



ALTERNATIVE REPORT ON THE 5th AND 6th PERIODIC REPORT OF GEORGIA

97 Pre-Sessional Working Group

SUBMITTED TO THE COMMITTEE ON THE RIGHTS OF THE CHILD

PRESENTED BY

HUMAN RIGHTS CENTER

and

WORLD ORGANISATION AGAINST TORTURE

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ABBREVIATIONS

| | |
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| Art. | Article |
| CRC | Convention on the Rights of the Child |
| CRC Committee | Committee on the Rights of the Child |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| HRC | Human Rights Center |
| UNFPA | United Nations Population Fund |
| UNICEF | United Nations Children's Fund |
| NGO | Non-governmental organization |
| OHCHR | Office of the High Commissioner for Human Rights |
| OP | Optional Protocol |
| SRH | Sexual and reproductive health |

I. INTRODUCTION

Georgia has acceded to the UN Convention on the Rights of the Child (CRC) in 1994. It is also a party to the main core human rights treaties and acceded to the third Optional Protocol to the CRC on a Communications Procedure in 2016.

However, Georgia fails to effectively uphold its obligations under the Convention on the Rights of the Child for the following reasons:

1. Child marriage poses a grave threat to girls in Georgia, particularly among ethnic minorities, which is in breach of Articles 19 and 24 of the Convention.
2. The lack of education regarding sexual and reproductive rights and health remains a persistent problem in Georgia - both in practice as well as at the legislative level. Educational institutions are reluctant to offer students an opportunity to obtain education regarding sexual and reproductive rights
3. Practices regarding juvenile justice and child detention are in breach of State's obligations enshrined in Article 37 and 40 of the Convention.
4. Cases of violence and bullying against students in educational institutions are common and are not addressed adequately in order to ensure the protection of children's physical and mental health, their right to be protected from corporal punishment, violence, and ill-treatment, as well as their right to quality education.

II. MAIN AREAS OF CONCERN

Having ratified the Convention on the Rights of the Child in 1994, Georgia bears an international obligation to ensure the realization of the rights envisaged by the Convention and to ensure a special level of protection for all children within its jurisdiction.

1. Early and Forced Marriages

5. Early and forced marriages have proven to be a grave and persistent problem in Georgia - specifically in the rural areas. Rates of child marriage also vary by region: according to 2018 Multiple Indicator Cluster Survey statistical data, the highest rates of child marriage are as follows: in Kakheti, 34.5% of women aged 20-24 reported being married by age of 18, 23.1% Kvemo Kartli and 21.3% Shida Kartli - specifically among Azerbaijani ethnic minorities residing in the said Municipalities.¹
6. The four regions with the lowest prevalence rates were Tbilisi (4.9 per cent), Adjara AR (13.%), Mtkheta-Mtianeti (14.2%) and Samtskhe-Javakheti (14.3%).² Overall, in Georgia, 13,9% of among women aged 20-24 claimed to be married before the age of 18 in 2018.³
7. Notably, there has been a decrease in child marriages from 2010 to 2018, given that, according to the available statistical data, 14% of women aged 20-24 were married before the age of 18.⁴ The statistics demonstrate that child and forced marriages particularly affect girls from ethnic minority groups residing in rural areas of Georgia.
8. The Civil Code of Georgia stipulates that marriage shall be permitted from the age of 18.⁵ Accordingly, most of the time, early and forced marriages are unregistered, and/or might only be officially registered once both parties reach the age of 18. In addition, forced marriage is penalized under the national criminal legislation.⁶ However, while the Criminal Code of Georgia imposes imprisonment from two to four years for forced marriage

¹ Caucasus Research Resource Center, *Child Marriage in Georgia: Economic and Educational Consequences*, Policy Bulletin, January 2019, p. 9, available at: <https://shorturl.at/sPTW0> [accessed 30 October 2023].

² UNFPA, *Child Marriage in Georgia: Overview*, pp. 12-13, available at: <https://shorturl.at/dlCI8> [accessed 30 October 2023].

³ Multiple Indicator Cluster Survey, *Georgia: Child Marriage (2018)*, Geostat/UNICEF, available at: <https://shorturl.at/otT09> [accessed 31 October 2023].

⁴ UNFPA, *Child Marriage in Georgia: Overview*, p. 11, available at: <https://shorturl.at/dlCI8> [accessed 30 October 2023].

⁵ Civil Code of Georgia, Art. 1108.

⁶ See Article 150¹ (2) (a) of the Criminal Code of Georgia: Forced marriage, committed against a minor shall be punished by imprisonment for a term of two to four years, with or without restriction of the rights regarding weapons.

committed knowingly against a minor, this sanction is rarely applied by local law enforcement bodies.

9. The fact that law enforcement bodies do not react adequately to such breaches of criminal law and children's rights violations further encourages practice and impunity. Namely, the enforcement of the provision of the Criminal Code regarding forced marriage is impeded by malpractice on the part of local prosecutors to offer the offenders plea agreements, thereby practically freeing the perpetrators from criminal sanctions in exchange for a set amount of money.
10. In particular, research from 2022 carried out jointly by the Public Defender of Georgia and the UNFPA reported that plea bargains have been agreed upon in most cases regarding forced and child marriages, analyzed in the study.⁷ The practice of plea bargaining is especially common in cases of the crimes of sexual intercourse by an adult with a person under the age of 16 and unlawful deprivation of liberty.⁸
11. Child and forced marriage have a direct and grave impact on the enjoyment of sexual and reproductive health,⁹ and “can severely curtail educational and employment opportunities and are likely to have a long-term, adverse impact on them and their children's quality of life”,¹⁰ as well as negatively impact “all aspects of a girl's life”.¹¹
12. Both the Committee on the Elimination of Discrimination against Women and the Committee against Torture stated that child marriage results in physical, mental, or sexual harm or suffering, has grave short- and long-term negative consequences, and prevents children from effectively realizing their other rights as well.¹² It contributes, *inter alia*, to “higher rates of school dropout, especially among girls, forced exclusion from school and an increased risk of domestic violence, in addition to limiting the enjoyment of the right to freedom of movement”.¹³

⁷ UNFPA, *Detection and Referral of Child Marriage Cases Remains a Problem - New Study by UNFPA and the Public Defender*, 1 December 2022, available at: <https://shorturl.at/ADJV1> [accessed 02.11.2023]; See: საქართველოს სახალხო დამცველი, „დემოკრატიისა და მმართველობის ცენტრი“, *სპეციალური ანგარიში: ადრეული/ზავშვობის ასაკში ქორწინების საზიანო პრაქტიკა საქართველოში - არსებული გამოწვევები და გადაჭრის გზები*, p. 9, 20202; The full report is available in Georgian at: <https://shorturl.at/cOU06> [accessed 01.11.2023].

⁸ *ibid*.

⁹ Joint General Recommendation 31/General Comment 18, para. 16; See also: Committee on Economic, Social and Cultural Rights, General Comment 22 (2016) on the right to sexual and reproductive health, para. 29.

¹⁰ International Conference on Population and Development, Programme of Action (1994), para. 7.35.

¹¹ UN Women, *UN Women: Approaches to End Child Marriage*, 11 October 2012, available at: <https://shorturl.at/nyzX3> [accessed 30 October 2023].

¹² See e.g.: Committee on the Elimination of Discrimination against Women on Montenegro (CEDAW/C/MNE/CO/1) and the concluding observations of the Committee against Torture on Bulgaria (CAT/C/BGR/CO/4-5).

¹³ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31/CRC/C/GC/18, 2014, para. 22.

13. Moreover, the CAT has recognized that child marriage may constitute cruel, inhumane, or degrading treatment.¹⁴
14. While Art. 19 of the CRC obliges States Parties to “take all appropriate [...] measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse [...]”, Georgia fails to fulfill its obligations under the said Article, *inter alia*, by demonstrating the insufficiency of the State’s efforts to protect children from early and forced marriages. This, in turn, prevents the effective realization of all other rights and has long-lasting negative consequences on children subjected to such violations
15. As a State Party to CRC, Georgia is therefore failing to perform its obligations under Art. 24 of the Convention. Girls who are subjected to early and forced marriage are likely to experience pregnancy and face the increased risks of complications regarding childbirth and early pregnancy, which results in the aggravation of their health.¹⁵ Hence, by negligence in enforcing the criminal sanctions envisaged for forced marriage, the State is failing to ensure the “enjoyment of the highest attainable standard of health” by the child, as one of the obligations enshrined in the CRC. Early and forced marriage also makes it practically impossible for girls to fully participate in social life and damages their physical as well as mental well-being.¹⁶
16. In addition, the practice of child and forced marriages constitutes a breach of Art. 2 of the CRC, given that such a violation of human rights disproportionately affects women and girls globally and further subjects them to gender-based discrimination.¹⁷ Apart from the aforesaid, Georgia fails to perform its obligations under Art. 28 of the CRC regarding the right to education through its reluctance to prevent early marriage and effectively enforce the prohibition enshrined in the Criminal Code of Georgia.
17. The statistical data demonstrate a strong link between child marriages and the opportunity to effectively realize the right of a child to education: in 2018, 46.5% of women aged 20-24 married by age 18 had only completed primary or lower secondary school, while just 3.1% of this group were in or had graduated from higher education.¹⁸

¹⁴ See e.g.: the concluding observations of the Committee against Torture on Bulgaria (CAT/C/BGR/CO/4-5) and on Yemen (CAT/C/YEM/CO/2/Rev.1); See also: UN Human Rights Council, *Preventing and eliminating child, early and forced marriage: Report of the Office of the United Nations High Commissioner for Human Rights*, 2 April 2014, A/HRC/26/22, para. 14.

¹⁵ საქართველოს სახალხო დამცველი, „დემოკრატიისა და მმართველობის ცენტრი“, *სპეციალური ანგარიში: ადრეული/ბავშვობის ასაკში ქორწინების საზიანო პრაქტიკა საქართველოში - არსებული გამოწვევები და გადაჭრის გზები*, p. 12, 20202; The full report is available in Georgian at: <https://www.ombudsman.ge/res/docs/2022122716265251568.pdf> [accessed 01.11.2023].

¹⁶ *ibid.*

¹⁷ OHCHR, *Child and forced marriage, including in humanitarian settings*, available at: <https://shorturl.at/dvRU8> [accessed 31 October 2023].

¹⁸ UNFPA, *Child Marriage in Georgia: Overview*, p. 12, available at: <https://shorturl.at/dlC18> [accessed 30 October 2023].

18. The link between the child and forced marriages on the one hand, and the enjoyment of social and economic rights on the other hand is also evident in Georgia, according to the statistical data provided in the 2019 Policy Bulletin by the Caucasus Resource Research Center: among women who are employed, incomes are, on average, 35% less if a woman was married under the age of 18 compared with a woman with statistically similar characteristics but who did not marry underage.¹⁹
19. Forced and early marriages pose a threat not only to the rights of the child to physical and mental security, health, education, and freedom from sexual abuse, but can also lead directly to the right to life, enshrined in Art. 6 of the CRC - one of the recent examples being the intentional killing of 14-year-old Aitaj Shakhmarova, who was forced to marry a 27-year-old Asim Aslanov. According to the investigation and the witnesses, Aslanov shot her when she tried to escape the captivity.²⁰ While Aitaj was in an unregistered marriage against her will and as a result of psychological abuse, the perpetrator had the consent of her family members, and the criminal investigation on charges regarding forced marriage had never been launched before her death.
20. The aforesaid might also point to the fact that the members of the community while being aware of the circumstances, failed to report the case to the police in order to react and prevent the tragic outcome. Hence, there is an urgent necessity in Georgia to raise awareness regarding the dangers stemming from child, early, and forced marriage and the need to encourage all members of the community to report cases to relevant authorities whenever such criminal offenses take place.

2. The Lack of Availability of Education Regarding Reproductive Rights at Schools

21. Georgia has an obligation to respect, protect, and fulfill children’s SRHs under Articles 19, 24, 28, and 34 of the CRC.
22. Namely under Article 19 of the CRC, “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide the necessary support for the child and

¹⁹ Caucasus Resource Research Center, *Child Marriage in Georgia Economic and Educational Consequences, Policy Bulletin*, Tbilisi (2019), p. 6, available at: <https://shorturl.at/jvIM0> [accessed 30 October 2023].

²⁰ ნინო თარხნიშვილი, *როგორ მოკლეს 14 წლის გოგო დამნისიდან*, რადიო თავისუფლება, 9 ოქტომბერი 2023, available at: <https://shorturl.at/bruZ3> [accessed 30 October 2023]; See also: Civil.ge, *Relatives of Man Accused of 14-Year-Old Girl’s Murder Sentenced to Pre-Trial Detention*, 16 October 2023, available at: <https://shorturl.at/cnsQX> available at: [accessed 30 October 2023].

for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement”.

23. In their Joint General Recommendation, the CEDAW and the CRC Committee called upon the States Parties to “[e]nsure that schools provide age-appropriate information on sexual and reproductive health and rights, including in relation to gender relations and responsible sexual behaviour, HIV prevention, nutrition and protection from violence and harmful practices”.²¹
24. In addition, Article 24 of the CRC recognizes “the right of the child to the enjoyment of the highest attainable standard of health” is recognized under the CRC.²² States Parties to the CRC also bear an obligation to “take all effective and appropriate measures to abolish traditional practices prejudicial to the health of children”.²³ The Committee on the has called on States to “ensure that health systems and services are able to meet the specific sexual and reproductive health needs of adolescents”.²⁴
25. Furthermore, Article 34 of the CRC establishes that “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials”.
26. The right to education includes the right of women and adolescents “to accurate information about sexual and reproductive health and rights and on the impacts of harmful practices as well as access to adequate and confidential services.”²⁵ As stated by the Committee on the Rights of the Child, “all adolescents should have access to free, confidential, adolescent-responsive and nondiscriminatory sexual and reproductive health services, information and education, available both online and in person, including on family planning, contraception, including emergency contraception...”.²⁶

²¹ CEDAW/CRC, *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, 8 May 2019, para. 69 (d), available at: <https://shorturl.at/aoK19> [accessed 30 October 2023].

²² General Comment 15 (2013) on the right of the child to the highest attainable standard of health, para. 69.

²³ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, Article 24(3).

²⁴ Committee on the Rights of the Child, General Comment 20, para. 60; See also: Committee on the Elimination of Discrimination against Women, General Recommendation 24, para. 14.

²⁵ Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, Joint General Recommendation 31/General Comment 18, para. 69(a)

²⁶ General Comment 20 (2016) on the implementation of the rights of the child during adolescence, para. 59.

27. The Human Rights Committee has held that in order to protect women and girls against the health risks associated with unsafe abortions, States “should ensure access for women and men, and, especially, girls and boys to quality and evidence-based information and education about sexual and reproductive health and to a wide range of affordable contraceptive methods”.²⁷ The Committee on the Rights of the Child has also explained that “family planning services should be situated within comprehensive sexual and reproductive health services and should encompass sexuality education, including counseling”.²⁸
28. Notably, early marriages and early pregnancy are common in countries where sexual education is not provided.²⁹ The statistics demonstrate the failure of the State to comply with its human rights obligations under the CRC, specifically due to the lack of access to education regarding SRH.
29. Generally, school curricula in Georgia omit inclusive, age-relevant education regarding SRH.³⁰ Nor does formal education equip children with the knowledge necessary for identifying sexual violence. Therefore, children are exposed to an increased risk of sexual violence.
30. Although Georgia’s recently adopted 2020-2023 Youth Policy explicitly recognizes need for the education regarding reproductive rights within the schools and refers to the existence of specific lessons in several subjects (e.g. biology, civil education, and the “doctors hour”), it does not adequately respond to the existing needs and covers all relevant aspect.³¹
31. In 2021, Georgia introduced the “Doctor’s Hour” in public schools in a pilot regime. However, out of 12 hours, only 2 are dedicated to reproductive health, which makes the curriculum flawed. In 2022, the Human Rights Committee expressed concerns with respect to this model, given its inefficiency in providing accessibility and raising awareness on the services regarding SRH, especially for children from vulnerable communities.
32. Therefore, the introduction of the “Doctor’s Hour” in the formal education system of Georgia cannot be deemed an efficient mechanism for the protection of the rights of the child, and nor does it fulfill the preventive functions of education regarding SRH.

²⁷ General Comment 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para. 8.

²⁸ General Comment 15 (2013) on the right of the child to the highest attainable standard of health, para. 69.

²⁹ See: International Planned Parenthood Federation, European Network/Federal Centre for Health Education, *Sexuality Education in Europe and Central Asia: An Overview of 25 Countries*, available at: <https://shorturl.at/IITV1> [accessed 30 October 2023].

³⁰ სასწავლო გეგმა. სქესობრივი განათლება: მოსახლეობის ინფორმირებულობის, განწყობებისა და დამოკიდებულებების კვლევა, EPRA (2020).

³¹ Objective 3(2), 2020-2023 Youth Policy, available in Georgian at: <https://shorturl.at/gqLU9> [accessed 30 October 2023].

33. The CRC Committee stressed that “the lack of access to [comprehensive gender and sexuality-sensitive sexual and reproductive health policies for adolescents, emphasizing that unequal access by adolescents to such information, commodities, and services] contributes to adolescent girls being the group most at risk of dying or suffering serious or lifelong injuries in pregnancy and childbirth”.³² Accordingly, the absence of courses on SRH in the formal education might lead to the breach of the right to life under Art. 6 of the CRC.
34. Furthermore, in its General Comment on the Right to Life, the UN Human Rights Committee emphasized the importance of “ensur[ing] access for women and men, and especially girls and boys, to quality and evidence-based information and education on sexual and reproductive health and to a wide range of affordable contraceptive methods, and prevent the stigmatization of women and girls who seek an abortion”, given that the lack of knowledge regarding sexual and reproductive health might seriously endanger the life of girls and have a gravely negative impact on their right to health and right to life.

3. Children's Rights Violations in the Context of Juvenile Justice

35. The issue of juvenile convicts is a complex challenge in Georgia, as inmates in prisons are informally segregated due to a prevailing criminal subculture (in which some inmates with more privileges have authority over others), and there is no clear separation from adults and children. Despite the practice of housing juvenile prisoners in a distinct facility within Penitentiary Establishment N8, there are still situations where they come into contact with adult prisoners. This interaction occurs, for instance, when a juvenile defendant needs to meet with their legal counsel or legal representative. Furthermore, adult prisoners who are assigned to work within the housing unit are responsible for distributing food to all the cells, albeit under the watchful eye of the regime officer.³³
36. This arrangement poses a notable security risk for juvenile prisoners. Even though juveniles are housed separately, the fact that they encounter adult prisoners during the legal consultations, when they are taken out to meet the lawyer, or when meals are distributed by the adult inmates working in the agricultural department, creates a risk of exposure to adult inmates, who may pose a physical or emotional threat, especially considering the power dynamics in prison settings, underscores the need to reassess and improve the safety measures in place for the juvenile detainees.³⁴

³² Committee on the Rights of the Child, *General comment No. 20 (2016) on the implementation of the rights of the child during adolescence*, CRC/C/GC/20, 6 December 2016, para. 59.

³³ Human Rights Center/Public Defender of Georgia, *State of Women and Juvenile Prisoners In Georgia*, 2018, p. 9, available at: <https://shorturl.at/gzS39> [accessed 30 October 2023].

³⁴ *ibid.*

37. Consequently, some prisoners who enjoy certain privileges have authority over others, often resorting to coercive means to maintain control and form a criminal subculture. This can lead to the punishment of both child and adult prisoners who defy the rules imposed by these informal leaders.³⁵
38. In 2018, it was found that there were reported cases of bodily injuries. Of particular concern are cases of injuries with unclear origins, suspicious characteristics, and uncertain locations. Prisoners claim that their injuries are the result of domestic accidents, but the nature and location of these injuries raised doubts about whether they were inflicted by other inmates.³⁶
39. For instance, the examination of the documentation at penitentiary establishment N8 uncovered that during the year 2018, a total of 8 documented cases of physical injuries occurred involving juvenile accused persons. An analysis of the documents indicates that these incidents were attributed to self-inflicted injuries in 6 instances and domestic injuries in 2 instances. It is worth highlighting that within the 6 self-inflicted injury cases, three of them were inflicted by the same juvenile defendant, suggesting a recurring pattern of self-harm.³⁷
40. According to the CRC, no child shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults.³⁸
41. Georgia fails to meet the requirements outlined in Article 37 of the CRC as it emphasizes the importance of protecting children from torture and ensuring that their dignity is respected during any period of detention or imprisonment. Additionally, it highlights the need to separate children from adults when they are deprived of their liberty.
42. Moreover, “Reports received by the Committee show that violence occurs in all phases of the juvenile justice process, from the first contact with the police, during pretrial detention and the stay in treatment and other facilities for children sentenced to deprivation of liberty. The committee urges the States parties to take effective measures to prevent such violence”³⁹
43. According to Georgian Procedure Criminal Law, under a plea bargain, the accused pleads guilty and agrees with the prosecutor to a sentence, to mitigation, or to partial removal of charges. The diversion is used in the case of a less serious or serious crime, provided that

³⁵ *ibid.*

³⁶ *Ibid*, p. 8.

³⁷ *Ibid*, p. 9.

³⁸ Convention on the Rights of the Child, Art. 37(a)(c).

³⁹ Committee on the Rights of the Child, *General Comment No.10 (2007): Children’s rights in juvenile justice*, CRC/C/GC/10, 25 April 2007, p.6, para.13, available at: <https://shorturl.at/dkqx7> [accessed 31 October 2023].

person meets some conditions set in the provision. Diversion means that the prosecutor has the right not to initiate or terminate a criminal prosecution against a person.⁴⁰

44. According to the juvenile justice code of Georgia, there is a priority of applying the most lenient remedies and alternative measures. This means that in the first place, the possibility of diversion of a minor or the application of a restorative justice measure shall be considered, and it shall be evaluated whether such diversion or such measure will serve the goals of the re-socialization and rehabilitation of the minor and the prevention of new crimes better than the imposition of criminal liability and punishment.⁴¹
45. However, the examination of cases handled by the HRC has shown a concerning trend. Specifically when juveniles commit their first offense, and there's a possibility of diverting them away from the typical legal process, it has been observed that prosecutors often opt for plea bargains with juvenile offenders instead of using the diversion. Furthermore, discussions with those affected by this situation have highlighted that they were not informed about the existence of diversion-mediation programs. Instead, investigative authorities tend to present them with only plea agreements, even though there are alternative methods to handle their cases that do not involve formal criminal liability proceedings.⁴²
46. Articles 40(3)(b) and 40(4) of the CRC encompasses the diversion as they refer to the need for the promotion of the alternative measures to the formal legal process, thereby encouraging the States to consider measures that are less detrimental to the child's well-being.
47. The Juvenile Justice Code of Georgia determines administrative offense proceedings and criminal procedures involving minors. One of the purposes of the Code is to protect the rights of minor victims and witnesses.⁴³
48. However, interrogating children as witnesses in criminal proceedings presents a significant challenge in Georgia. After one of the interrogations by the police, in 2019, a 15-year-old minor even committed suicide.⁴⁴
49. The reason behind this is that frequently investigators lack the necessary communication skills to engage with minor witnesses effectively. Moreover, the procedural and investigative activities involving children often fail to provide a suitable environment tailored to their needs. HRC has frequently acted as a legal representative for minors who were both victims and witnesses of systemic domestic violence. In some of these cases, even with the presence of an HRC lawyer, a psychologist, and a social worker, the process

⁴⁰ Criminal Procedure Code of Georgia, Art. 209 (1) and 168¹.

⁴¹ Juvenile Justice Code of Georgia, Art. 8(2).

⁴² Human Rights Center, *Challenges in the Protection of the Rights of the Child*, 2023, p. 13, available at: <https://shorturl.at/fJM57> [accessed 31 October 2023].

⁴³ Juvenile Justice Code of Georgia, Article 1 (1) (2).

⁴⁴ See: Netgazeti, *დაიღუპა 15 წლის ლუკა სირაძე, რომლის ოჯახიც პოლიციას მასზე ზეწოლაში ადანაშაულებდა*, 17 December 2019, available at: <https://shorturl.at/bEO06> [accessed 31 October 2023].

of questioning the minor witnesses extended to an extent that left them physically and emotionally drained. In a few cases, the minor witnesses were subjected to questioning within the chief police officer's office, rather than in a dedicated facility designed specifically for the interrogation of minors. This conduct directly contravenes well-established international standards according to which there needs to be an established secure and child-friendly environment designated to question the minor witnesses.⁴⁵

50. Several articles under CRC are relevant to the abovementioned problem:
51. According to Article 3 of the CRC the best interests of the child should be a primary consideration. This principle is crucial when dealing with minor victims and witnesses to ensure their well-being and protection.
52. When minors are victims or witnesses in legal cases, it needs to be noted that a child's separation from parents is in their best interests and only occurs when necessary for their well-being according to Article 9 of the CRC.
53. Article 12 of the CRC outlines that every child has the right to be heard, acknowledging the need to express the views in legal or administrative matters affecting the child. Therefore, in the context of minor victims and witnesses, this article emphasizes the importance of allowing children to have a voice in legal proceedings, taking into account their age and maturity.
54. Article 19 of the CRC obliges states to take measures to protect children from all forms of physical or mental violence, including abuse or neglect. This provision is relevant when dealing with child victims who may have experienced abuse.
55. Moreover, article 39 of the CRC emphasizes the right of child victims to recover and reintegrate effectively, so that the appropriate support and care for child victims and witnesses is provided to them.

4. Violence in Educational Institutions

56. In Georgia teachers still subject children to both physical and psychological mistreatment. Take, for instance, a case handled by HRC, involving a 7-year-old child who was a victim of bullying by his schoolmates and experienced physical violence from his teacher. The child revealed that he had incidents of humiliation and abuse that often escalated into conflicts among his peers. The class's headteacher, school administration, and the school director were all made aware of the issue, yet they failed to notify the Social Service Agency or seek the assistance of a psychologist to address the problem and prevent further complications. In a distressing turn of events, during another conflict among the children, the head teacher publicly slapped the 7-year-old boy in front of the entire class. Upon the

⁴⁵ Human Rights Center, *Challenges in the Protection of the Rights of the Child*, 2023, p. 10, available at: <https://shorturl.at/fJM57> [accessed 31 October 2023].

request of the child's parent, the school's disciplinary committee convened and conducted a session. Even though the Committee's decision was to remove the teacher from her role as the Head Teacher, she continued to teach the same class. Moreover, the teacher went to the extent of insulting and discrediting the child in her statements to journalists, further undermining the child's rights and dignity.⁴⁶

57. Instances of this nature are not uncommon. However, obtaining accurate statistics on these cases is often a challenge for the authorities. This is mainly because many incidents go unreported due to the efforts made by schools to hide such occurrences. Many incidents of abusive behavior towards students are hidden, and this underreporting makes it difficult to see the full extent of the problem. Schools, for various reasons, may attempt to keep these incidents under wraps, whether to protect their reputation or avoid legal consequences. As a result, it is challenging for the state to compile comprehensive statistics that accurately represent the prevalence of these issues within the educational system.
58. Article 28 of the CRC establishes, that “States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.”
59. However, Georgia does not comply with the requirements and obligations taken under Article 28 of the CRC, as the full application of the concept of the child's best interests requires the promotion of his/ her human dignity and the development of a rights-based approach through ensuring holistic, physical, psychological, moral, and spiritual integrity.⁴⁷
60. Moreover, in a legal judgment involving a public school, the European Court of Human Rights (EctHR) found a violation of Article 8 of the European Convention on Human Rights, which safeguards the right to respect for private and family life. This case revolved around a math teacher who verbally insulted a student, referring to the student as “stupid”, leading to psychological distress for the child.⁴⁸
61. The ECtHR's decision was based on the understanding that by insulting the student in the presence of classmates, the teacher effectively demeaned and degraded the student in front of others. It's worth noting that while this specific instance of insult may not have been particularly severe, and no serious consequences may have arisen from it, the court emphasized that any form of violence, including verbal insults, even if they are not extreme by nature, is entirely unacceptable within the educational environment.
62. This ruling underscores the importance of maintaining a respectful and non-violent atmosphere in schools and highlights the need for educators to be conscious of their behavior and language when interacting with students. It sets a precedent for holding

⁴⁶ Human Rights Center, *Challenges in the Protection of the Rights of the Child*, 2023, p. 13, available at: <https://shorturl.at/fJM57> [accessed 31 October 2023].

⁴⁷ Committee on the Rights of the Child, *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, CRC/C/GC/14, 29 May 2013, p. 4. para. 5.

⁴⁸ *F.O. v. Croatia*, no. 29555/13, 22 April 2021.

teachers accountable for creating a safe and respectful learning environment, even when the harm inflicted is not physically violent but rather psychological or emotional.

63. The Public Defender of Georgia reported in 2017 that children often hear derogatory remarks from educators. These derogatory terms might include words like “imbecile,” “stupid,” “fool,” “Down’s child,” “shrimp,” “empty-headed,” “ducks,” “dull-witted,” “donkeys,” “bastards,” “do not whine like a dog,” “like breeds like,” “you all will rot in jail,” “damn you all to hell,” “are you not raised in a family?!” “were you my child I would not feed you,” “were I your parent I would not allow you to leave the house,” “you are good for nothing,” “vagrants,” “idiots,” “you are raised in a pig farm,” “go and tell everything to your imbecile mother.” Also, children noted forms of physical violence such as ear pulling; hair pulling; manhandling/beating; pinching; causing a pupil to remain standing or to stand in the corner throughout a lesson; and hitting with a ringed hand, ruler or stick, book; damaging personal items; prohibiting leaving a classroom during a break time. They recalled instances of teachers humiliating them with phrases: “You look like a crushed frog,” “your ears are as big as an elephant’s”.⁴⁹
64. In cases of violence, there were instances of silencing the children as well - “a teacher pulled the ear of a pupil so hard that it started bleeding. To buy his silence, the teacher bought four biscuits for this student. In another similar incident, a teacher gave the student the highest grade”.⁵⁰
65. Additionally, instances of physical and psychological violence, including bullying, are common within schoolmates as well. In such cases, there is a lack of preparedness on the part of teachers to address these issues effectively. Typically, school administrations attempt to manage and resolve these problems using the resources at their disposal and often avoid bringing in external support such as social services, psychologists, or law enforcement. In these situations, the competence of teachers in managing and mitigating bullying and violence can be a significant concern. Educational institutions often prefer to handle these matters internally, potentially to maintain their reputation or because they believe they can manage the situation without external intervention. This approach, while well-intentioned, may not always be the most effective or comprehensive way to address the complex and sensitive issue of student violence and bullying.⁵¹
66. In light of the current circumstances, it is of great importance to ensure that the laws that prohibit the use of physical discipline are not just on paper but are effectively implemented

⁴⁹ Public Defender of Georgia/Child’s Rights Center, *Special Report: Violence Against Children in General Educational Institutions*, 2017, pp. 12-13, available at: <https://shorturl.at/bBHUV> [accessed 31 October 2023].

⁵⁰ Public Defender of Georgia/Child’s Rights Center, *Special Report: Violence Against Children in General Educational Institutions*, 2017, pp. 12-13, available at: <https://shorturl.at/bBHUV> [accessed 31 October 2023].

⁵¹ Human Rights Center, *Challenges in the Protection of the Rights of the Child*, 2023, p. 10, available at: <https://shorturl.at/fJM57> [accessed 31 October 2023].

and that legal proceedings are systematically initiated against persons subjecting children to corporal punishment.⁵²

67. The Committee underscores that successfully enforcing a full prohibition on corporal punishment requires a holistic approach. It is essential to guarantee that the law functions in a manner that safeguards the well-being of children who experience such punishment, particularly when parents or other close family members are the individuals involved.⁵³
68. According to the Civil Code of Georgia Parents/legal representatives of minors must not use such child-rearing methods that may cause physical and/or mental suffering of minors.⁵⁴
69. However, the provision in the Civil Code does not explicitly forbid the use of corporal punishment as a disciplinary measure. Instead, it relies on a concept causing "physical and/or mental suffering." In other words, a violent upbringing method is prohibited only if it results in such suffering. This prerequisite weakens the prohibition itself and makes it subject to interpretation. Consequently, the direct prohibition of violent disciplinary methods within a family, such as "hitting" or "beating" as forms of discipline, or actions like isolating a child or subjecting them to humiliation, is not clearly stated in the law.⁵⁵
70. According to the Law of Georgia on General Education, violence against a pupil or any other person at school is inadmissible.⁵⁶ Also, according to the law of Georgia on Early and Preschool Education, any kind of violence against children at institutions is prohibited.(art 6.1) However, it does not explicitly indicate the prohibition of corporal punishment or other degrading treatment.
71. Accordingly, the law of Georgia on Early and Preschool Education and the Law of Georgia on General Education does not explicitly forbid the use of harsh disciplinary methods, such as physical punishment or any other forms of cruel and humiliating treatment. Moreover, these laws do not provide clear definitions or prohibitions regarding violence between children, which encompasses behaviors like "bullying." This means that there is a lack of specific legal guidelines that explicitly prevent or address the use of harmful disciplinary methods in educational settings and do not sufficiently address issues related to violence among students, such as bullying.⁵⁷

⁵² Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention: Togo*, CRC/C/TGO/CO/3-4, 8 March 2012, available at: <https://shorturl.at/hCY17> [accessed 31 October 2023].

⁵³ UN Committee on the Rights of the Child (CRC), *General comment No. 8 (2006): The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Arts. 19; 28, Para. 2; and 37, inter alia)*, 2 March 2007, CRC/C/GC/8, para. 38, available at: <https://shorturl.at/abuzL> [accessed 31 October 2023].

⁵⁴ Civil Code of Georgia, Art. 1198 (1¹)

⁵⁵ UNICEF, *Study Report: Access to Justice for Children; Gaps Analysis of the National Legislation of Georgia*. 2017, p. 63, available at: <https://shorturl.at/aDHS5> [accessed 31 October 2023].

⁵⁶ Law of Georgia on General Education, Art. 20(1)

⁵⁷ UNICEF, *Study Report: Access to Justice for Children; Gaps Analysis of the National Legislation of Georgia*. 2017, p. 63, available at: <https://shorturl.at/aDHS5> [accessed 31 October 2023].

72. According to the Administrative Offences Code of Georgia, Non-compliance by a parent or another legal representative of a child with the duty to raise and educate the minor or other duties related to the minor shall carry a fine for a parent or another legal representative of a child and shall be drawn up by the authorized persons of the agencies of internal affairs.⁵⁸
73. Financial penalties specified in the Administrative Offenses Code do not directly address the use of violent disciplinary techniques, the prohibition of corporal punishment, or any other forms of cruel or degrading treatment against children.⁵⁹
74. According to the Criminal Code of Georgia, beating or another type of violence that caused the victim's physical pain, as well as violence, regular insult, blackmail, or humiliation by one family member against another family member, which has resulted in physical pain or anguish, shall be punished.⁶⁰
75. The legal standards outlined in the Criminal Code lack the necessary provisions to effectively prevent the use of violent disciplinary methods against children within the family and school settings.⁶¹
76. In essence, these legal codes do not provide adequate safeguards to protect children from abusive and harmful disciplinary practices, such as physical punishment or other degrading forms of discipline, within the family or school context.
77. Accordingly, the lack of adequate reaction, including the establishment of the teacher's responsibility for the violence committed against students remains a problem. Government authorities have to implement mechanisms that would adequately respond to such cases to uphold Georgia's obligations under the CRC - namely, the right to quality education and protection from physical and psychological abuse.

⁵⁸ Administrative Offences Code of Georgia, Art. 172, 239 (60¹).

⁵⁹ UNICEF, *Study Report: Access to Justice for Children; Gaps Analysis of the National Legislation of Georgia*. 2017, p. 63, available at: <https://shorturl.at/aDHS5> [accessed 31 October 2023].

⁶⁰ Criminal Code of Georgia, Arts. 126 and 126¹.

⁶¹ UNICEF, *Study Report: Access to Justice for Children; Gaps Analysis of the National Legislation of Georgia*. 2017, p. 63, available at: <https://shorturl.at/aDHS5> [accessed 31 October 2023].

III. RECOMMENDATIONS

Regarding Early and Forced Marriage:

1. To ensure thorough, timely, and objective investigation regarding the cases of early marriages and create remedies as well as mechanisms of accountability with an objective to prevent and eliminate child, early, and forced marriages;
2. To train local law enforcement officers with respect to investigation of cases concerning child, early, and forced marriages and ensure that investigators, prosecutors, and police officers engaged with juveniles are trained, highly qualified professionals with adequate skills and sensitivity to work with children.
3. To adopt necessary measures for significantly reducing the alarmingly frequent practice using of plea agreements with respect to cases regarding early, child and forced marriages in order to combat *de facto* impunity of perpetrators and increase the use of imprisonment for such offenses, to the extent allowed by the Criminal Code of Georgia.
4. Collect statistical data regarding child and early marriage to enable evidence-based policy advocacy and facilitate measuring the progress.
5. Elaborate a monitoring mechanism to ensure the thorough criminal investigation of cases concerning child and early marriages.

Regarding the Lack of Availability of Education on SRH

6. To provide children with quality education regarding their sexual and reproductive health by including specially tailored, inclusive courses in the school curricula as part of formal education.
7. To promote awareness-raising regarding the negative effects of child, early, and forced marriage, and to engage in dialogue with relevant communities to eliminate harmful practices;

Regarding Children's Rights Violations in the Context of Juvenile Justice

8. To implement a comprehensive set of measures aimed at creating a child-oriented setting in which minor witnesses can provide their testimonies comfortably. Throughout the entirety of any legal proceedings, particularly in situations where their testimony is required, children must be accorded due respect that reflects their age, acknowledges their distinct needs, and recognizes their level of maturity. This includes not only providing a comfortable environment but also understanding and accommodating their unique circumstances and capabilities.
9. To ensure that the Ministry of Corrections recognizes and addresses the significant issue posed by the criminal subculture - a group of prisoners who enjoy privileges, have authority

over others, and maintain control through coercive means. The state needs to have a comprehensive strategy to effectively eradicate this problem in order to guarantee the upholding of the prohibition against any form of ill-treatment as outlined in Article 37 of the CRC. The strategy should encompass measures aimed at preventing the influence of criminal subcultures and promoting a safer environment in these institutions.

10. To conduct thorough physical examinations of child prisoners to detect any additional injuries. The aim is to verify whether the injuries they report align with the circumstances presented during the examination. In cases where doubts arise regarding the authenticity of a prisoner's claim that their injuries stem from domestic incidents, there is a pressing need for a deeper investigation.
11. To promote the use of diversion-mediation programs for juveniles and enhance awareness within investigative bodies, it is crucial to prioritize these diversion methods over plea bargains when considering the criminal responsibility of young offenders. High priority shall be given to the use of diversion methods for handling the criminal responsibility of juvenile offenders instead of relying on plea agreements.

Regarding Violence in Educational Institutions

12. To initiate educational campaigns in both public and private schools aimed at raising awareness among students and teachers about the prohibition and the harmful impact of bullying on children. These campaigns should also emphasize the importance of promoting diversity, preventing discrimination, and addressing issues related to equality within the educational curriculum.
13. To implement a monitoring system for teachers who have been suspected of or faced disciplinary actions for using various forms of violence, including psychological and physical abuse, as well as verbal insults against children. These teachers should undergo specialized training programs tailored to their specific needs in order to prevent violence against students in schools and provide an adequate reaction in such cases.
14. To make explicit and unequivocal provisions in the Civil Code, Education Laws, and, ideally, the Code of Administrative Offenses, to explicitly forbid the use of corporal punishment and any other forms of cruel or humiliating punishment against children by parents or other individuals responsible for them as a means of discipline. In addition, education laws should incorporate specific definitions and prohibitions related to "bullying" among children. This would involve amending these legal frameworks to leave no room for interpretation and to establish a firm stance against harmful disciplinary practices while also addressing the issue of bullying among students.