



Violence against Women in Georgia

*Report submitted on the occasion of the 36th session of the
UN Committee on the Elimination of Discrimination against Women*

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Foreword

The submission of alternative reports is one of the main activities of the **World Organisation Against Torture (OMCT)** and the **Georgian Young Lawyers' Association (GYLA)**. The collaboration between both organisations in the preparation of this report is a combination of OMCT's Violence against Women programme's experience in submitting alternative information to the CEDAW and GYLA's access to first-hand information on the situation of victims, also through its work with authorities and relevant institutions in Georgia. In particular, GYLA has been very active in putting forward legislative and protective measures aiming at improving the situation of victims of domestic violence and trafficking. Hence the information you will find in this report is very precise in that respect.

This report aims to provide useful information to CEDAW experts relating to the *List of issues and questions with regard to the consideration of the periodic report of Georgia (CEDAW/C/GEO/Q/3)*. The relevant items of the List of issues are referred to accordingly in each part of the report.

Although the promises made by the Georgian Republic in the aftermath of the Beijing conference are now starting to be fulfilled at a fast pace, after many years of inaction, much still remains to be done in order to advance women's rights and ensure gender equality in Georgia. Indeed recent measures have been taken with regard to domestic violence and trafficking in persons but they have not been extended to women victims of other types of violence.

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I. Legal background

I.1. International legal background

Status of signatures, ratifications, reservations, etc. of the United Nations and regional treaties on human rights:

Treaty body (Date of ratification) Entry into force	Report	Due	Received	Examined	Overdue Reports
CAT (26/10/94) 25/11/94	Initial Second Periodic Third Periodic	24.11.1995 24.11.1999 24.11.2003	04.06.1996 15.11.1999 04.07.2005	21.11.1996 07.05.2001 To be examined 05.2006	0
CCPR (03/05/94) 03/08/94	Initial Second Periodic Third Periodic	02.08.1995 02.08.2000 01.04.2006	21.11.1995 09.08.2000	27.03.1997 19.03.2002	1
CEDAW (26/10/94) 25/11/94	Initial Second Periodic Third Periodic ¹	25.11.1995 25.11.1999 25.11.2003	09.03.1998 16.04.2004 16.04.2004	11.06.1999 pending pending	0
CERD (02/06/99) 02/07/99	Initial Second, Third Periodic	02.07.2000 02.07.2004	24.05.2000 21.07.2004	22.03.2001 01.08.2005	0
CESCR (03/05/94) 03/08/94	Initial Second Periodic Third Periodic	30.06.1996 30.06.2001 30.06.2007	25.08.1997 19.06.2001	09.05.2000 01.11.2002	0
CRC (02/06/94) 02/07/94	Initial Second Periodic Third Periodic	01.07.1996 01.07.2001 01.07.2006	21.01.1998 29.06.2001	02.06.2000 01.10.2003	0
CRC OP on the Sale of Children, Child Prostitution and Child Pornography (28/06/05) 28/07/2005	Initial	28.07.2007			0

Other treaties related to Human Rights	Ratification	Entry into force
Optional Protocol to the Convention Against Torture and Cruel Inhuman or Degrading Treatment or Punishment	(09.08.2005)	
Optional Protocol to the International Covenant on Civil and Political Rights	(03.05.1994)	03.08.1994

¹ The second and third periodic reports were submitted together as one document.

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the Death Penalty	(22.03.1999)	22.06.1999
Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women	(01.08.2002)	01.11.2002
Rome Statute of the ICC	(05.09.2003)	01.07.2002

I.2. Status of international treaties in domestic law

Response to item 2 of the List of issues² (CEDAW/C/GEO/Q/3)

Please clarify the status of the Convention in the domestic legal order. In particular, please clarify the applicability of the Convention before national courts, and indicate any court cases where the Convention was referred to.

The Constitution of Georgia is the supreme law of the state. All other legal acts shall be issued in accordance with the Constitution.

According to Article 6 (2) of the Georgian Constitution:

“the state legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement of Georgia, unless it contradicts the Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts.”

This provision is complemented by Article 7 of the Constitution pursuant to which:

“The state shall recognize and protect universally recognized human rights and freedoms as eternal and supreme human values. While exercising authority, the people and the state shall be bound by these rights and freedoms as directly acting law.”

The abovementioned articles indicate that the Constitution of Georgia takes precedence over international agreements. As for the application of international agreements by judges when rendering court judgments, we should mention that certain judges really apply to the norms of international law, however rarely.

I.3. Legal provisions guaranteeing gender equality and protecting women’s human rights

Article 14 of the Constitution establishes the principle of equality of all people before the law regardless of their sex.

“Everyone is born free and is equal before the law, regardless of race, skin colour, language, sex, religion, political and other beliefs, national, ethnic and social origin, property and positional status, place of residence.”

² List of issues and questions with regard to the consideration of the periodic report of Georgia, document CEDAW/C/GEO/Q/3 dated 22 February 2006.

The terms - "all people/ each person/ all/ Citizen of Georgia" - contained in the Constitution, in the chapter on human rights and freedoms, means "men and women". Hence the rights contained in the Constitution apply equally to men and women.

Moreover, the Civil and Criminal Codes of Georgia include the principle of equality or non discrimination on any grounds, including sex. The procedural legislation of Georgia determines legal means of protection of women's rights based on the principle of equality with men.

Civil Procedural Code of Georgia: Article 5 –

"The administration of justice by the court on civil cases is based on the principle of equality of every person before the court and the law."

Criminal Procedural Code of Georgia: Article 9 (1) –

"Every person is equal before the law and the courts – irrespective of their race, nationality, language, sex, social origin, property and status, place of residence, religious affiliation, belief, or other circumstances."

Criminal Code of Georgia: Article 142 the Violation of Equality of Humans –

"Violation of equality of humans due to their race, colour of skin, language, sex, religious belonging or profession, political or other opinion, national, ethnic, social, rank or public association belonging, origin, place of residence or material condition that has substantially prejudiced human rights, shall be punishable by fine or by corrective labour for a term not exceeding one year or by imprisonment for up to two years in length. The same action committed: a) by using one's official position; b) that has produced grave consequences; shall be punishable by fine or by corrective labour for up to one year in length, by deprivation of the right to occupy a position or pursue a particular activity for up to three years in length or without it."

Despite the acknowledgement of the principle of equality in the law and the ratification of the CEDAW Convention – of which Article 2 "a" requires the establishment of the principle of equality in the Constitution and legislation of the States parties – the de facto situation with regard to gender equality is problematic.

Response to item 3 of the List of issues (CEDAW/C/GEO/Q/3)

According to the report, the Ministry of Justice and the State Commission on the Elaboration of State Policy for Women's Advancement were to elaborate a "new edition of Article 36 of the Constitution, in order to ensure a separate statute on women's rights and gender equality" before the end of 2004 (para. 42). Please provide details about the status and the content of this proposed amendment to the Constitution.

There is no legislation that explicitly prohibits women's discrimination based on gender or by a husband, and no special law to facilitate the achievement of gender equality has been endorsed. Moreover, Article 36 of the Constitution should indeed be amended so as to include specific provisions protecting women's rights particularly in the realm of the family. We are not aware of any pending activities in that respect. The current text provides that:

1. *Marriage is based upon equality of rights and the free will of spouses.*
2. *The state supports the prosperity of the family.*
3. *The rights of mothers and children are protected by law.*

This legislative deficiency is caused by the inadequate protection of women's rights in Georgia and vice versa. And there are no special courses for the students and lawyers regarding the prohibition of discrimination against women.

Response to item 4 of the List of issues (CEDAW/C/GEO/Q/3)

The report mentions that the Subcommittee on Protection of Mothers and Children and Family Development and the Parliamentary Committee on Human Rights Protection, Citizens' Petition and Building of Civil Society have been actively involved in the elaboration of draft laws reflecting gender issues (para. 32). Please provide details of draft laws that have been proposed by these bodies and specify if any of these laws have been adopted.

At present there is no Subcommittee in the Parliament of Georgia working on the protection of mothers' and children's rights and issues of family development. Since 2003 the Committee for Civil Integration and Human Rights Protection has not considered any draft with regard to gender equality.

Response to item 5 of the List of issues (CEDAW/C/GEO/Q/3)

The report specifies that a law providing criminal penalties for "Violation of Citizens' Equality" came into effect on 1 June 2000 (para. 35). Please specify if any cases of discrimination on the basis of sex have been prosecuted under this law and the outcomes of such cases, and whether civil, administrative or other remedies are available to women victims of discrimination.

Despite the existing legislation law enforcement in this regard is meagre. The Constitutional Court of Georgia has not reviewed any case that applies to the violation of women's rights determined in Article 14 of the Constitution. And we do not possess information on any case being heard in a court according to Article 142 of the Criminal Code.

Indeed the majority of women do not reveal information regarding gender-based discrimination which may constitute a form of ill-treatment.

To conclude, despite the fact that the State of Georgia declares it guarantees universal human rights and freedoms regardless of sex, this principle is not implemented in reality. Georgian legislation is not discriminative; however, it is not gender sensitive either.

II. Institutions and structures promoting women's rights

II.1. Institutional background

In Georgia, there are specific government institutions which promote and protect women's rights:

The **Gender Equality Advisory Council** under the chairperson of the Parliament of Georgia has been established with the financial support of the United Nations Development Programme "Gender and Policy in South Caucasus". It is composed of government representatives and non governmental organizations to discuss gender issues and elaborate relevant recommendations. The Council meets regularly for the discussion of various draft laws in the light of gender issues and its members regularly organize meetings in the different regions with NGOs and the population.

The **State Commission on Gender Equality** was established on June 28, 2005, under the Order No 109 of the Government of Georgia. It is composed of various State officials. The Chair of the Commission is the Deputy State Minister on the issues of integration to the European and Euro Atlantic structures. According to the regulation of the Commission, its objectives and aims are as follows:

- * Elaborate suggestions and recommendations with respect to the enforcement of gender policy.
- * Elaborate a National Concept of State gender policy and present the latter to the Government of Georgia for further consideration.
- * Submit recommendations to the Government of Georgia with respect to the promotion of gender equality and harmonization of Georgian Legislation with the European Standards.

In the process of gender issue discussions, the Commission actively cooperates with the Gender Equality Advisory Council under the Chairperson of the Parliament of Georgia. The State Commission also prepares suggestions for the monitoring of the activities envisaged by International Agreements and Treaties on Gender Equality. It also cooperates with international and local organizations working on gender issues.

Response to item 8 of the List of issues (CEDAW/C/GEO/Q/3)

The report states that a Centre for the Rights of the Woman was established in the Office of the Public Defender (Ombudsman) in 2002 (para. 31). Please give details of complaints related to the violations of women's rights that have been received and resolved by this Centre or the Ombudsman in the period since the submission of the initial report.

Within the Ombudsman's office were created: a **Special Group on Children and Women's Issues**; and a **State Commission on Women's Development** or Centre for the Rights of the Woman in cooperation with the United Nations Development Programme and the World Bank in 2002. When the funding came to an end, this commission stopped operating. From that moment on a **Direction on Gender Equality** was created within the Equality Department of the Ombudsman's office and complaints are filed therein.

There are no specific rules regulating the functioning of this direction. Its main activities are:

- Monitoring the existing situation with respect to gender equality, domestic violence, trafficking, and women's rights.
- Conducting research concerning the abovementioned issues.
- Providing the Ombudsman with relevant information to be included in his annual report.
- Assisting NGOs with solving the problems of vulnerable women.

The Direction on Gender Equality is a member of the network working on gender equality along with the Gender Equality Advisory Council.

II.2. Action plans

Georgia committed itself to deal with women's issues in 1995 in Beijing (IV World Conference) and to develop national action plans for the improvement of women's status pursuant to the "Beijing Platform".

The following decrees were adopted pursuant to this commitment:

- Decree 511 about Measures for Strengthening the Protection of Human Rights of Women in Georgia (1999)
- The National Plan of Action for Improving Women's Conditions (1998 – 2000)
- Three Year Plan to Combat Violence Against Women (2000 – 2002)
- Plan of Action for Improving Women's Conditions (2001 – 2004)

The goal of all above-mentioned instruments and mechanisms was to improve the status of women's rights. The Plan on the Improvement of Women's Status for the period of 1998-2000, which was approved by the President, included 7 guidelines out of 12 of the Beijing Plan of Action but it was not implemented.

On February 25, 2000, a presidential decree on the activity plan for combating violence against women was adopted. The activity plan identified directions, however nothing more has been done so far. The government's failure to divide competences among the state agencies caused problems in implementation by the government structures. Several Ministries were simultaneously ordered to work on each direction so that their functions and responsibilities were not clearly identified. It also failed to separate competences, which caused chaos. No concrete steps have been taken for improving the situation beyond what is on paper.

State Concept on Gender Equality

On July 24, 2006, the Parliament of Georgia approved the State Concept on Gender Equality. The Parliament also established that the government of Georgia must elaborate the action plan within 6 months from the enactment of this decision.

According to Article 1 (preface) of the Concept each person is equal before the law regarding the race, skin colour, language, sex, religion, political or other opinion, ethnic and social origin, belonging, living place.

The Concept of gender equality is based on various international agreements, to which Georgia acceded and which are integral part of Georgian legislation at the moment, including: the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination

against Women, the European Convention for the Protection of Human Rights and Freedoms, UN Resolution 1325, the Millennium Declaration and Millennium Development Goals, etc.

The aim of the Concept is to promote the effective realization of women's and men's rights and opportunities. It recognizes gender equality principles in each field and determines respective activities for the prevention and elimination of all forms of discrimination based on sex. The Concept determines the state's obligation to work out relevant measures for changing legislation causing sex-based discrimination.

Article 2 is devoted to the explanation of various terms such as gender, gender equality, and sex-based discrimination.

Article 3. Main directions for achieving gender equality

Gender equality is one of the important priorities of state policy nowadays, the aim of which is to create favourable conditions for the equality of men and women and for ensuring such equality.

The Georgian authorities take up the obligation to ensure the effective realization of men's and women's equal rights and opportunities in political, economic and social fields. With this aim the Government of Georgia will elaborate and implement a state policy based on gender equality.

Article 4. Mechanisms for the implementation of main directions for gender equality

While implementing the main directions for gender equality the Government of Georgia applies respective mechanisms and activities aimed at ensuring equality for men and women.

The Government of Georgia acknowledges that the elaboration, implementation and monitoring of the state policy for gender equality should be carried out by close cooperation between the government and civil society, what will contribute to raising awareness on the importance of gender equality.

One of the first and main activities for ensuring gender equality is the creation of respective legislative basis. While establishing a state policy in various fields, particular attention should be paid to elaborating various programmes aimed at ensuring gender equality including various activities for eliminating sex based discrimination, collecting relevant data and its analyses, as well as supporting various studies and researches on the issues of gender.

There are two main structures operating in the fields of gender equality at the moment, the Gender Equality Advisory Council under the chairman of the Parliament and the State Commission. However, considering the priority of gender equality issues, there should be a permanent mechanism within the Georgian Government to ensure its effective implementation within the legislative, executive, central and local levels.

Article 5. The Political Field

By supporting the Rose Revolution Georgian citizens expressed their will of establishing Georgia as a democratic state. Implementing of the gender equality principle is an important part of the democratic process. Each citizen, man or woman, bears equal responsibility in establishing a transparent and accountable political system based on the Rule of Law and equality principles.

The following activities should be carried out for attaining the goals:

- promote equal political participation of men and women in all government branches;
- promote equal participation of men and women in political parties and its supervisory and executive bodies;
- promote equal participation of men and women in conflict resolution and peace building processes.

Article 6. The Economic Field

Economic development is one of the main priorities of the Georgian population. The government aims to create favourable conditions for sustainable development of the market economy. Equal participation of men and women is a main tool for achieving economic security.

Considering gender equality principles in economic development and poverty reduction programmes will promote gender equality within the labour market, especially within entrepreneur activities. Equal accessibility of men and women to financial, credit and commercial resources is one of the main mechanisms for private sector development and the creation of working places.

The Government of Georgia should pay mainly attention to the development of the state budget, both on the central and local levels, oriented on the principles of gender and social justice.

Article 7. The Social Field

The Government of Georgia is active in carrying out reforms in social fields. Considering social equality principles while carrying out social policy will promote the establishment of a social justice system. For achieving this goal the Government should elaborate and implement various gender equality programmes within the health and social security field.

When implementing education reform the Government of Georgia should ensure equal access to basic, professional, and high education for men and women.

Article 8. Final Provisions

For achieving the Gender Equality State Concept, the Government of Georgia should carry out the following activities:

- elaborate specific measures, including legislative ones, aiming establishment of gender equality principles;*
- consider gender equality principles in all state programmes and strategies;*
- monitor and assess the gender equality action plan worked out and adopted by the Government of Georgia;*
- ensure the development of sustainable gender equality institutional mechanisms and its effective functioning within the legislative and executive branches, both on central and local levels.*

The central and local budgets, as well as the financial aid of international and local organizations are the main sources for implementing the gender equality concept. The Parliament of Georgia approves and amends the Concept by its resolutions.

Concrete mechanisms ensuring gender equality are yet to be created. There are no strictly determined reporting procedures on gender issues. In addition, often representatives of state institutions are not informed about what international obligations need to be taken into consideration during the decision making process and their implementation. Hopefully the recently adopted State Concept on Gender Equality will be followed by the necessary measures in this regard.

III. Violence in the family

III.1. Legal framework on domestic violence

There is no legislation in Georgia that criminalizes domestic violence. The Criminal Code of Georgia in its Articles 117 and 118 punishes deliberate grave and less grave damage to health, but these articles are very general. They do not take into the account the fact that such violence may happen among family members, who depend on each other emotionally and financially. In addition this law does not mention psychological violence towards a woman.

In Georgia, as in many other countries, roles and functions of men and women have been conditioned by “tradition”. Medium and high levels (male) representatives had absolute power over women, children and servants. In the working-class families, males were dominating as well. Presently, women are required to protect family reputation and to keep “family problems” inside the family. Patriarchal and “macho” attitude is still strong in society. A more systematic approach is needed to effectively change public attitude towards it. Historically, theory on domestic violence has been based on the idea that this type of act was a “family” or “private” business, which took place due to mental disabilities, abuse of alcohol or limited ability to control impulsive behaviour. Currently it is recognized that domestic violence entails the use of power or control by one person towards another through different forms, such as threat or coercion. However traditional gender roles, economic hardships and religious views, among other factors, hinder the protection of women and the punishment of abusers.

An **activity plan to combat and prevent domestic violence for the years 2006-2008** has been set up. This plan contains different objectives:

- Creating the developed and exhaustive legal bases for preventing domestic violence and for protecting victims so as to eliminate the existing gaps;
- Increasing public awareness on the problem of domestic violence;
- Protection and rehabilitation of the victims: Protection of and support to the victims of domestic violence by enacting mechanisms of legislative and other type of assistance;
- To include in the State budget necessary expenses for ensuring the prevention of domestic violence and combating of and support to the victims of domestic violence;
- Creation and development of a database on the cases of domestic violence.

One of the measures taken by the government so far is the creation of hotlines for victims of domestic violence however there are no such services assisting women victims of rape and other types of sexual violence.

Response to item 13 of the List of issues (CEDAW/C/GEO/Q/3)

The 2003 report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2003/75/Add.1, para. 1991) points out that domestic violence is a serious problem in Georgia but is rarely reported or punished because of social taboos against raising the problem outside the family. Reference is made to the Plan of Action on Combating Violence against Women (2000-2002) (para. 37). The report is silent about whether a law on domestic violence has been passed or is being considered. Please provide details of the measures the Government is taking to address domestic violence, including details about research, legislation adopted, services provided and mechanisms established to address the issue.

The Georgian Young Lawyers Association (GYLA) in cooperation with other non-governmental organizations and representatives of different governmental bodies prepared a **draft law on domestic violence** with the technical and financial support of the American Bar Association (see Appendix I). This law on “Prevention of Domestic Violence, Protection of and Assistance to Victims” was enacted on June 9, 2006. Therefore the period is too short for identifying any cases on its application by the judiciary of the provisions of the new law.

During private discussions with victims it was identified that they are waiting for effective application of the law and have great expectations in regard to protection and assistance from the state. Therefore, one can say that domestic violence cases will be filed soon in courts.

However the lack of shelters and rehabilitation centres will inhibit full implementation of the new legislation and will decrease the self-confidence of victims. According to Article 22 of the law, Chapter VI concerning *Social and Labour Guarantees for Victims of Domestic Violence and Abusers’ Rehabilitation Measures* shall be enacted from January 1, 2008. Moreover, the full execution of the law is linked to financial resources since the opening of shelters and rehabilitation centres require considerable expenses the state cannot afford now and necessary funds are not envisaged in the state budget.

As for the **activity plan for 2006-2008** concerning the law on “Prevention of Domestic Violence, Protection of and Assistance to Victims”, it was also prepared by GYLA (see Appendix II), but it has not been approved yet. The president should approve the activity plan within 4 months after adopting the law, but no later than September.

Rape within the family: There is no specific article in the Criminal Code of Georgia that regulates rape within the family. Despite the fact that Article 137 punishes all forms of rape the lack of special article prohibiting rape within the family means that the rape of a woman or forcing her into sexual contact by a husband is not considered to be a crime and often they are forced to live with the abuser. Naturally it is very hard for a woman to go to the police in such cases, especially when the police cannot qualify this action as a crime according to the Criminal Code of Georgia. Marital rape remains a hidden crime in Georgia.

Incest: Incest – just as marital rape – is not punishable according to the Criminal Code of Georgia. Incest is another hidden crime in Georgian society and statistical data are almost inexistent.

Bride Kidnap: Bride kidnap is a widespread form of marriage in Georgia, mostly in the regions. In most cases this is flee but in a case of kidnap it happens against the wish of the woman. It can sometimes be followed by rape, which remains unpunished as any form of marital rape. There is no specific article under the subheading of bride kidnap but such acts practically fall under article 143 of the Criminal Code on illegal deprivation of liberty.

Unfortunately the new law did not respond to the need to explicitly forbid or include aggravating circumstances that characterise the practice of marital rape, incest and bride kidnap in Georgian legislation.

III.2. Statistical data on domestic violence

According to statistics provided by the department of patrol police, from August 1, 2005, until January 1, 2006, (during 4 months) 1,466 cases of domestic violence were identified.

Based on GYLA's written requests to the Tbilisi City and Appellate Courts, the Supreme Court of Georgia, the Prosecutor General's Office, the Administration of the Ministry of Internal Affairs and the Patrol Department of the Ministry of Internal Affairs, the following information was provided:

The Tbilisi City Court noted that it has not got any statistical data on family conflicts and justified it as follows: it is impossible to fulfil a request of GYLA because the Criminal Code of Georgia does not envisage domestic violence related crimes.

The Tbilisi Appellate Court, like the City Court, noted that there are no separate statistics maintained for domestic violence matters, although it expressed a will and readiness to cooperate in the future.

The Supreme Court provided little data on domestic violence cases filed and reviewed at Common Courts. In particular, in 2005 some 11 cases were filed with Common Courts. In all 11 cases a woman is a victim. In 6 cases – a spouse was physically and verbally abused; in 2 cases – ex-spouse; in 1 case – mother-in-law and in 1 case – spouse and children.

The Prosecutor General's Office failed to provide any statistics on domestic violence cases as it does not account such matters so far: "The Criminal Code of Georgia does not contain any corpus delicti provisions on domestic violence". Also it noted that new electronic forms of statistical reporting will contain data on domestic violence, as one of motives to crime commitment.

According to data provided by the Information and Analysis Department of the Ministry of Internal Affairs, in 2005 47 criminal cases were instituted on family conflicts, out of which 6 cases are referred to the court, and others are under investigation.

Information provided by the Patrol Police exceeded all expectations. As of August 2005 to January 1 of 2006 (4 months only) 1 466 cases of domestic violence (conflicts) were recorded, to which the Patrol Police had to react. However, it failed to affect in any way abusers, since under the current legislation there is no punishment established.

Simultaneously with Tbilisi, monitoring on domestic violence cases was conducted in Kutaisi, too. Based on GYLA's written request, the Main Regional Division of the Ministry of Internal Affairs and Kutaisi Division provided the following data on domestic violence cases:

The regional prosecutor's office informed that in 2005, 73 complaints (claims, notifications) were filed with district prosecutors' offices located in Imereti, Guria and Racha-Lechkhumi-Kvemo Svaneti, and investigative bodies:

- Out of the 73 complaints 11 concerned premeditated murders, where 9 cases were referred to courts and 2 are under investigation. 3 murders were committed in Zestaponi, 3 in Chiatura and 2 in Kutaisi, 1 in Ozurgeti, 1 in Ambrolauri and 1 in Tsageri. In 3 cases a husband killed a wife, in 3 cases a brother killed another brother, in 1 case a father murdered his child, 1 case of murdering parents, 1 case of murdering a grandmother and 1 case - a man killed his girlfriend.

- Out of the aforementioned cases, 4 concerned murder attempts, 3 cases were referred to courts and 1 is under investigation. In each case either a wife killed a husband, or vice versa; or a son-in-law killed a father-in-law or vice versa.

- 2 cases concerned deliberate physical injuries (Article 117 of the CPC); one case was referred to the court, and the other one is being investigated.

- 42 cases concerned health injuries of less severity (Article 118 of the CPC), out of which 4 were referred to courts, 9 are being investigated, and 29 are terminated.
- One case concerned sexual abuse (Article 138 of the CPC), which was terminated.
- 6 cases concerned damage of things or their demolition (Article 187, CPC), where 5 were referred to courts, and 1 is being investigated.
- 4 cases concerned threat (Article 151, CPC), of which 1 is referred to the court, 1 is being investigated, and 2 are terminated.
- 3 cases concerned severe or less severe health injuries committed by carelessness (Article 124, CPC) and all three cases were terminated at the preliminary investigation stage.
- Out of indicated 73 cases, 23 (31.5%) were referred to courts; 15 (20.5%) are being investigated, and 35 (48%) were terminated.

The Imereti Regional Division of the Ministry of Internal Affairs was conducting investigations in 2 cases: 1 – a wife murdered a husband, and 1 – a son killed a mother.

According to the Kutaisi Division, 30 complaints/notifications regarding matters of domestic violence are registered. The same number of investigations is instituted. Out of this amount, 11 criminal investigations were terminated; 3 cases were referred to the District Court, and 16 are being investigated.

District Prosecutor's Office of Kutaisi informed us that as of January 1 2005 up to January 1 2006, it received 21 complaints/notifications on domestic violence cases, of which 3 investigations started on premeditated murder (Article 108) and cases are referred to courts; 12 cases under the crime described in Article 118 of the CPC; 3 cases under Article 124; 1 case under Article 117; 1 case under Article 187, and 1 case under Article 151.

Results show that if the committed act of violence does not contain criminal signs, the abuser is not arrested and there is very little that can be done, which one more time proves the necessity to legally regulate domestic violence cases.

IV. Violence in the community

IV.1. Rape and other forms of sexual violence

The number of sexual violence related crimes has significantly increased during the last several years, which is partly linked to harsh economical conditions. Rape is a taboo issue in Georgia and it is impossible to collect real statistics. The lack of rehabilitation centres is a major concern. Moreover there are no special divisions working on rape cases at the police and prosecutor's office. There is a need to conduct special trainings for policemen and investigators on how to investigate rape cases and to deal with the victims. According to the information received, the investigation of such cases can be prolonged over a long period which is problematic for proving the crime in a court (medical expertise reasons).

Legislation

According to Article 137 of the Criminal Code of Georgia, rape, i.e. sexual intercourse through violence, threat of violence or abusing the helplessness of the victim, shall be punishable by imprisonment extending from three to seven years in length. The same action perpetrated repeatedly shall be punishable by prison sentences ranging from five to ten years in length. Rape by a group; of a pregnant woman or other person at the previous knowledge of the offender; under extreme violence against the victim or other person; by using one's official position; that through negligence has resulted in the death of the victim; that through negligence has been corollary to the victim's contraction of AIDS, serious health deterioration or other grave consequence, shall be punishable by imprisonment for a term extending from five to fifteen years in length. Rape of a person under fourteen years shall be punishable by imprisonment for the term extending from ten to twenty years.

According to Article 139 coercion into sexual intercourse, homosexuality, lesbianism or other sexual contact under the threat of disclosing defamatory information or damaging property or by using one's material, official or other dependency, shall be punishable by fine or by corrective labour for a term of up to one year or by imprisonment for up to two years in length. Article 140 establishes that "Sexual intercourse, homosexuality, lesbianism or other sexual contact distorted in form at the previous knowledge of the offender with someone under sixteen years shall be punishable by restriction of freedom for a term of up to three years or by jail sentence for a term not exceeding three months or by imprisonment of up to three years in length."

IV.2. Sexual harassment

Response to item 14 of the List of issues (CEDAW/C/GEO/Q/3)

According to the report, laws on "professional violence (including sexual harassment at work place)" are being considered (para. 105). Please provide details on progress made, i.e., whether such laws were adopted and their scope and content.

On April 28, 2006, an amendment was introduced to Article 138 of the Criminal Code which envisaged criminal persecution in case of "professional harassment":

Article 138. Sexual Abuse under Violence

1. *Homosexuality, lesbianism or other sexual intercourse distorted in form committed under violence, threat of violence or by abuse the helplessness of the victim, shall be punishable by prison sentences from four to six years.*

2. *The same action a) committed by abuse of power; b) which caused abuse of health of the victim or other negative consequence
Shall be punishable by restriction of freedom from six to nine years.*

IV.3. Human trafficking

IV.3.1. Legislation

Criminal Code of Georgia

On June 6, 2003, the Criminal Code of Georgia was amended so as to include Articles 143(1) and 143(2) criminalizing trafficking in human beings and more particularly trafficking in children.

Pursuant to Article 143 (1) of the Criminal Code of Georgia:

“Trafficking in human beings means the selling or buying of a human being or making any other unlawful transaction in relation to him/her as well as recruitment, transfer, hiding or harbouring a human being by means of coercion, blackmail or deception for the purpose of his/her exploitation.”

The purpose of the crime, similar to that contained in the United Nations Palermo Protocol definition, is exploitation of a human being. However, the term "exploitation" is defined differently. In particular, the Criminal Code of Georgia defines exploitation as the use of a human being for the purpose of forced labour, involvement into criminal or other anti-social activity or prostitution, sexual exploitation or other kind of service, placing into contemporary forms of slavery or for the purpose of transplantation or other use of human organ, part or organ or human tissue.

As is seen, the Georgian legislation's definition of exploitation is silent regarding such crimes as slavery-like conditions and servitude. Instead of the classical definition of slavery, it uses the term "contemporary forms of slavery" which implies *deprivation of identification documents, restriction of the freedom of movement, prohibition of communication with the family, including correspondence and telephone conversation, cultural isolation, or forcing to work in conditions degrading human honour and dignity or without any reimbursement or with inadequate reimbursement.*

Pursuant to the Criminal Code of Georgia, human trafficking may be committed by use of coercion, blackmail or deception. Furthermore, the Code envisages other means of committing trafficking too, regarded as aggravating circumstances to the crime of trafficking. This is the case if the crime is committed:

- by use of official powers;
- by use of violence dangerous for life and health or by threat of such violence;
- by use of vulnerable position of the human being or his/her material or other dependence on the offender.

The same article prescribes the following additional aggravating circumstances if the crime of trafficking in human beings is committed

- a) repeatedly;
- b) in relation to two or more persons;
- c) knowingly in relation to a pregnant woman;
- d) by taking the victim outside the country;
- e) by an organized group or if it resulted in the death of the victim or other grave result.

Conducts indicated in the Georgian definition such as the selling or buying a human being or making any other unlawful transaction in relation to him/her is not mentioned in the Palermo Protocol definition. Instead, these actions in the Protocol definition are expressed by another formulation “by means of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”, which is the same as the selling or buying a human being. The Georgian definition of trafficking has repeated the shortcomings of the Palermo Protocol definition. In particular, it incorporated such terms as “involvement into prostitution” and “sexual exploitation”, which are defined neither by international law nor by the domestic legislation.

Under the Georgian Criminal Code, perpetration of trafficking in human beings is punishable with deprivation of liberty for 5 to 12 years, if not committed in aggravating circumstances. If committed in aggravating circumstances, traffickers risk imprisonment for 8 to 15 years. Trafficking in human beings committed by an organized group or if it caused the death of the victim or other grave result is punishable with deprivation of liberty for 12 to 20 years.

Though the crime of trafficking in human beings has been criminalized, Georgian legislation was still far from being perfect in this regard. In order to create an effective legislative base for fighting against trafficking, a single and comprehensive law was needed to establish the legislative and organizational base for the prevention of and fight against trafficking in human beings, rights and obligations of state bodies, public associations and officials in measures against human trafficking, rules of coordination of their activity, legal status of victims of trafficking and guarantees for their social and legal protection.

The New Law on Combating Trafficking

The draft law was prepared by the Georgian Young Lawyers' Association in coordination with the Ministry of Interior, Ministry of Justice, International Organization of Migration and other state agencies and non-governmental organizations having links with the relevant issues. The draft law paid special attention to the protection of human rights of victims of trafficking and to harmonizing the current Georgian legislation with the aforesaid United Nations Protocol and other relevant international legal standards.

The law on Combating Trafficking was passed on April 28, 2006 and came into force one month later. The law defines the legal and organizational basis for combating trafficking in Georgia, obligations of state bodies in the activities for combating trafficking, legal status of the victims of trafficking, their rights and obligations.

The law also provides for the creation of the State Fund for Protection and Support of Victims of Trafficking. The Fund will create mobile groups, which will interview victims, then questionnaires will be sent to the Working Group, created under the Interagency Coordination Board, which will grant or not the status of the victim of trafficking (VoT) in 48 hours. Also such status may be

granted to the person by the police. The Coordination Board under this law consists of the different Ministries, NGOs and international organizations, which work on trafficking.

Pursuant to this law, a VoT has one month to decide whether s/he wants to cooperate with the police and start the case. If a VoT cooperates with police, s/he can also file before a court a civil complaint and claim reimbursement of the moral and physical damage s/he underwent. In case it is impossible to identify and detain the trafficker and in case VoTs do not file the case the latter can receive from the Fund a compensation of up to 1000 GEL.

A VoT can choose whether to go to the shelter, which was already created and started functioning from mid-June. GYLA worked on its equipping and covers most of the running costs at present. Starting from October the government will take up a bigger share in its running costs. VoT also should have from the first moment a lawyer and a translator.

One of the novelties in the law is that a victim is freed from charges of crime which s/he committed while being a victim of trafficking (as s/he was forced to do it).

A foreigner VoT has the same rights and responsibilities as Georgian VoTs.

There is also a president-signed act on the Action Plan for combating trafficking, where is assigned to every ministry what they should do for combating the trafficking. Every 3 months the Coordination Board meets and considers what was fulfilled and what to do in future. In September 2006 will be started the working for the Plan 2007.

The new text provides a good legislative basis to combat trafficking and protect victims, the question is whether it will be fully implemented by the police and prosecutors.

IV.3.2. The National Action Plan for Combating Trafficking in Persons NAPCD (2005-2006)

On December 29, 2005, the President of Georgia approved the Action Plan against Trafficking (2005-2006) and to ensure the efficient implementation of this plan, established an *ad hoc* Interagency Commission against Trafficking under the auspices of the National Security Council of Georgia. The main goals of the Commission are:

- a) to draft proposals regarding effective anti-trafficking activities and the ways of eliminating the factors stimulating trafficking and to present these proposals to the National Security Council of Georgia;
- b) to submit to the President the proposals regarding the amendment of the legislation pursuant to the anti-trafficking Action Plan for 2005-2006 and enforcement of international treaties;
- c) to prepare a full list of international and regional treaties and agreements concerning trafficking for presenting at the session of the National Security Council, to draft proposals on expediency of Georgia's joining these documents;
- d) to prepare analytical reports on the condition of the Georgian migrants seeking employment and human rights for presenting before the session of the National Security Council, to work out proposals on improvement of the migrants' condition;
- e) to discuss the issues related to trafficking in close cooperation with the NGO sector, international and local organizations dealing with trafficking in order to work out joint proposals for submitting to the President;
- f) to submit to the President the proposals on illegal labour emigration, also on the establishment and strengthening of anti-trafficking institutional mechanisms;
- g) to monitor the situation with regard to illegal labour migration and anti-trafficking activities;

- h) to submit to the National Security Council information on the activities performed during the year;
- i) to study the information prescribed by the action plan and based on this information to prepare respective reports for submitting to the National Security Council.³

The Inter-Agency Commission consists of representatives of the following agencies and institutions:

- a) National Security Council;
- b) Prosecutor General's Office;
- c) Ministry of Internal Affairs;
- d) National Interpol Bureau;
- e) Ministry of Justice;
- f) Ministry of Foreign Affairs;
- g) Ministry of Labour, Health and Social Security;
- h) Ministry of Economic Development;
- i) Ministry of Finance;
- j) Ministry of Education and Sciences;
- k) Special Office of Foreign Intelligence;
- l) Department of Frontier Defence;
- m) Human Rights and Civil Integration Committee - Parliament;
- n) Ombudsman's Office;
- o) Georgian Young Lawyer's Association;
- p) Open Society Georgia Foundation;
- q) Human Harmonious Development Society;
- r) Human Dimensions Office - OSCE;
- s) International Organization for Migration.

Investigative and Prosecutorial Agencies:

1. Ministry of Internal Affairs

a) Special Operative Department's Unit Against Human Trafficking And Illegal Migration

Until May 2005, the investigation of TIP was undertaken by three agencies – Ministry of Internal Affairs, Ministry of State Security and the Prosecutor's Office.⁴

In May 2005, upon amendment in the Criminal Procedure Code⁵, the investigative functions have been taken up by the Ministry of Internal Affairs,⁶ where the Special Operative Department's Unit #5 Against Human Trafficking and Illegal Migration has been established.⁷ The Unit consists of 30 persons, out of which 4 investigators and 26 operative staff, and among them 17 persons are working in the territorial offices of the Ministry.⁸ The main function of this Unit is combating human trafficking and illegal migration and pre-trial investigation of these offences.⁹ In July 2005 the anti-trafficking unit had 19 cases under investigation.¹⁰

b) National Interpol Bureau in Georgia

³ President's Decree No 50 Issued on February 1, 2005;

⁴ Criminal Procedure Code, article #62.

⁵ Law # 1204, March 25 – 2005.

⁶ Law #1204, March 25 - 2005, article 50, amendment in article #62.

⁷ Decree #685 of Minister of Internal Affairs - 30 December 2004.

⁸ Information from Ministry of Internal Affairs - letter # 7/7-2716, 29.07.2005.

⁹ This unit does not have its own statute, so the information is taken from the statute of the Ministry of Internal Affairs - December 27, President's Decree # 614, article # 17.

¹⁰ Information from Ministry of Internal Affairs - letter # 7/7-2716, 29.07.2005.

Its main principles are the rule of law and protection of Human Rights and Freedoms.¹¹ The National Interpol Bureau's role in case of combating human trafficking is highly important, because most often this crime has a transnational character, so its successful prosecution without coordination between national police agencies is very difficult, even impossible.

Its purpose is:

- * to support permanent contact with General Interpol Agency and National Bureaus of other countries;
- * to collaborate and coordinate Georgian law enforcement agencies and other relevant units with competent offices of other countries to combat crime on international level;
- * to compare information about crime on international scale.

The lack of coordination and collaboration is the greatest problem for investigative bodies and during the sessions of the Anti-trafficking Interagency Commission, it appears quite clearly.

2. General Prosecutor's Office¹²

a) Department of Procedural Supervision on Prosecution:

It includes the Public Security Offices of the Ministry of Internal Affairs¹³, the Special Office of Foreign Intelligence and the Ministry of Defence.

Main functions:

- Procedural supervision on operative-detective activities and on pre-trial investigation;
- To confirm the state accusation in court on those criminal cases, which have been investigated by abovementioned agencies;

Until amendment in the Criminal Procedure Code¹⁴, the first action in a criminal procedure was the initiation of a criminal case, which was essential for beginning a pre-trial investigation. Investigation and prosecution of human trafficking was the Prosecutor's prerogative. The Ministry of Internal Affairs' function was inquiring - which was the "beginning" level of pre-trial investigation. Now the initiation of a criminal case and inquiry are repealed from criminal legislation and the first procedural step is pre-trial investigation, which became a main function of the Ministry of Internal Affairs.

b) Department of Procedural Supervision on Prosecution in Ministry of Internal Affairs. (Its functions are the same as stated above, but include Agencies, except the Public Security Offices and Department of Frontier Defence)

c) Department of Legal Support's Unit of Human Rights Defence. They compare information about human trafficking and officially represent the Prosecutor Generals' office in this case. (The statute establishing the mandate of this unit has not been approved according to the latest information we received¹⁵)

Within the framework of the National Action Plan for Combating Trafficking in Persons (NAPCT), the Office of the General Prosecutor of Georgia organized a meeting with representatives of

¹¹ National Interpol Bureau's statute, article 6.

¹² Statute of Prosecutor General's Office, April 28, 2005.

¹³ In the statute of Ministry of Internal Affairs we cannot find the unit with this name, so the government should amend the statutes of its agencies to avoid misunderstandings.

¹⁴ Law # 1204, March 25 - 2005;

¹⁵ As we said above, its necessary to establish statutes of every state agency, because often it is reason of disagreement about competence between units, beside this, it is important for society - to know, which unit have responsibility on each job;

Ministries of Internal and Foreign Affairs related to the formation of the united database of the offenders (one of the goals set forward by the NAPCT).

On the basis of the analysis of such statistical data, in case of necessity the Prosecutor General of Georgia may issue guidelines of obligatory nature.

International Organization for Migration (IOM)

The Office of the Prosecutor General of Georgia actively cooperates with the International Organization for Migration (IOM). Within the framework of this cooperation 38 employees of the Prosecutor's Office are participating in the series of special trainings related to conducting criminal proceedings against persons involved in trafficking and illegal transportation. The training format includes 5 one-week courses from September 12, 2005 and until January 27, 2006.

During the first 6 months of 2005, five employees of the Office of the Prosecutor General of Georgia attended special trainings for trainers and subsequently four of them participate as instructors in the ongoing trainings.

Georgian Young Lawyers' Association (GYLA)

The Office of the Prosecutor General of Georgia actively collaborates with GYLA in the fight against trafficking. The representatives of the Human Rights Protection Unit directly participate in the implementation of the project "Improving Georgian Legislation on Human Trafficking as a Follow up to the Draft Law on Trafficking in Human Beings".

On October 27, 2005 a meeting was held at the Office of the Prosecutor General of Georgia with the participation of officers of the Ministry of Internal Affairs and the Prosecutor's Office and Mari Meskhi, the director of the Project "No Trafficking in Persons" - GYLA. The definition of the crime of trafficking, problems created in the course of its application and possible ways for solution were considered within the framework of the meeting.

Response to item 15 of the List of issues (CEDAW/C/GEO/Q/3)

The Special Rapporteur on violence against women, its causes and consequences, in her 2003 report (E/CN.4/2003/75/Add.1, para. 1993), points out that Georgia is a source and transit country for women trafficked primarily to Turkey, Israel, Greece and Western Europe for purposes of sexual exploitation and domestic servitude. The Plan of Action on Combating Violence against Women (2000-2002) envisaged measures for the collection of data on trafficking for the purpose of sexual exploitation and the establishment of programmes for the protection of victims (para. 60). Moreover, the Plan of Action against Trafficking (2003-2005) also contemplated provision of rehabilitation services to victims of trafficking (para. 62). However, the report does not present any data on trafficking and does not indicate if any programmes for the protection and rehabilitation of victims have been established. Please provide this information.

Prosecutor-General's Office						
2003-2004						
			women	minors	men	infants
1.	number of cases initiated	21				
2.	number of persons arrested	25	19		9	
3.	number of persons accused	29	21		8	
4.	number of victims	66	62	11	1	3
5.	number of persons wanted	8	6		2	
6.	victims of sexual exploitation	62				

Prosecutor-General's Office						
2005						
			women	men	infants	
1.	number of cases initiated	8				
2.	number of people accused	14	11	3		
3.	number of people arrested	8	6	4		
4.	under mortgage	1				
5.	under police control	4				
6.	persons to search	1				
7.	number of victims	12	7	4		1

Prosecutor-General's Office						
2006 January – March						
			women	men	infants	
1.	number of cases initiated	4				
2.	number of people accused	3	3			
3.	number of people arrested					
4.	under mortgage		4			
5.	under police control					
6.	persons to search					
7.	number of victims	4				
8.	number of victims of sexual exploitation	4	4			

Analysing statistical data from 2004 and 2005, the following elements were identified:

*75% of accused persons are women;
91% of victims are women engaged in sexual exploitation;
45% of crimes are organized in Tbilisi;
All of accused persons are unemployed
Abovementioned criminal offences are parts of organized crime.*

Under Article 143 of the Criminal Code 17 cases were considered from September 2004 to April 2005. No further information was obtained from the authorities with regard to the outcome of these procedures or any more recent data.

With regard to rehabilitation programmes, the Ministry of Health will issue health vouchers to the victims to obtain medical healthcare and after the Trafficking Fund is established victims will receive compensation of 1000 GEL.

There are no other governmental programmes, although GYLA is opening a shelter for the victims of trafficking, where victims can stay up to 3 months for rehabilitation, with support from the state (else than financial) in its setting up.

V. Internally displaced women

Still today there are 280,000 Internally Displaced Persons (IDPs) in Georgia as a result of the armed conflict. The largest part of the IDPs (266,000) are Georgian nationals from Abkhazia. The rest are IDPs from South Ossetia. Women make up 55% of IDPs.

Internally displaced women face serious human rights violations at every stage. During their escape, women are under the risk of rape or other violence that can be used as a “weapon of war”. In the refugee camps women are often under threat of sexual violence or other intimidation from the side of local security personnel as well as male refugees.

Women in Abkhazia were the main targets of sexual and physical violence not only during the military activities but also when they were terminated. According to the information from the Human Rights Committee and the Committee of Abkhazian Autonomous Republic on Intra-national Relations, 800 women have been tortured and killed in Abkhazia. Based on information from the Ministry of Health of Abkhazian Autonomous Republic 346 women were frozen to death due to harsh climate while escaping through Svaneti Region during the conflict. According to the report of Women IDP association OXFAMME 16% of female IDPs have been victims of torture.

The issue of integration of IDPs is a sensitive problem in Georgia. Hidden tension among IDPs and locals remains. Moreover, the majority of female IDPs was forced to leave their profession. Women with high education are employed for non-professional work. Many women are forced to be engaged in street commerce in order to make ends meet and this increases the risk of violence.

It should be noted that among IDPs the number of women with oncology related diseases is quite large. Since 2005 medical aid for IDPs has been abolished. Services to them are provided through municipal programmes. According to the law emergency help is either free of charge or the state covers 60-70% of expenses. For this reason 2 hospitals are allocated in Tbilisi. However in one of them, Republican Hospital, the chief doctor declared that only Tbilisi inhabitants should be provided with free emergency medical services and that municipal aid did not apply to IDPs. There are worse cases happening in the regions.

Recommendations

In order to promote and protect women's human rights, GYLA and OMCT recommend to the State Party to:

1. Set up programmes improving the socio-economic condition of women and public education programmes about the public roles of women and men with the purpose of eliminating existing stereotypes. This should include the mainstreaming of relevant gender issues in the planning and implementation of development projects (for instance: the Strategy of Poverty Overcome, Millennium Development Goals).
2. Ensure that the laws on domestic violence and human trafficking be effective implemented and that the necessary budget be adopted to ensure preventive and protective measures for victims, including shelters.
3. Ensure that human rights training programmes for representatives of police, penitentiary, judges, investigators, medical personnel and others are carried out with a particular focus on the elimination of gender based violations, so that they acknowledge that violence toward a woman is a human rights violation and act accordingly.
4. The portfolio and staff of the State Minister of Gender Equality should be created. Before the portfolio of the State Minister on Gender Equality is created the competences and mandates of the Ministry and the State Commission on Gender Equality under the Deputy State Minister of the European Integration and Parliamentary Council of Gender Equality should be effectively divided and constructive cooperation established.
5. Make available and disseminate translated publications of international instruments of women's human rights protection.
6. Make the necessary amendments to legislation in order to improve the condition of IDP women in accordance with international instruments and standards (Rome Statute, UN Security Council Resolution 1325, etc).

APPENDIX I – Law on the Elimination of Domestic Violence, Protection of and Support to Its Victims

Chapter I. General Provisions

Article 1. Scope of Application of the Law

This Law defines unity of actions characteristic to domestic violence, legal and organizational grounds for identification of and combat with domestic violence, as well as guarantees of legal and social protection for victims of domestic violence.

Article 2. Aim of the Law

This Law aims at:

- a. By recognizing equality in rights of members of the family, creation of firm legislative guarantees for the protection of rights and freedoms of the family members and their physical and mental integrity;
- b. Creation of effective legal mechanisms for identification, elimination and prevention of domestic violence;
- c. Ensuring access to justice to the victims of domestic violence;
- d. Establishment of the basis for the protection, support and rehabilitation for victims of domestic violence.
- e. Ensuring cooperation between various institutions for the purpose of prevention of the domestic violence and its elimination.

Article 3. Domestic Violence

Domestic violence stands for a violation of constitutional rights and freedoms of one family member by the other, in conjunction with physical, psychological or sexual violence, coercion or threat to undertake such actions.

Article 4. Use of Terms in the Law

The concepts and terms used in the Law shall be given the following meaning:

- a. **Physical violence** – battery, torture, injury, restriction of liberty or any other action that causes physical pain or suffering, restriction of food, accommodation and other conditions for normal development, as well as isolation of the minor from his/her parents (custodian), or failure to meet requirements concerning his/her state of health that may cause harm to the health of the minor, violate his/her personal dignity or lead to his/her death;
- b. **Psychological violence** – offence, blackmail, degrading treatment, threat or any other act that violates pride and dignity of the human being;
- c. **Coercion** – physical or psychological coercion of the person to perform or to abstain from performing an act, performance or non-performance of which represents the right of the person, or coercion to stand certain influence against his/her will;

- d. **Sexual violence** – an act that violates sexual liberty and integrity of the person, as well as sexual intercourse with or other act of sexual nature or immoral act against the minor;
- e. **Economic violence** – restriction of the right to property, right to engage in labor activities and right to enjoy property in joint possession;
- f. **Victim** – family member, experiencing physical, psychological, sexual, economic violence or coercion.
- g. **Family members** – mother, father, grandfather, grandmother, spouse, child (stepchild), adopted child, foster parents, grandchild, siblings, parents of spouse, children-in-law,. For the purpose of this law family member also includes, former spouse, persons in non-registered cohabitation, guardians, as well as persons who live or lived together
- h. **Abuser** – member of family who inflicts, physical, psychological and economic violence or coercion against another family member.
- i. **Shelter** – temporary residence of domestic violence victims; or a place of temporary placement of the domestic violence victim, founded in the system of the Ministry of Labour, Healthcare and Social Protection or on the basis of an NGO, where victims are provided with rehabilitation and protections services. ***Until enforcement of the Chapter VI of the law, relations' and friends families.***
- j. **Rehabilitation Centre** - Place of temporary placement of the abuser, serving the purpose of the abuser's rehabilitation, which shall be created in accordance with established guidelines in the system of the Ministry of Labour, Healthcare and Social Protection or by a non-entrepreneurial legal person.

Article 5. The Legislation of Georgia on Elimination of Domestic Violence, Protection of and Support to Its Victims

The legislation of Georgia on elimination of domestic violence, protection of and support to its victims encompasses the Constitution of Georgia, international treaties and agreements of Georgia, this Law and other normative acts of Georgia.

Chapter II. Prevention of Domestic Violence

Article 6. Mechanisms for Prevention of Domestic Violence

1. Mechanisms of domestic violence prevention envisage unity of social, economic, legal and other means, aimed at elimination of reasons and preconditions of domestic violence, as well as at elimination of facts of domestic violence, prosecution of an abuser, his/her rehabilitation and adaptation.
2. The State through its authorized bodies shall support and ensure introduction and application of mechanisms for the domestic violence prevention.
3. Mechanisms for prevention of the domestic violence include:
 - a. analysis, study and evaluation of factors, representing cause of the domestic violence;
 - b. introduction of effective legal methods for identification and elimination of facts of domestic violence;
 - c. maintenance of statistics;
 - d. implementation of preventive measures towards persons, belonging to the risk group of abusers;
 - e. Carrying out information-education campaign to ensure that people are aware of their rights and obligations, protection guarantees, including rights and obligations, providing for equality and responsibilities to each other;

- f. spread and accessibility of information on amenities of the abuser, rights of victims and protection of such right;
- g. organization and delivery of special educational courses on support and protection of victims of the domestic violence and rehabilitation of abusers;
- h. development of specialized programmes with stakeholder organizations and their support to ensure implementation of preventive measures.

Article 7. Introduction of Preventive Measures

1. Under its competence and in accordance with this law, preventive measures shall be introduced by: the Ministry of Labour, Healthcare and Social Protection of Georgia, Ministry of Internal Affairs of Georgia, Ministry of Education and Science of Georgia, Procuracy and Judiciary.

2. In introducing preventive measures relevant state bodies shall cooperate with other stakeholders working on domestic violence human rights and provide for planning and implementation of joint projects.

Article 8. Social Services

1. Within its competence and in accordance with this law, the Ministry of Labour, Healthcare and Social Protection shall provide for social services in families to prevent violence and introduce mechanisms.
2. Within its competence, the Ministry of Labour, Healthcare and Social Protection shall provide for:
 - a. study and relevant analysis of domestic violence causes and support to family members in overcoming disputes;
 - b. support to victims of violence;
 - c. jointly with relevant state institutions identification of abusers' risk-groups and assistance in overcoming problems;
 - d. participation in protective order issuing process;
 - e. monitoring over activities under protective and restrictive orders;
 - f. development and support to implementation of programs aimed at assistance to victims and abusers and their social rehabilitation.

Chapter III. Mechanisms for Identification and Elimination of Domestic Violence

Article 9. Mechanisms for Identification and Elimination of the Domestic Violence

1. To the ends of identification and elimination of domestic violence, criminal, civil and administrative law mechanisms shall apply.
2. Criminal law mechanisms shall apply where an act of domestic violence contains elements of a criminal offence.
3. Civil law mechanisms shall apply where the damage inflicted gives rise to obligation to compensate damages in accordance with the civil law.
4. Administrative law mechanisms shall apply where an act is of insignificant public danger, does not give rise to criminal responsibility and which can be dealt with by application of administrative law provisions.

Article 10. Protective and Restrictive Orders

1. For the purpose of immediate effect (response), protection of the victim and certain restriction of the abuser's activities, relevant bodies as a temporary measure may issue a protective or restrictive order.

2. A protective order is in act issued by the first instance court judge based on administrative proceedings, which defines temporary protection measures of victims in cases of domestic violence, except cases, where the grounds for instituting a criminal proceeding exists and the person is deprived of liberty based on the restrictive measure.
3. Restrictive order is an act issued by the authorized employee of police, which defines temporary protection measures of victims in cases of domestic violence and which shall be submitted to the court for approval within 24 hours.
4. Failure to comply with the conditions prescribed by protective and restrictive order shall lead to criminal responsibility of the abuser.

Article 11. Right to Request the Protective Order

The right to request the protective order shall rest with the victim, his/her family member or at the consent of the victim, a person providing him/her with medical, legal or psychological aid; in cases of violence against child, institutions of custody and care shall also have this right.

Article 12. Terms of Validity of the Protective Order

1. The protective order shall be issued for the period of 3 months and the terms of its validity shall be determined by the court.
2. The court shall be authorized to decide on extension of the protective order. The protective order may be extended within its validity period for a term not exceeding 3 months, unless the risk against the victim or another family member exists.
3. The protective order may be annulled based on the court decision if the parties concerned reconciled and jointly addressed the court with the request to abolish the protective order, except cases listed in the paragraph 2 of this article and article 13.

Article 13. Effect of the Protective and Restrictive Orders in case of the Victim's and Abuser's Reconciliation.

Reconciliation of parties shall not hinder issuance of the protective or restrictive order, neither it shall not cause annulment of the issued protective or restrictive order, if the act of domestic violence violates interests of other family members, especially, minors.

Chapter IV. Specific Measures for Protection of a Minor from Domestic Violence

Article 14. Separation of a Child from a Violent Family

1. Existence of traces of physical abuse shall become an unconditional basis for raising the issue of separation of the child from violent parent (parents) as established by the law. Until the final decision, the court shall deal with issue of separation by way of temporary measure, namely, the order.
2. In case of existence of other forms of violence and upon referral of one of the parties to the court as indicated in the article 11, the court shall consider an issue of the relationship of the child with the abuser.
3. While deciding on the issue of a child's representative, the court shall take into account the fact that retention of the representation rights of the child to the violent parent is prejudicial to the interests of the child. It shall be impermissible to retain joint custody of the child to the parents, if there is a reasonable suspicion with regard to one of the parents, that he/she undertook act of violence against the child.

Article 15. Ensuring Prevention of Apprehension of the Child and other Safety Measures

1. When deciding on terms of visits of the child by a violent parent, the parent shall be given the right to visit the child only in case where all safety measures are taken, including place of the visit, time, periodicity, duration and person(s) responsible for protection of safety measures.

2. In cases where safety measures are not observed, the right of violent parent to visit the child shall be restricted. If the restriction lasts for more than 3 months, the parent, whose rights are being restricted, may refer to the court requesting the amendment of conditions of the visit.

3. In case of abduction of the child by the violent parent or in case of real threat of other damage, the court may decide to prohibit the violent parent to visit the child until the change of circumstances.

Chapter V. Properties of Legal Proceedings with regard to Domestic Violence

Article 16. Duties of the Police

1. In cases of domestic violence Police shall immediately respond to the fact and take all legal measures. ***Police shall not be authorized to consider a domestic violence case inferior to other cases of violence.***

2. In case of receiving notification of the fact of violence, the police shall immediately report to the scene, notwithstanding whether notification was received from the victim, witness of violence or other person as set by Article 11.

3. Where case of violence is present, the police shall:

- a. take all legal measures to eliminate the fact of domestic violence;
- b. separately interview the possible victim, witnesses, abuser, including children, which shall be recorded;
- c. inform the victim of the domestic violence of his/her rights
- d. Upon request of the victim or in case of necessity, to ensure transfer of the victim to the institution of medical care;
- e. Upon request of the victim or in case of necessity, to ensure the transfer of the victim or his/her children to the shelter;
- f. In case of transfer to another location, to ensure that a victim takes his/her personal belongings from the place of residence;
- g. To ensure safety of the person reporting the case of violence;
- h. To issue a restrictive order as prescribed by the law.

4. The police shall draw a record of the case of domestic violence and measures taken, which shall be submitted to the supervising prosecutor.

5. The police shall separately mention in its reports information (data) on the facts of domestic violence, measures taken, number of victims, measures enforced against the violator, as well as other statistical data.

Chapter VI. Social and Labour Guarantees for Victims of Domestic Violence, Abusers' Rehabilitation Measures

Article 17. Temporary Shelter for Victims of Domestic Violence

1. Shelters of the Ministry of Labour, Healthcare and Social Protection shall meet conditions of life and shall ensure primary and emergency medical and psychological assistance.

2. Non-entrepreneurial legal entity may establish a shelter if it meets minimal standards set by the Ministry of Labour, Healthcare and Social Protection for institutions of that type.

3. Activities of shelters shall be regulated by the Charter (Regulations), defining rules for the victim placement in the shelter and his/her rehabilitation.

Article 18. Placement of the Victim at Specialized Institutions and Shelters

1. In cases of domestic violence, where the person, indicated in the article 11 so requests, the law enforcement agencies shall ensure the transfer of the victim to the shelter or a specialized institution.

2. The victim shall be placed in the shelter for a period not exceeding 2 months. If necessary, the term may be extended in accordance with the term prescribed by the Charter of the shelter, except cases when the victim does not wish to stay longer. If the threat to the victim is still present after the expiry of the term, the shelter or specialized institution shall inform the law enforcement agencies for the purposes of providing response to such threat.

3. In case of placement of the victim of domestic violence at the shelter, he/she shall retain the job in the same position.

Article 19. Information on Victims of Domestic Violence

The information on state of physical and psychological status of the victim shall be confidential and its disclosure shall be permitted only in cases provided by law.

Article 20. Abusers' Rehabilitation Centre

In order to ensure temporary placement and rehabilitation of the abuser, the Ministry of Labour, Healthcare and Social Protection as well as non-entrepreneurial legal entity shall establish rehabilitation centres for abusers. Such centres shall meet standards set by the Ministry of Labour, Healthcare and Social Protection for institutions of such kind and ensure temporary placement, psychological assistance and treatment of abusers.

Chapter VII Concluding and Transitional Provisions

Article 21. Measures to be taken with Regard to Enactment of the Law.

1. Until enactment of the Chapter VI of this law, the Ministry of Labour, Healthcare and Social Protection shall determine minimal standards for temporary shelters for victims of domestic violence and abusers' rehabilitation centres.

2. Before July 1, 2006, Ministry of Labour, Healthcare and Social Protection and local self-governance institutions shall define mechanisms for providing social services and support training (preparation) of social workers.

3. Within 1 month upon publishing the law, the Ministry of Internal Affairs shall develop and approve a restrictive order form.

4. Request the Government of Georgia to approve a special plan determining special measures aimed at elimination of domestic violence and protection and assistance to victims of domestic violence within 4 months upon publishing the law.

Article 22. Enactment of the Law

1. This law shall come into force upon publishing
2. Chapter VI of this law shall come into force as of January 1 2008.

APPENDIX II – Draft Activity Plan to Combat and Prevent Domestic Violence 2006-2008

Activity Plan of the events to be carried out for combating and preventing of domestic violence for the years 2006-2008

Goal	Objective	Strategy	Performer	The term for implementation
1	2	3	4	5
1. Development of the legal bases on prevention of domestic violence and protection of and support to the victims of domestic violence	Creating of the developed and exhaustive legal bases for preventing of domestic violence, protection of and support to the victims of domestic violence. Eliminating of the existing gaps.	1. Preparing of the final version of the draft of amendments pertaining to the Law of Georgia on Combating Domestic Violence, Protection of and Support to its Victims and other legislative acts pertaining thereto. Initiating of the discussing procedure according to the provisions prescribed by the law.	The Georgian government with participation of interested NGO	The first half of 2006
		2. Preparing of the draft of governmental decree which will identify the status of the social service and necessary legal and organizational requisites for its creation.	The Ministry of Labor, Health and Social Protection, the Ministry of Education.	The first half of 2006
		3. Preparing of the draft of the presidential order which will regulate the issue of a special judge in charge of family disputes and domestic violence cases	The High Council of Justice of Georgia	The first half of 2006
		4. Preparing of the order of the Ministry of Interior which will	The Ministry of Interior of Georgia	

		<p>identify the list of police staff entitled to issue terminating order on the fact of domestic violence.</p> <p>5. The status of a shelter, elaborating the conditions and standards for its establishment</p> <p>6. Provision of an expert for the victims of domestic violence</p> <p>7. Elaborating of the amendments to the Criminal Code of Georgia for considering the offence committed by the victim of the domestic violence as a mitigating circumstance</p>	<p>The Ministry of Labor, Health and Social Protection</p> <p>The Ministry of Interior and the Ministry of Justice</p> <p>The Ministry of Interior and the Ministry of Justice</p>	<p>The first half of 2006</p>
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Activity Plan
Increasing public awareness on the problem of (domestic violence)

Goal	Objective	Strategy	Performer	The term for implementation
1	2	3	4	5

2. Informing public on the problem.	Protection of and support to the victims of family violence by public awareness – education activities	Planning and conducting of informational-educational activities	The Ministry of Interior The Ministry of Labor, Health and Social Protection, Interested NGO	
		1.The special training on the domestic violence for target groups (patrol police, employees of the Ministry of Interior and Prosecutor’s office, judges, mass media representatives, health care servants, social agents)	The Ministry of Interior The Ministry of Labor, Health and Social Protection, Interested NGO with corresponding experience	During the whole period of the activity plan
		2. Arranging of discussions by mass media, information inserts concerning the problem.	TV, Radio, Press, NGO sector.	During the whole period of the activity plan
		3. Informing public by mass media on temporary shelters, crisis/consultation centers for the victims and rehabilitation centers for the violators	Mass media, NGO sector	During the whole period of the activity plan
		4. Preparing of information booklets and leaflets	NGO sector	

Activity Plan
Protection of and Assistance to the victims of domestic violence;
Promotion of activities for protecting of victims

Goal	Objective	Strategy	Performer	The term for implementation
1	2	3	4	5
3. Protection and rehabilitation of the victims	Protection of and support to the victims of domestic violence by enacting mechanisms of legislative and other type of assistance	1.Introducing of the hot-line in the Ministry of Interior and ensuring of uninterrupted functioning of the system; registering of the cases and filing in the computer, preparing of operators;	The Ministry of Interior with interested NGO	From the second half of 2006
		2. Creating of shelters, crisis/consultation and rehabilitation centers for the victims of domestic violence;	The Ministry of Labor, Health and Social Protection, interested NGO sector	From the first half of 2007

Promotion of activities for protection of victims		3. Elaborating of suggestions on necessary expenses which should be included in the state budget for creating of shelters, crisis/consultation and rehabilitation centers for the victims of domestic violence;	The Ministry of Finance, NGO sector	From 2006
		4. Providing of free anonymous medical aid for the victims of domestic violence;	The Ministry of Labor, Health and Social Protection, interested NGO sector	From 2007
		5. Enactment of mechanisms compatible with international standards for the protection of the victims of domestic violence, including rehabilitation activities of the violators in the process of investigation;	The Ministry of Interior, NGO sector	From 2007
		6. Provision of socio-economic rehabilitation of the victims of domestic violence by social agents envisaged by law;	The Ministry of Labor, Health and Social Protection, interested NGO sector	From the second half of 2006
		7. Psychological expertise of the victim, when investigating the offence.	The Ministry of Labor, Health and Social Protection, interested NGO sector	
		8. Preparing of the report which should be submitted to the CEDAW committee concerning problematic of family violence	Georgian government, the commission of gender equality, NGO sector	

Activity plan

Financial Security of goals and activities envisaged by the activity plan on domestic violence

Goal	Objective	Strategy	Performer	The term for implementation
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1	2	3	4	5
<p>4. To include in the state budget necessary expenses for ensuring prevention of domestic violence and combating of and support to the victims of domestic violence</p>	<p>Implementation of the activities aimed for combating domestic violence, protection of and support to its victims</p>	<p>Preparing of financial suggestions and accounts on inclusion of necessary expenses in the state budget for implementing of activities envisaged by the activity plan and respectively by the law. Expenses will be aimed for</p> <ol style="list-style-type: none"> 1. Creating and functioning of social services; 2. Initiating functioning of shelters, crisis/consultation and rehabilitation centers; 3. Creating of hot-line in the Ministry of Interior; 4. Registering cases in the computer; 5. Providing anonymous emergency medical aid to the victims of domestic violence <p>2. To order local government and self-government agencies to give temporary shelters to the legal entities with corresponding experience for arranging the shelters and centers before shelters, crisis/consultation and rehabilitation centers envisaged by the paragraph 2.5b of the activity plan are set up.</p>	<p>The Ministry of Labor, Health and Social Protection, The Ministry of Finance;</p> <p>The Ministry of Labor, Health and Social Protection, The Ministry of Finance;</p> <p>The Ministry of Labor, Health and Social Protection, The Ministry of Finance;</p> <p>The Ministry of Labor, Health and Social Protection, The Ministry of Finance;</p> <p>The Ministry of Labor, Health and Social Protection, The Ministry of Finance;</p>	<p>The second half of 2006</p> <p>From 2006</p>

Activity Plan
Increasing public awareness on the problem of (domestic violence)

Goal	Objective	Strategy	Performer	The term for implementation
1	2	3	4	5
5. Creation and development of the database on the cases of domestic violence	Elaboration of the effective mechanism for registering facts of domestic violence by emphasizing their scale, typology and strategy for solving the problem	1. By considering international experience elaboration of special methodology by the respective state agency in order to reveal facts of domestic violence. (The special methodology includes creation of the flexible mechanism for data collection by considering specifics of state agencies). (Preparing of questionnaires).	The department of statistics of the Ministry of Economy, law enforcement agencies, the Ministry of Labor, Health and Social Protection and NGO sector	The first half of 2006
		2. Implementation of the elaborated methodology so that representatives of various state agencies could effectively identify facts of domestic violence	The department of statistics of the Ministry of Economy, law enforcement agencies, the Ministry of Labor, Health and Social Protection and NGO sector	The first half of 2006
		3. Periodic submission of the data collected according to the methodology to the department of statistics	The department of statistics of the Ministry of Economy, law enforcement agencies, the Ministry of Labor, Health and Social Protection	At the end of 2006
		4. Analyzing of the data, preparing of periodic reports, publishing and disseminating them by the department of statistics	The department of statistics	The first report in the beginning of 2007