means the observation of existing human stressors and social environment. According to the report on physical and mental health of UN Special Rapporteur the individual causal model is still used in relation to mental health, which means that interventions are focused on immediate problems and individual behavioral factors and do not serve to change underlying structural environmental conditions. Accordingly, the explanation of emotional stress and mental health condition only with bio-medical reasons causes individualization of mental health problems and leaves the social reasons and state policy gaps, which are one of the determining factors of this problem, unconsidered.¹⁷⁴ As noted by UN Special Rapporteur “the burden of managing and coping with the systemic damage caused by ignoring the determinants of health has fallen on individuals. These individuals then turn to a mental health-care sector that often lacks adequate resources and appropriate approaches to cope with collective failures [state and social]”.¹⁷⁵

Hence, provision of mental health care means not only existence of adequate services but also prevention of that condition which requires complex and multidimensional work to change the environmental conditions that promote emergence of mental health problems. According to the data of various studies, LGBT+ group due to its social vulnerability faces number of mental health problems. But those problems cannot be eradicated through individual and only medical approach since its underlying factors are related to harsh social background, inequality and stigma which exposes the life of LGBT+ people to constant tensions and stress.¹⁷⁶

One of the major challenges in the healthcare sphere is neglect of the needs of trans* people by state. The existence of Trans Specific healthcare has substantial importance for exercising healthcare rights as well as respect to private and family life of trans* people. In its report on Georgia the European Commission against Racism and Intolerance (ECRI) indicated that clear guidelines for gender reassignment procedures should be developed.¹⁷⁷ UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity also recommended Georgia to develop guideline on Trans Specific healthcare services. Based on this recommendation, countries should elaborate clinical guidelines based on international standards.¹⁷⁸

To this end in 2020, Public Defender of Georgia addressed the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs with a general proposal to develop the national recommendations (guidelines) on trans specific clinical practice and the national standards (protocols) on management of clinical conditions¹⁷⁹, which highlights that while there is no relevant nationally adapted clinical guidelines and protocols, those healthcare service providers who propose trans specific services to

174 A/HRC/41/34, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 12 April 2019, par. 4.

175 A/HRC/41/34, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 12 April 2019, par. 7.

176 Jalagania L. “Social Exclusion of LGBTQ Group in Georgia”, 2020.

177 ECRI, Report on Georgia, Fifth monitoring Cycle, 2016, par. 111.

178 A/HRC/41/45/Add.1, 2019, par. 78; 119.

179 General Proposal of the Public Defender of Georgia to the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs on “Elaboration of the national recommendations (guidelines) on trans specific clinical practice and the national standards (protocols) on management of clinical conditions.” 13.05.2020

trans people, are forced to rely on guiding principles that has been elaborated considering medical, social or other relevant context of other countries and respectively it does not provide the needs that can be specific to Georgian context.¹⁸⁰ The Public Defender with the General Proposal also called to the Ministry to create the working group for elaboration of the national recommendations (guidelines) on trans specific clinical practice and the national standards (protocols) on management of clinical conditions. However, according to the participants of the focus group conducted in the framework of this study, despite the fact that the Ministry has received the Proposal the working group is not created and respectively the work on the protocols and guiding documents to ensure the trans specific healthcare has not started.¹⁸¹

10.2. Impact of the COVID-19 Pandemic on the Right to Health

According to the study conducted by the Women’s Initiatives Supporting Group the participants, who were asked to assess their physical and mental health condition before and after the start of COVID-19 pandemic, noted that their mental and physical health condition as well as satisfaction from life substantially deteriorated from the start of pandemic. “The rate of those surveyed before the pandemic who were assessing their physical condition negatively was only 7.1%. Since the start of the pandemic the rate of such respondents increased almost 2.5 times and amounted to 17.1%. The situation related to mental health is similar: from the start of the pandemic the rate of respondents negatively assessing their mental health conditions increased almost three times (respectively, before pandemic 13.7% and after 35.1%). The increase was more dramatic among the respondents identified in the negative row of life satisfaction index - from 18% to 46%”.¹⁸²

It should also be noted that the quality of relations with family members is related to the life satisfaction of LGBT+ people and self assessment of their mental and physical condition. According to the survey conducted by WISG, the part of the respondents whose relationship with family members has changed to better were more satisfied with their mental and physical health as well as life.¹⁸³

In parallel with an increase of the requests on emergency response to healthcare and social crises, the referral to the services of psychiatrist and psychologist in the group of LGBT+ has seen an unprecedented increase. “Mental health problems added by the social stigma are politically neglected”.¹⁸⁴ In these conditions, the burden of provision of continuous services to the community was again taken by community-based organizations.¹⁸⁵

According to the survey conducted by the Women’s Initiatives Supporting Group “the precondition of remote provision of the mental health services has become additional barrier - the part of community members have limited access to communications and part of them cannot afford isolation due to the living conditions to be able to fully and safely take the rehabilitation course. All this is added by the problem of coping with the expenses of medication treatment. An assumption arises that the combined crisis will provoke self-destructive behaviors in the community”.¹⁸⁶

180 Ibid.

181 Focus group with the representatives of the LGBT+ community-based organizations, 30.09.2021

182 Unpublished survey: Aghdgomelashvili and others, the assessment of the impact of the anti pandemic restrictions and anticrisis measures caused by novel coronavirus on LBTQI community, WISG, 2021.

183 Ibid.

184 Ibid.

185 Focus group with the representatives of the LGBT+ community-based organizations, 09.2021.

186 Unpublished survey: Aghdgomelashvili and others, the assessment of the impact of the anti pandemic restrictions

11. SOCIAL PROTECTION AND HOUSING POLICY

11.1. Current situation and State measures

According to the international standard, the problem of homelessness as well as its risks insurance should be the integral part of the wider policy on fighting poverty. According to the statistics' data as of 2019, 20.1% of Georgian population were beyond the relative poverty line while 19.5% lived beyond the absolute poverty line. According to the World Bank Data, 14.9% of Georgian population was living in poverty¹⁸⁷. In 2020 this figure reached 20.3% of the population that is 754,000 people. These data indicate a high rate of social vulnerability of Georgia's whole population which is related to the various interrelated factors. However, the state does not yet have the statistics of homeless people which is the indicator of ineffectiveness of state policy. "State cannot see the diversity of the homeless groups and does not learn their individual needs".¹⁸⁸

As a result, planning of preventive policy and dealing with it remains beyond appropriate effective measures. There is no definition of "homeless person" in Georgia as well as the definition of "homelessness" and statistical data which enables to identify homelessness or its risks in LGBT+ group as well as in the whole population. The practice shows that the registration of homeless people at central and local levels are produced in a different way. In addition, no agreed criteria exists on who can be fallen under the homeless or under the risk of homelessness category which has serious consequences in the practice for individuals and households as well as with respect to receiving social assistance.¹⁸⁹

The studies conducted by human rights organizations, that analyse the employment opportunities, working environment, the scale of violence and general well being indicators of LGBT+ people allows to identify the trends of poverty and the risks related to homelessness. The study conducted in 2020 on social exclusion predictors¹⁹⁰ with the participation of 320 people, showed that average remuneration at the workplace for 60.5% of respondents amounted to GEL 1,000. 82% of those surveyed noted that their remuneration was enough only for food, clothes and household items. Accordingly, to meet basic needs the practice of cash loans was also widespread among the respondents, 63% of respondents had to take loans only for covering everyday expenses.¹⁹¹ This data points to the social vulnerability of LGBT+ group as well as to the fact that existing employment market cannot ensure an adequate quality of life¹⁹² which also makes the maintenance of living conditions as well as housing itself volatile.¹⁹³

The same study reveals that 20.9% (N=63) of LGBT+ respondents faced the problem of homelessness while 13.4% abstained from answering the question. 44.8% of respondents

and anticrisis measures caused by novel coronavirus on LBTQI community, WISG, 2021.

187 See: <https://data.worldbank.org/indicator/SI.POV.LMIC?locations=GE&view=chart&fbclid=IwAR28wrUozPOWPpWeR-GcgQvhgqPbKkaPHs3SFhPVQdIqZ7E45eksJbYlpY0>

188 Parliamentary Report of the Public Defender of Georgia, chapter 17, the right to adequate housing, page 294. See: <https://www.ombudsman.ge/res/docs/2020070407523954521.pdf>

189 Focus group with the representatives of the LGBT+ community-based organizations, 16.09.2021

190 Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020, pages 134-135.

191 Ibid.

192 Ibid.

193 The same study showed that only 6% of respondents own a house.

having the experience of homelessness noted that this was related to their identity. In addition, among the causes of homelessness part of the respondents apart from lack of financial income (58.1%) named coming out with family members (43.5%) and violence from family members based on their identity (41.9%). These severe results show that the problem of poverty and homelessness is one of the critical challenges for LGBT+ community which requires adequate attention and taking of immediate measures from the state.

Despite the fact that there are homeless shelters in Georgia including Batumi, Kutaisi and Tbilisi municipal shelters, taking those services by LGBT+ community is related to many barriers and is dangerous if we take into consideration the fact that young and adolescent part of LGBT+ community most often faces these problems and risks. The focus groups with LGBT+ community-based organizations reveal that the whole burden of provision of shelter for community members falls on them which means temporary house rental for community members with the donor support.¹⁹⁴ The community-based organizations also noted that in order to insure against emergency and immediate risks of the community members facing homelessness they had to give them shelters in their offices or homes repeatedly.¹⁹⁵

LGBT+ community-based organizations have long been working to establish crisis shelter tailored to the needs of LGBT+ people to alleviate the influence and results of this problem. At this stage, organization “LGBTQI Association Temida” is leading the process at the base of NCDC and it is planned with CCM and global fund support. Some organizations are very cautious on starting up the differentiated shelter which necessarily requires the study of best practices and creation of protection instruments from violence or further exclusion/segregation.¹⁹⁶ However, the main problem of the issue is still the practice of satisfying the basic social needs of this most marginalized group of society by non-governmental organization instead of the state since this issue is not prioritized by relevant government agencies yet.

11.2. Impact of the COVID-19 Pandemic on the Right to Housing

The pandemic and temporary measures of fighting with it had substantial negative impact over social-economic conditions and general wellbeing of LGBT+ community. Given the fact that big part of LGBT+ people including trans* sex workers did not receive the assistance from the state, the non-governmental organizations had to work in an emergency mode for several months which meant creation of the whole package of rapid response mechanisms for LGBT+ community members.¹⁹⁷

At the beginning of the pandemic the Administration of Government of Georgia and Interagency Coordination Council for Gender Equality organized a humanitarian aid package for LGBT+ people who received hygienic items and food through community-based organizations. However, naturally, we cannot observe this aid as continuous practice of reflecting the needs of LGBT+ people into the policy. The needs of LGBT+ people were not reflected in the anti-crisis plan of the Government as well. Coalition for Equality also issued the special statement on that and noted that “Despite consultations with community-based organisations (CBOs), the anti-crisis plan also fails to address the needs and priorities of LGBTQI people. [...] Their urgent needs, including rental subsidies and alternative housing or shelters have been overlooked by the state anti-

194 Focus group with the representatives of the LGBT+ community-based organizations, 16.09.2021; 30.09.2021.

195 Focus group with the representatives of the LGBT+ community-based organizations, 16.09.2021; 30.09.2021.

196 Focus group with the representatives of the LGBT+ community-based organizations, 16.09.2021.

197 See for example: <https://wisg.org/ka/news/detail/295/სწრაფი-რეაგირების-მექანიზმი-ლგბტკი--თემის-წევრებისათვის>.

crisis support programme. In its crisis response measures, the Inter-agency Coordination Council has offered largely fragmented feedback to CBO appeals and has not proactively addressed the complex challenges on the agenda”.¹⁹⁸

It was also noted in the statement that “The CBOs have received state support in the form of a few dozen boxes of food and personal hygiene kits, which have been promptly distributed as needed among groups of lesbian, bisexual and transgender women. This, however, is an act of one-off humanitarian assistance and cannot be perceived as an adequate response to either the general or the currently critical needs of the LGBTQI community”.¹⁹⁹

As was already mentioned, according to the study to assess COVID-19 influence the shelter issue was considered as the most important one during the pandemic - “when the community excluded from family and left without remuneration was also not able to return at home or pay the apartment rent. According to the quantitative component of the study during the pandemic, every tenth from 211 respondents faced housing problems (12,8%), and every third found it hard to pay the apartment rent (34,6%)”.²⁰⁰

According to the representatives of community-based organizations participating in the focus groups conducted in the framework of this study, in the response of the COVID-19 crisis community-based organizations initiated close advocacy processes with the government to hand over the rapid response mechanism to the state. With this purpose, close communication was held with the Administration of Government and the Chair of Inter-agency Commission for Gender Equality, Violence Against Women and Domestic Violence. However, since the Chair left the post advocacy process was halted. This indicates the problems of integration in the existing systems of specific mechanisms of the state and ensuring its sustainability.²⁰¹ As the practice shows the specific positive changes are often linked with the specific public servant and if they leave the processes suspend and/or human rights defenders and activists have to start advocacy processes over.

198 Coalition for Equality – The Needs of Groups Beyond the Scope of the State Anti-crisis Plan, 1 May 2020.

199 Ibid.

200 Unpublished survey: Aghdgomelashvili and others, the assessment of the impact of the anti pandemic restrictions and anticrisis measures caused by novel coronavirus on LBTQI community, WISG, 2021.

201 Focus group with the representatives of the LGBT+ community-based organizations, 30.09.2021.

12. RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE AND INTIMATE PARTNER VIOLENCE

12.1. Current situation and State measures

The recognition of rights of nonheterosexual couples is the fundamental part of the respect to private and family life and it also includes marriage equality, the opportunity to have access to civil partnership and exercise of social and cultural rights based on it. Exercise of these rights is also closely related to social protection, inheritance, certain rights of criminal justice and also fundamental human right of self-determination in general.

International organizations are increasingly focusing their attention on state responsibility to ensure practical realization of the right to private and family life. The Council of Europe recommendation CM/Rec (2010)5 calls to the states to ensure elimination of unequal treatment between heterosexual and nonheterosexual partners. The recommendation notes at the same time that the states should create the possibility for the same sex couples, eradicate their problems related to the social reality through adoption of legal and other mechanisms.²⁰²

Georgian legislation does not recognize the right to respect to family life for nonheterosexual couples, it does not provide for the right to marriage equality as well including protection of this right through alternative institutes.

Right to marriage narrowed down in the Constitution of Georgia during 2017 reform. Article 30 of the new addition sets a restrictive definition: “Marriage, as a union of a woman and a man for the purpose of founding a family, shall be based on the equality of rights and the free will of spouses”. The definition of marriage as a union of a woman and a man in the Constitution was the subject of political speculation for years as well as pre-election promise of the ruling party and it is supported by the government as well as parliamentary majority.²⁰³ It should also be noted that while working on the draft constitutional amendments the Constitutional Commission did not support the NGO proposition to also incorporate provision on civil partnership, namely to add the sentence: “other forms of cohabitation are regulated by the law”.²⁰⁴

The marriage opportunity between the same sex couples is also excluded from the Civil Code according to which “Marriage is a voluntary union of a woman and a man for the purpose of creating a family, which is registered with a territorial office of the Legal Entity under Public Law (LEPL) – Public Service Development Agency of the Ministry of Justice of Georgia”.²⁰⁵ The Civil Code does neither provide for the recognition of alternative forms of cohabitation.

202 Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted 31 March 2010, par. 23-25.

203 See: <https://netgazeti.ge/news/199896/>

204 Ibid.

205 Civil Code of Georgia, Article 1106

Accordingly, Georgian legislation does not recognize any form of alternative regulation of the relationships of LGBT+ couples and recognition of their cohabitation, including the institute of civil partnership. This means that the same sex couples do not have access neither to the recognition of their relationship through marriage nor to the possibility of registration through special regime - "civil partnership". In addition to the international obligations this contradicts with the opinion of Venice Commission on the Draft Constitution of Georgia where it was clearly mentioned that that the norms regulating the right to marriage should not leave the same sex couples without legal recognition.²⁰⁶

It is also noteworthy that there is no decision of the Constitutional Court of Georgia on the issue of marriage equality and nonrecognition of cohabitation - despite the application on the issue the Court did not consider due to its unsubstantiated grounds.²⁰⁷ However, it should be noted that despite the harsh restrictions on the right marriage equality implemented in the georgian legislation, the request of legal recognition of other forms of cohabitation of LGBT+ people as well as practical equality with the respective guarantees does not contradict with narrowing down of marriage institute to the unity of a women and a man. According to the requirements set by the international standards the states have responsibility to ensure legal recognition of cohabitation of LGBT+ people in order for them to be able to enjoy basic material, social or cultural benefits.²⁰⁸

The Parliamentary Assembly of the Council of Europe clarifies in that regard that "intolerance that may exist in society towards people's sexual orientation or gender identity can never be used as a justification for perpetuating discriminatory treatment, as this serves, unacceptably, to legitimise violations of human rights".²⁰⁹ States must do everything to combat the prejudice that enables such discrimination to persist, in order to fulfil their responsibility to protect and promote the human rights of all those within their jurisdiction and to eliminate discrimination on all grounds, including sexual orientation or gender identity.²¹⁰

Intimate Partner Violence

Among many other socio-economic problems, legal non-recognition of the cohabitation and relationship of LGBT+ people often becomes the reason for invisibility and secrecy of violence among partners. Respectively, it becomes impossible to learn the scale and plan the preventive policy for its reduction, due to the inexistence of statistics of revealing violence or other unlawful actions in the relationship.

206 CDL-AD(2017)013-e Georgia - Opinion on the draft revised Constitution.

207 The Constitutional Court did not consider the merits of the case Giorgi Tatishvili versus the Parliament of Georgia. The plaintiff argued on the conformity of the words of Article 1106 of the Civil Code of Georgia "a woman and a man" to the Article 36 (Article 30 in the new addition) of the Constitution of Georgia, which provided the right to marriage of the spouses and did not specify the sex. In the case, the Court detaches to an extent the issue of marriage equality from the norm defining the marriage (Article 36, now Article 30) and perceives it more as the part of special Article 14 (Article 16 in the new addition) the provision-principle on equality. As indicated by the Constitutional Court "understanding of the principles declared by the Article 14 of the Constitution of Georgia from the angle of specific right or the specific group of rights would unreasonably diminish its essence". It is also important that the argumentation presented in the application referred not to the right to marriage but to the discriminatory nature of marriage regime defined in the law. Hence, the application could not be accepted due to its unsubstantiated grounds and lack of reference of presented arguments to the indicated article.

208 Latest decisions of the European Court of Human Rights prove this.

209 PACE, Private and family life: achieving equality regardless of sexual orientation, Report, Doc. 14620|September 2018, par. 5.

210 Ibid.

The secrecy of problem is promoted by inflexibility of existing legal mechanisms on fighting domestic crimes that is mostly adjusted to the cohabitation of heterosexual family which, in turn, causes the possibility of exclusion of the victim in non-heterosexual relationship from existing state services for protection and assistance of victims, complicates the opportunities of obtaining the status of victim of domestic violence and substantially reduces the possibility of restoration of violated right.²¹¹ In addition, enhanced marginalization and social stigma caused by homophobia further aggravates the risks of possible violence in the relationships and leaves the people in intimate relationships in isolation and without assistance.²¹²

It is noteworthy, that according to the studies conducted in Georgia LGBT+ women are the most vulnerable towards crimes committed between partners. According to the surveys, 81.2% (N=95) of lesbian and bisexual women were subject to violence during 2015-2018 years. Psychological violence prevails most often among the forms of violence.²¹³

According to a survey conducted by the Women's Initiatives Supporting Group in 2021, among the respondents who had/have an intimate partner in the last two years, almost a third (N=63, 31.3%) have been victims of violence at least once, while the rest of the respondents (N=92, 45.8%) describe a relationship characterized by mutual violence.²¹⁴ 36.8% of respondents (N=74) themselves are psychologically abusive to their partner, and almost every fifth (19.9%, N=40) has physically abused their partner at least once.²¹⁵

According to the same survey, the most common form of violence between intimate partners is psychological violence (72.1%, N=145). Almost half of the respondents (44.8%, N=90) state that their partner in some way controls their social contacts and restricts expression; 41.3% (N=83) stated that they had been a victim of sexual violence/harassment by a partner at least once, every third respondent (33.3%, N=67) was a victim of physical violence, every fifth (20.4%, N=41) experienced economic violence.

The Istanbul Convention, ratified by Georgia in 2017, defines domestic crime as "any act of physical, sexual, psychological or economic violence committed between a former or existing spouse or partner in a family or home, regardless of whether or not the abuser shares or has shared a place of residence with victim."²¹⁶ As a result of the May 4, 2017, amendments to the Law on the Elimination of Violence against Women and/or Domestic Violence and the Protection and Support of Victims of such Violence, the circle of family members was expanded to include persons in unregistered marriages as well as those who had been engaged or are currently engaged in a single household.²¹⁷ Georgian Law, despite the changes, does not recognize domestic

211 Jalagania L. and Chutlashvili K. Domestic Violence Based on Sexual Orientation and Gender Identity: Legislative Gaps and Policy Challenges, 2018, page 62

212 Ibid, page 55.

213 WISG, SHADOW REPORT to the Pre-Sessional Working Group for the 81st session of the Committee on the Elimination of Discrimination Against Women (CEDAW), Upcoming Pre-Sessional Working Group (05 Jul 2021 - 09 Jul 2021) State party: Georgia Discrimination and Violence Against Lesbian, Bisexual, Trans and Intersex Women in Georgia, par. 14, see: <https://wisg.org/Data/docs/news/2021/Shadow%20Report%20%28Georgia%29%20on%20Discrimination%20and%20violence%20against%20LBTI%20women%20-%20WISG.pdf>

214 Unpublished survey: Aghdgomelashvili and others, the assessment of the impact of the anti pandemic restrictions and anticrisis measures caused by novel coronavirus on LBTQI community, WISG, 2021.

215 ibid.

216 Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011, Article 3, paragraph b).

217 Article 4, paragraph g).

violence between both heterosexual and non-heterosexual couples as a crime committed in the family. However, naturally, the circle of people in “unregistered marriages” does not include the cohabitation of LGBT+ people. As for a unified family unit, in such a case, there is more theoretical possibility to extend the provisions prohibiting domestic violence to couples who have been living together for at least a certain period of time. Nevertheless, if the couple does not live together and therefore does not engage in a single household, they remain outside the scope of this protection (this problem also applies to heterosexual couples/partners who do not live together).

Accordingly, the law enforcement system must recognize the need to detect and regulate crimes committed between same-sex partners to offer appropriate victim protection mechanisms as needed and ensure that proper preventative measures are taken through close cooperation with community organizations.

12.2. Impact of COVID-19 on exercising the Right to Respect for Private and Family Life

Regarding the right to respect for family life, social isolation and reducing support spaces have been a challenge for members of the LGBT+ community. As the representatives of LGBT+ community organizations pointed out, the pandemic has to some extent, collapsed the unities formed on the ground.²¹⁸ Online communication proved to be a significant problem for both community organizations and the community itself, as many of them did not have access to the internet and computer devices, but there were also risks of breach of privacy. Therefore, despite the close communication between community organizations and members, providing them with the expected safe and supportive spaces was challenging.²¹⁹

Under such locked-in conditions, community members who lived with their partners found themselves in isolation, which contributed to the increase in various forms of violence between intimate partners during a Pandemic. As the analysis conducted by the Women’s Initiatives Supporting Group indicates, the Covid-19 Pandemic and related anti-crisis measures, as a whole, have had a negative impact on the quality of relationships between intimate partners. “Out of 177 respondents, 68 (38.4%) stated that the relationship had deteriorated sharply or noticeably [during the pandemic].”²²⁰ According to the study, the change in the quality of the relationship is related to the experience of violence. Among those who have/had an intimate partner in the last two years, almost a third (N=63, 31.3%) have been victims of violence at least once, while the rest of the respondents (N=92, 45.8%) are in a relationship characterized by mutual violence.²²¹

218 Focus group with representatives of LGBT+ community organizations, 16.09.2021; 30.09.2021.

219 Focus group with representatives of LGBT+ community organizations, 16.09.2021; 30.09.2021.

220 Unpublished survey: Aghdgomelashvili and others, the assessment of the impact of the anti pandemic restrictions and anticrisis measures caused by novel coronavirus on LBTQI community, WISG, 2021.

221 *ibid.*

CONCLUSION AND RECOMMENDATIONS

As demonstrated in this report, despite the state's recognition of the LGBT+ community's rights, fundamental and significant barriers to their effective implementation remain. LGBT+ people face persistent discrimination and violence in all spheres of life, lowering their quality of life and erecting insurmountable barriers to exercising their rights, which has become even more pronounced in light of the social and health crises exacerbated by the Covid-19 Pandemic.

When examining the LGBT+ group's human rights and freedoms practices, it becomes clear that, given the current state of Georgia, LGBT+ is one of the most marginalized groups, suffering from institutional homophobia, negative public attitudes, and political instrumentalization. The report demonstrates that the state's policy toward the LGBT+ community is inconsistent and not based on the group's actual needs, which is also evident in Georgia's failure to meet its obligations - the state adopts legislative or policy measures that have no effect on real life and do not improve the LGBT+ community's quality of life.

Thus, proper state recognition of the LGBT+ group's rights and the adoption of effective, comprehensive measures tailored to the group's needs are critical, and it is critical to consider the following recommendations:

Government of Georgia:

- ✓ Should take appropriate measures to eliminate negative attitudes, stigma, and prejudices toward the LGBT+ group in the society. These measures should be based on examining the causes of existing attitudes and analyzing their impact on both the LGBT+ group and society as a whole. Equality-oriented education policies should ensure the active inclusion of these issues in formal and non-formal educational spaces in the relevant curricula on both civic education and human sexuality.
- ✓ National Governmental Mechanism for Gender Equality – The Inter-Agency Commission on Gender Equality, Violence against Women, and Domestic Violence should establish an advisory group working on LGBT+ group rights and reducing discrimination, which will help the agencies within the Commission to see gender equality and intersectional discrimination as part of the broader goal of eliminating LGBT+ issues and to take appropriate action.

Ministry of Internal Affairs of Georgia and The Prosecutor's Office of Georgia:

- ✓ For an effective police response to hate crimes, it is vital that the Ministry of Internal Affairs of Georgia takes into account the recommendations of the European Commission against Racism and Intolerance (ECRI) and the UN Universal Periodic Review (UPR) and ensures the establishment of an agency with a mandate to investigate hate crimes.
- ✓ Should refine the procedure for the production and publication of statistics developed by the Ministry of Internal Affairs of Georgia, the Prosecutor's Office of Georgia, the Supreme Court, and Geostat to obtain the statistics on crime-specific offenses in relation to the demographic data of the perpetrator and the victim, including the relationship between them, which is essential for planning a preventive function.
- ✓ Should strengthen efforts to develop protection and assistance services for victims of hate crimes. Services should be state-funded, geographically accessible, and tailored to the victim's individual needs.
- ✓ Should fully adhere to the standard of due diligence to prevent any violence and threat of violence against LGBT+ persons, conduct a transparent and impartial investigation into the acts of violence, punish

the perpetrators, and restore the victims' rights. These include, first and foremost, the elimination of the syndrome of impunity and the appropriate immediate and effective legal response to hate speech and incitement to public violence.

- ✓ Should ensure an adequate response to the large-scale violent action that took place on July 5-6, including taking appropriate and immediate legal action on the fact of organizing violence and incitement to public violence by initiating criminal prosecution.
- ✓ Should ensure the recognition of the gravity of the crime committed between same-sex partners, the need for its detection and regulation, provide the victim with appropriate protection mechanisms as needed, and ensure proper preventive measures through close cooperation with community organizations.

Ministry of Justice of Georgia:

- ✓ In cooperation with relevant government agencies and non-governmental/community organizations, should ensure the establishment and implementation of timely and transparent administrative mechanisms for the legal recognition of gender based on self-identification, which implies the complete abolition of established discriminatory requirements for gender recognition.

Ministry of Education of Georgia:

- ✓ Should strengthen the inclusion of inclusive education on human sexuality in formal and non-formal educational spaces, to achieve the objective, it is necessary to constantly inform the public/parents concerning the need for education on sexuality and its crucial importance. Which also includes monitoring disinformation and preventing the spread of misinformation by anti-gender groups.
- ✓ Should take all measures to create a safe environment in schools and other educational spaces for LGBT+ students and pupils, including ongoing and permanent participation of educators and school administrations in educational training and seminars explicitly addressing issues related to the need to eliminate discrimination and ill-treatment on the grounds of SOGI and gender expression.
- ✓ Should ensure mitigating the impacts of the COVID-19 Pandemic on the exercise of the right to education, including addressing the needs of vulnerable groups and developing appropriate support programs for them, including tuition reduction. In addition, the state must ensure access to the internet and information technology so that students and pupils can be equally involved in the educational process and not be excluded on account of their social status.

The Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia:

- ✓ Should provide a study of the macro and micro barriers (including a homophobic environment) in the labor market for youth and students to respond to existing challenges with relevant programs and policies and facilitate the transition of young people from school/university education to decent work.
- ✓ Should provide appropriate social mechanisms to overcome the crisis caused by the Pandemic, enabling LGBT+ people and their households to receive proper assistance, especially to families who have lost their employment due to the Pandemic and thus have no income.
- ✓ Following the recommendation of the Public Defender of Georgia should ensure the establishment of a relevant working group on trans-specific healthcare. The Ministry should immediately start working on trans-specific healthcare guideline documents and protocols to address the needs of trans people.

- ✓ Should take appropriate measures to prioritize mental health in the country, including providing access to medications via price control.
- ✓ Should ensure the collection of statistical information on the number of homeless persons within the framework of the current normative regulation at the very least to identify homeless persons and, consequently, their rights and needs.
- ✓ It is essential to develop a national strategy and action plan(s) regarding homelessness within the appropriate timeframes and introduce a system for assessing the effectiveness of measures combating homelessness, including all groups at risk of homelessness, counting LGBT+ people.
- ✓ It is advisable that before implementing the pertinent legislative changes, the Municipalities should exercise their authority to register homeless people and develop appropriate methodologies, achieving this objective by implementing the coordination mechanism of local self-government bodies.
- ✓ In cooperation with local Municipalities, should ensure the administration of shelters and the accommodation of citizens in a way that is entirely in line with their individual needs and will be able to provide decent living conditions.

Parliament of Georgia:

- ✓ Should ensure the effective implementation of the obligations set out in the International Labour Organization Conventions and EU directives in practice and carry out effective monitoring of the measures taken by the Government of Georgia within the framework of its oversight mandate.
- ✓ The Permanent Parliamentary Gender Equality Council, in collaboration with the relevant committee of the Parliament of Georgia, should facilitate the analysis/thematic research of discriminatory practices against LGBT+ persons in labor relations. Should formulate applicable policy changes and legislative initiatives to eliminate all barriers that prevent LGBT+ individuals from engaging in employment and decent work.
- ✓ Together with the Parliamentary Committee on Health and Human Rights, should prepare/initiate applicable legislative changes to develop transparent and effective mechanisms for quality monitoring in medical institutions, which will enable citizens, including LGBT+ people, to restore their violated rights.
- ✓ Should ensure the development of the concept of a homeless person.²²² This process should consider the structural dimensions of homelessness (physical, legal, and social). By international standards and reasonable practice, the Concept of Homelessness should not apply only to groups without a roof over one's heads. Consequently, people living in inadequate housing should not be left out of the definition of homelessness. To effectively combat homelessness, it is feasible to distinguish degrees of homelessness, namely, the concept of a homeless person and, on the other hand, the concept of a person at risk of homelessness.²²³

222 The definition of a homeless person together with people without a roof over one's head should cover the following groups: people who use housing for the homeless; People living in women's shelters; People living in an immigrant shelter; People waiting to leave the institution, these include: penitentiaries, medical facilities and children's institutions/homes; People who live temporarily with relatives or acquaintances, as well as in alternative (unconventional) housing.

223 The definition and criteria of a person at risk of homelessness should cover the following groups: people who receive long-term support as a consequence of homelessness; People living in hazardous housing; People on the verge of eviction; People living at risk of violence; People living in uninhabitable housing; People living in overcrowded conditions.

