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Association “HERA-XXI”

And

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INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of the Georgia taking place in November 2015, Association "HERA-XXI", jointly with the Sexual Rights Initiative, comments on the government's implementation of recommendations supported by the Georgia during its previous UPR in 2011, including recommendations concerning Human Rights, Women's Rights, Discrimination and Violence against Women.

The report also highlights the lack of a rights based approach to health in Georgia and, in particular, the barriers many women experience in accessing of sexual and reproductive health services that are available, accessible, and acceptable and of high quality.

FOLLOW UP TO THE PREVIOUS REVIEW

In its first UPR in 2011, Georgia accepted a number of recommendations made by other States and announced a number of voluntary commitments around these issues. These include women's rights, protection of human rights, discrimination and violence against women.

Since then, Georgia has taken positive steps and has enacted specific laws for the protection of human rights, particularly with regard to women's rights. The parliament of Georgia adopted the law "on the elimination of all forms of discrimination" (February 2014) which provides legal protection from all forms of violence and from discrimination. However, while the law¹ is a step forward in promoting women's rights, its effective implementation is yet to be seen.

In relation to the recommendation to take effective steps against stereotypes that cause gender discrimination,² the Georgian government issued order № 01-74/N³, according to which, selective abortion is prohibited. However, this cannot be regarded as an effective step taken by the state, given that there is no selective abortion control mechanism and no protocol, guidelines and laws that will control it.

One of the main recommendations adopted by the Georgian Government was to make adequate reforms in the health sector.⁴ Despite the fact that some positive developments have taken place, including the National Strategy 2011-2015 on Health Protection of Georgia – "Qualified Available Healthcare"⁵. One of the Strategic directions listed in Georgia's National Health Care Strategy is "improvement of maternal and child health", but the section does not contain any references, strategies or monitoring procedures related to family planning service provision.

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS IN DOMESTIC LAW

Reproductive rights are part of fundamental human rights. However, they are not fully realised in Georgia. One of the main recommendations which were accepted by the Georgian Government on 10th review⁶ is to continue measures in the field of women's rights protection.⁷ This recommendation covers many issues, including the right of women to have universal access to reproductive health and rights.

Georgia has ratified a number of human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), International Covenant on Civil and Political Rights against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (UNCRC). However, some of the key human rights standards and safeguards contained in these treaties are not clearly reflected in domestic legislation.

The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁸ and World Health Organization (WHO) have urged states to remove medically unnecessary barriers for accessing care, such as a mandatory waiting period for an abortion. Despite this, the Georgian Parliament amended legislation increasing the mandatory waiting period for an abortion from 3 to 5 days⁹

Association "HERA-XXI" recommend to the state the effective integration of sexual and reproductive health services (including those for HIV/AIDS) to improve maternal and newborn health, deliver family planning choices, eliminate unsafe abortion and reduce sexually transmitted infections and risky behaviour. We also call for increased access to sexual and reproductive health services and non-judgemental information for Women living in poverty, men, young people, and specific vulnerable groups such as sex workers and displaced people, highlighting the importance of gender equality.

ANALYSIS OF PRIORITY SEXUAL RIGHTS ISSUES REQUIRING FURTHER ATTENTION

We would like raise three critical issues pointing out which laws, practices and policies in Georgia fall short of the requirements of the UPR. These are: Safe abortion, Access to Contraception and the Rights of Sex Workers.

SAFE ABORTION

Access to the safe, legal abortion is one of the important and vital rights of every woman. Safe abortion service must be easily available and financially affordable for all women, from the first aid level up to referral system for everyone who needs higher level assistance. Although abortion is legal in Georgia, many women do not have access to quality, and affordable services. Religious, geographical, financial obstacles, low quality of services, lack of information about contraceptive methods in remote areas and a non-competitive medical environment creates artificial obstacles, which represents a huge problem.¹⁰ Number of protocols and guidelines were adopted by the The Ministry of Health, Labour and Social Affairs of Georgia but access to the safe abortion is still problematic. The state has failed to fulfil its obligations under the ICCPR to remove the many obstacles to access to safe and legal abortion. In fact, the state is attempting to make access increasingly difficult by an amendment to Art 139 of the Law on Health Care to increase the legal barrier of a mandatory waiting period from 3 to 5 days. There is no health based rationale or evidence to support this change: it is a political decision based on the influence of the Church.

There have been a number of positive developments in the context of the National Strategy 2011-2015 on Health Protection of Georgia – “Qualified Available Health care”. However, the Strategy omits a number of important issues in relation reproductive health, including in relation to traditional practices and stereotyped roles. For example, the Strategy aims to develop mothers’ and children’s health services, but does not address issues such as: adoption of services assessment frame for family planning, monitoring and ways of solution for traditions / stereotypes.

➤ *The mandatory waiting period*

The Georgian Parliament by the initiative of the Ministry of Labour, Health and Social Affairs, carried out legislative amendments and referred increasing the mandatory waiting period from 3 to 5 days. In addition, The Ministry of Labour, Health and Social Affairs issued an order, according to which, as an exception, that last week a woman who came to abortion may be administered to a 3-day mandatory waiting period. On the contrary, the waiting period creates psychological, financial, economic and territorial barriers to access to safe, legal abortion.

From the experience of Association “HERA-XXI” and international research, mandatory waiting period does not deter women from having abortion, but can cause them to fall outside the gestation limit of twelve weeks for lawful abortion and cause them to seek illegal and unsafe methods, which can cause complications that are harmful to women’s health.

The amendment establishing mandatory waiting periods for abortion may infringe upon women’s decision-making, perpetuate gender stereotypes about women’s ability to make reasonable decisions about reproduction, and thus, discriminate women. Waiting periods place an even greater burden on women who live in rural areas. The reason for which women are required to travel to other territory is the fact that the reproductive health services (safe abortion) aren’t accessibility in all territory of

Georgia. The burden particularly impacts low-income women who might have to take time off from work or forego earnings for the day in order to travel to a health care facility twice within 7 days.

➤ ***Pre & Post abortion counselling***

In 2014, The Ministry of Health, Labour and Social Affairs of Georgia ordered an instruction on psychological/pre abortion counselling of pregnant women. Research conducted by Association "HERA-XXI" shows that this rule isn't implemented and most of the service providers aren't having pre and post abortion counselling. In addition, some biased and incomplete pre abortion counselling coerces women into enduring the physical pain, health risks, and psychological stress associated with unwanted pregnancy and childbirth instead of giving them a chance to make the best decision for themselves and their families.

One of the main recommendations to the state is to emphasize the role of Family doctors and family nurses by creating the financial incentives for them and developing competitive environment for the medical providers especially in rural areas, who have been identified as a first contact point for residents, while in past patients were going directly to specialized health care providers.

➤ ***Access to the safe abortion***

According to the WHO recommendation, medical methods for first trimester abortion should be demonstrated to be both safe and effective. However, some clinics of Georgia are using old and unsafe methods of abortion for the first trimester pregnant and there is no access to the modern technology.

Universal access to safe abortion means that adequate services and information are available, accessible and acceptable to meet the different needs of all individuals. Researchers conducted by the Association "HERA-XXI" has shown that in some part of Georgia people can't safely reach services without travelling for a long time or distance, and that those with HIV can't easily access abortion or other reproductive services. In addition, using reproductive health services, for people living in poverty bear a higher burden from the cost than more wealthy people.¹¹

CONTRACEPTION

The major problems concerning sexual and reproductive health protection and rights are the following: state inactivity towards reproductive health protection and rights, insufficient information about family planning, insufficient number of relevant necessary contraceptives and fertility control mostly by abortion, lack of sufficient education and priority of juvenile reproductive health protection and rights, domestic violence against women which is a regional problem and is neglected, low level of knowledge about reproductive and sexual health and rights in the society.

Access to the contraception empowers women to have more control over when to have children and lessens the incidence of unsafe abortions. Contraception can also help reduce the transmission of STIs, including HIV. In the field of reproductive health is related to accessibility of contraceptives, their price, choice, getting information.

According to the World Health Organisation up to 220 million women's rights are violated due to disregarding of these principles and they lack information about modern ways of contraceptives. Accessibility of modern methods of contraceptives is more problematic regarding women from marginalized groups of population.¹² In Georgia law only one article covers contraception issues, which approves that "The production, import, and distribution of contraceptives accomplishes in accordance with the rule established by Georgian legislation."¹³

Since the inception of modern family planning programs in Georgia, all contraceptives provided through the public/private sector have been brought into the country under the auspices of the UNFPA and USAID supported programs. These supplies are now exhausted; with exception of IUDs in some facilities, there are no longer any contraceptives available.¹⁴

Barriers to contraception access increase the incidence of unwanted pregnancy, contribute to high abortion rates, raise public medical costs, and compound the distress of women recovering from sexual violence. These factors are therefore additional reasons for a necessity to improve access to contraception that the State of Georgia needs to acknowledge.

World Health Organization (WHO) includes contraceptives in its list of essential drugs, meaning that they should be accessible and affordable for all.¹⁵ The Committee on Economic, Social and Cultural Rights (CESCR) recognizes that providing access to drugs on this list is a core state obligation under the right to health.¹⁶ If made available over-the-counter, contraception has enormous potential to protect the health, preserve the dignity, and reduce the trauma of victims of sexual violence.

Family planning services

Access to and use family planning services remain quite limited in Georgia. FP counselling and services are still completely unavailable at the most basic level of the primary care system. The geography of Georgia presents particular problems. In high-mountainous and rural areas the quality of medical service is low. Medical staff don't have competitive environment and accordingly there is not enough motivation for performance their work. The majority of family doctors have insufficient knowledge and information about modern contraceptives. This causes serious obstacles for the population and keeps in them in informational vacuum.¹⁷ Rural women and women in the mountainous areas must travel to large towns to access clinics.

A large number of women especially in rural areas have limited access to reproductive and sexual health services and at the lack of reproductive and sexual health education in the State party. It's important to increase knowledge of and access to affordable contraceptive methods and to ensure that family-planning information and services are available to everyone including for the targeting group of population.

These pervasive geographical, cultural and budgetary issues indicate the need for a law on reproductive health that would include measure to address the barriers to access to reproductive health care and to ensure availability and acceptability of quality services for all women.

Youth

The reproductive and sexual health needs of adolescents are going largely unmet in Georgia. Country lacks policies and guidelines that support the provision of FP services to youth. Youth FP services are not offered alongside other health services that youth may seek. Youth lack the knowledge concerning modern contraceptive methods.

There is no service providers equipped with skills to meet young people's unique needs for information, counselling confidential services.¹⁸

In summary, much remains to be done to provide reliable information to both married and unmarried young women. Knowledge about the reliability of each method, its risk of failure, with an unplanned conception is very inadequate.

Availability of necessary skills

The human recourse demand of Georgia in the area of health care is broad and urgent. In order to

alleviate this problem as soon as possible, it is crucial to recognize the magnitude and intensity of the problem, weigh actual capacity against the capacity needed to attain. The main reason for problems related to human resources is not only shortage of professionals, rather inadequacy of professional skills and unsatisfactory deployment.

The role of the state in human resource capacity development is largely unclear. In service training of providers is fully supported by donor financed projects. Continuous medical education system is not demanded and financed by the government and is completely left for pharmaceutical industry support.

SEX WORKER 'S RIGHTS

Prostitution is not a criminal offence in Georgia however; it is an administrative offence which means that it is punishable by a fine. Where there is involvement of a minor in prostitution or if there is prostitution on the basis of the threat of violence, blackmailing, deception or destruction of the property, the Criminal Code of Georgia states that it is punishable by the law.¹⁹

A recent study by "HERA-XXI"²⁰ makes clear that many sex-workers have experienced cases of discrimination, albeit with different frequency.

The report demonstrates that sex workers in Georgia do enjoy their human rights as citizens. It is clear that stigmatised nature of their work means that sex workers tend not to avail of the structures in place in the state to address discrimination and human rights violations. The illicit nature of their work acts as a barrier to their access to appropriate health care.

They have to keep their work and the sources of income in secret which causes permanent stress for them and the attitudes and prejudices existing in the society are the preconditions for humiliation, enhancing the stigma, for psychological and mental violence and discrimination towards the persons engaged in sex-work.

Sex workers are not only at a higher risk for violence, but they are also less likely to get protection from the police-often the very perpetrators of this violence. Even women who are informed of their health rights do not always have full agency in protecting themselves. Polices are often force these women to have sex without condoms, threatening them with blackmail, extortion, arrest and/or violence. Women are therefore at a higher risk for health problems, with a lesser chance of accessing good healthcare.

The biggest problem is that most of the violence which they fall victim to is at the hands of the very people who should be protecting them.

One of the main recommendation to the state is to ensure the human/women's rights of sex workers including the rights to healthcare, education and housing; and the right to be free from violence by government and non-government actors. It's important to take measures to decrease violence towards the community by implementing campaigns to end the harms of stigmatization and discrimination.

In 2014, the Law of Georgia on the Elimination of All Forms of Discrimination was introduced. The law is intended to "eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics."²¹ The adoption of this law is undoubtedly a progressive phenomenon. We recommend that this law be expanded to include targeted regulations to which aim to address.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

We call on the government of the Georgia to:

- Adopt a comprehensive law on 'Reproductive Health and Rights' including measures to address barriers to access to health care and to ensure access to quality, affordable, acceptable and accessible health services;
- Create a new National Health Care Strategy of Georgia in order to fulfill the state's obligations under international treaties and agreements, considered family planning an important topic for health promotion and healthy lifestyle activities;
- Contraception should be included in the list of essential drugs covered through state health programs;
- Revision health care state programs in order to provide Family Planning services by creating the financial incentives for Family Doctors and developing competitive environment for the medical providers especially in rural areas (e.g. raising the qualification, training and popularization), support education about consultation technique regarding modern methods of contraceptives and widening consultation volume;
- Develop and integrate a comprehensive high educational program for medical institutions on communicating skills with Patients;
- Ensure access to the Reproductive health counseling and distribution of contraceptives among youth by creating Youth- Friendly reproductive health Service Centers, which provides youths with free contraception, and information about the family planning and other reproductive health services;
- Create National IEC Strategy and elaborate action plan to promote acceptance and demand for Family planning services as an alternatives to abortion, with special emphasis on population. Strategy should be targeted at: increasing awareness, enhancing the role of communication and educating people about Reproductive Health & Rights and Family Planning Services;
- Create and implement a National Human Rights Action Plan;
- Ensure the role and importance of Public Defender Office, in order to increase the accessibility of defender's services for the most vulnerable and marginalized groups of population;
- Revise article 139 of the law on Health Care to remove mandatory waiting periods for women who decide to have abortion. As the time for consideration causes psychological, financial, economic and territorial obstacles for woman;

- Integrate international human rights standards and Non discrimination, including issues of sexuality, sexual right, reproductive rights, and woman’s rights into training programs provided to all ranks of all justice officials and not treated as an additional class separated from the full curriculum. Ensure that police at all levels are trained on the fundamental Sexual and Reproductive Rights;
- The State must take immediate actions to end police violence against sex worker women by putting in place an effective, accessible and non-discriminatory complaint mechanism to register complaints against police officials for the commission of acts of violence as well as the omission to protect women from violence by others;

■ Endnote

¹ <https://matsne.gov.ge/en/document/view/2339687>

² A - 105.42. Continue efforts to prevent, punish and eliminate all forms of violence against women, and to overcome the stereotypes that cause gender discrimination (Argentina)

³ <https://matsne.gov.ge/en/document/view/2514236>

⁴ A - 105.74. Initiate adequate reforms in the health sector (Sri Lanka)

⁵ Georgian Health Strategy 2011-2015 http://www.moh.gov.ge/index.php?sec_id=185&lang_id=ENG

⁶ http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/Georgia-A_HRC_WG.6_10_L.9-eng.pdf

⁷ A - 106.27. Develop legislation and measures to implement it to better protect rights of women and ensuring gender equality (Lithuania); / A - 105.14. Continue measures in the field of women and child’s rights protection (Azerbaijan);

⁸ <http://www.ohchr.org/Documents/HRBodies/CEDAW/RuralWomen/CRR.pdf>

⁹ <https://matsne.gov.ge/en/document/view/29980>

¹⁰ <http://hera-youth.ge/wp-content/uploads/2014/01/A4-Broshura-+2mm-Bleed.pdf>

¹¹ Pilot study of availability on the safe abortion and family planning-Association “HERA-XXI”

¹² <http://hera-youth.ge/wp-content/uploads/2014/01/A4-Broshura-+2mm-Bleed.pdf>

¹³ <http://www.amerikishma.com/content/who-contraceptives-report/1870540.html>

¹⁴ <http://en.calameo.com/read/000713529f5a20866905a>

¹⁵ http://apps.who.int/iris/bitstream/10665/93142/1/EML_18_eng.pdf?ua=1

¹⁶ <http://www1.umn.edu/humanrts/gencomm/escgencom14.htm>

¹⁷ <http://hera-youth.ge/wp-content/uploads/2014/03/kvleva1.pdf>

¹⁸ <http://en.calameo.com/read/000713529f5a20866905a>

¹⁹ <https://matsne.gov.ge/en/document/view/16426>

²⁰ Study on Identification of Sex-workers’ Needs and Factors Causing Discrimination – Association “HERA-XXI”

²¹ Law of Georgia on the Elimination of All Forms of Discrimination (2014), Article 1.

