



ევროკავშირი  
საქართველოსთვის  
The European Union for Georgia



## LBT and Sex worker Women's Rights and Legal Conditions in Georgia

### Desk Review

The present review analysis a framework of the rights and legal conditions of LBT persons and sexworker women, including trans sex worker women in Georgia. The document was produced in the framework of the EU funded project “Providing Access to Protection for the Victims of SGBV/DV”.

*"This publication has been produced with the assistance of the European Union. Its contents are the sole responsibility of Center for Information and Counsling on Reproductive Health – Tanadgoma and Georgian Young Lawyers' Association and can in no way be taken to reflect the views of the European Union."*

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## Structure of the Desk Review

The present review is structured around different target groups. Consequently, the document separately considers LBT community, its situation and problems, and women involved in sex business, including trans- sex worker women, their situation and problems. We consider that trans- sex worker women are a specific group, with their specific needs and problems, unlike trans- people in general. Due to this we consider trans- women in two different prisms: trans- people *per se* and trans- women who are involved in sex business.

This review uses research and regulatory documents of a variety of governmental agencies and non governmental organizations. We herewith express gratitude to these organizations for sharing both published, as well as not yet published material as they were relevant for this publication.

## Terminology and abbreviations used in the desk review

**Androgynous** [greek androgynos – being both male and female, Andros – a male, and gyne – a female] – the third sex, which may not be called a female or a male.

**HIV/AIDS** – Human immunodeficiency virus and acquired immune deficiency syndrome, a spectrum of conditions caused by infection with the human immunodeficiency virus.

**Bisexualism, bisexuality** [Lat. Bis dual, sexualis – sexual] – wide meaning: the condition of combining male and female sexual characteristics in one body (androgyny); narrow meaning – the state of being sexually attracted to members of both sexes.

**Binaural** [French binaire] – composed of two parts, two-fold.

**Gender** – socially constructed role of a male and female, associated with their biological sex.

**Genderqueer** – a new term, most commonly used with two meanings: 1) as an umbrella term, to describe persons, whose gender identity is different from the norms of the established binaural scheme; 2) to describe sub-group of individuals, whose biological sex is female, but who do not perceive their gender identity either as male or female.

**Genitals** [Lat. Genital is – related to birth] – sexual organs.

**Gonadal sex** – is defined by the capacity of hormone production via a reproductive gland; such as an ovary in females or testis in case of males that produces gametes.

**Sexual deviation** – divergence from the acceptable norms (in the framework of a given ethnical culture), when sexual excitation or orgasm result from atypical acts or the acts that are unacceptable in a given culture.

**SOGI** – Sexual Orientation and Gender Identity.

**Intersex** – a person who is born with genitalis that do not exclusively fit typical ideas of female or male sex, or which is incompatible with a person's chromosomal sex; intersex is not a sub-category of a trans-gender.

**Commercial sex or sex-business** – prostitution.

**Commercial sex worker or (more modern a term) sex-worker** – a person who is engaged in commercial sex sector and has sexual intercourse in exchange to remuneration.

**LGBTQI** – lesbian, gay, bisexual, transgender, genderqueer, intersex – combination of sexual diversity.

**LGBT** – lesbian, gay, bisexual (a woman or a man), transgender (a transwoman or a transman).

**LBT** – lesbian, bisexual woman, transgender (a transwoman or a transman).

**Lesbianism** (derives from the name of a Greek Island located in the Aegean Sea; synonyms – lesbian love, sapphism, tribadism) – homosexuality between women.

**Sodomy** – a type of homosexuality when two men have sexual intercourse. The same act with boys is defined as “pederasty” (this means “loving boys” in Greek).

**Masculinization** [Lat. Masculinus - male] – strengthening of male characters in a male or a female.

**MSM** – a man having sex with a man.

**Prostitution** [Lat. Prsostituo – I dishonor, I disgrace] – selling own body, sex in exchange with money.

**STI** – Sexually Transmitted Infection.

**A client of a sex worker** – a person, who pays for sexual services.

**Transgender** – an umbrella term for people whose gender identity or/and self-expression differs from the sex they were assigned at birth.

**Transvestims** (trans - Lat. Vestio – dressing; synonym – travestism), aspiration to wearing clothing of the opposite sex.

**Transsexualism** (trans + sex) - strong incompatibility of a person’s psychological sex with his/her genetic and gonadal sex.

**Trans man** – as a rule, used to refer to a person who was born female, however perceives himself and demonstrates his gender as male.

**Trans woman** – as a rule, used to refer to a person, who was born male and perceives herself as a woman.

**Trans woman sex worker** – a trans woman, who is involved in sex-business.

**Coming-out** [from English “coming-out”] – openly and voluntarily acknowledging one’s sexual or gender identifier. The process of coming-out is called “outing”.

**Cross dresser** [from English “cross dresser”] – a person, who wears clothes made for the opposite sex. As a rule, the term is used in relation to men, wearing clothes of women; however they may not at all want to change their gender. This term is considered as more politically correct than “transvestit”.

**Homophobia/transphobia** – irrational fear of and aversion to lesbian, gay, bisexual and transgender people, based on prejudice.

**CEDAW** (The Committee on the Elimination of Discrimination against Women) – a body composed of independent experts, overseeing the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

**FtM** (female-to-male) – a person, whose biological sex is female, whereas gender identity – male. This person demonstrates himself socially as a man and often, but not always, undergoes physical changes by means of hormonal therapy and surgery. The above mentioned abbreviation is used both - as in conjunction with a word “trans-sexual”, as well as without the latter.

**MtF** (male-to-female) – a person, whose biological sex is male, but gender identity – female. This person socially represents herself as a woman and often, but not always, undergoes physical changes by means of hormonal therapy and surgery. The above mentioned abbreviation is used both - as in conjunction with a word “trans-sexual”, as well as without the latter.

## **Introduction**

Protection of human rights and freedoms is difficult to attain these days in Georgia. Of particular complexity is a situation of people belonging to variety of groups, would this be religious, ethnic, sexual minorities or others. The problem is acute and seemingly invisible in relation to such vulnerable groups as sex-worker women and trans- sex worker women. Their everyday life is accompanied by an environment infringing their rights and abusing their dignity. This is true in respect of their families, different agencies (law enforcement agencies, religious groups, legal institutions, etc.), their clients and working environment, in healthcare and medical service provision, etc. Trans- sex worker women face particular difficulties. Self-expression is a problem for them. Therefore they are forced to live without such composite elements of everyday life that is naturally accessible to wide circles of society, as in particular: use of public transport, appearing on public at daylight in clothing of a trans- woman (if this still happens, they have to tolerate abusive addresses from by-passers), seeking a job, etc.

The above noted does clearly constitute violation of Article 25 of the Universal Declaration of Human Rights; the latter states that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”<sup>1</sup>.

When referring to LBT group, community, population, we shall first of all be aware what is meant under the term, who the people united under this name are and how the environment is adapted to their needs.

The present document, using the information, knowledge, practice and evidence accumulated in the country aims to describe situation of LBT and sex worker women, including trans sex worker women in Georgia, among other challenges facing them and the state.

## **LBT Community**

LBT is an umbrella term, uniting groups with different characteristics: lesbian, bisexual women and transgender persons (trans-woman or trans-man). These groups unify biological women (the only

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<sup>1</sup> <http://ungeorgia.ge/uploads/UDHR-60Geo.pdf>

difference is with a group of “trans women”, which is composed of self-perceived and self-identified women, who biologically have signs of an opposite sex) and this sign turns to be determinant for their increased vulnerability and excessive violence displayed towards them. Expert of the “Women’s Initiatives Supporting Group” Natia Gvianishvili notes in an interview that “according to the study that we conducted, every 5<sup>th</sup> victims of physical violence was a lesbian and bisexual woman in 2012, every 4<sup>th</sup> – in 2014. On the one hand, it seems as if violence has decreased, but in 2014, compared with 2012, and compared with violence against gay and bisexual men, physical violence against women has increased by 8%.”<sup>2</sup> According to Gvianishvili, “situation of transgender people in Georgia is even more complicated. They happen to be the first targets of verbal or physical violence... This happens due to the fact that identity of transgender people is more visible, than of lesbian, gay and bisexual people. This is because they need to match their appearance with they self-perception.”<sup>3</sup>

LBT women are victims of double discrimination in Georgia, due to their sex, as well as their sexual orientation/gender identity. This discrimination and violence against women have deep routes: established gender stereotypes, prevailing conservative societal norms, gaps in legislation and in state policies.

Legal basis has improved during the last decade in Georgia. A variety of legal acts have been elaborated and entered into force (e.g. Law of Georgia on Gender Equality,<sup>4</sup> Law of Georgia on Elimination of All Forms of Discrimination,<sup>5</sup> etc.). However, in parallel, “non-traditional” sexuality turned to be an object of political speculation. The state could not succeed in establishing efficient mechanisms to fight discrimination in practice. No statistical data is collected still on hate crime committed on a homophobic basis. This leaves a feeling of innocence to subjects of violence and provides for limiting self-establishment and self-expression of LBT women, as fully fledged members of the society. Collection of statistical data on gender based violence is also a problem in Georgia. The 2017 Report of the Public Defender of Georgia indicates as follows: “it shall be mentioned that unlike in 2015, when working on the current report the main problem was full and timely provision of requested statistical information. This is definitely a step backwards in respect of cooperation for the fight against gender based violence and indicates that there is a systemic gap in collection and analyzing of information. ... the scrutiny also revealed that there is no unified information database where cases of violence identified by the Ministry of Internal Affairs may be analysed and reviewed.”<sup>6</sup>

As it was indicated in the 2014 CEDAW Report in respect of Georgia<sup>7</sup> “it is clear that LBT women are one of the most marginalized and invisible society”.

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<sup>2</sup> Interview with natia Gvianishvili (Women’s Initiatives Supporting Group) - <https://17maisi.com/2015/07/15/lgbt-20/>

<sup>3</sup> Interview with natia Gvianishvili (Women’s Initiatives Supporting Group) - <https://17maisi.com/2015/07/15/lgbt-20/>

<sup>4</sup> Law of Georgia on Gender Equality - <https://matsne.gov.ge/ka/document/view/91624>

<sup>5</sup> Law of Georgia on Elimination of All Forms of Discrimination - <https://matsne.gov.ge/ka/document/view/2339687>

<sup>6</sup> Special Report of the Public Defender, 2017 - <http://www.ombudsman.ge/ge/reports/specialuri-angarishebi/qalta-uflebrivi-mdgomareoba-da-genderuli-tanasworoba2.page>

<sup>7</sup> Rights of LBT Women in Georgia - Shadow Report for CEDAW (2014) - [http://women.ge/data/WISG\\_LBT-women-in-Georgia\\_CEDAW-58th-session.pdf](http://women.ge/data/WISG_LBT-women-in-Georgia_CEDAW-58th-session.pdf)

LBT community is an unity of several different communities and these separate groups differ by their individual characteristics. Despite the fact that in this review we refer to them as united community, and general needs and situation that is common to them, we shall keep in mind that needs of a separate sub-groups and problems they face may be specific to a certain degree.

### **Lesbian, bisexual, trans – definitions and history**

#### **Lesbian**

Homosexual women are called lesbians. The term originates from the Greek island of Lesbos, where poet Sappho<sup>8</sup> was born. Lesbian relations are described in various historical sources. The very term lesbian was established in XX century. It is considered that in general the frequency of women's homosexuality varies between 1% and 3%.<sup>9</sup> However, the data might be quite diminished, as unlike a man, for a lesbian woman it is relatively easier to hide her sexual orientation and respective visibility is quite low. For quite a long period homosexuality or homosexual behavior had been considered as a demonstration of mental illness. Therefore, lesbian people had been hiding their relations. Due to weak visualization in society to study them and explore their needs had not been possible. At the end of XIX century sexologists commenced categorisation and description of homosexual behaviour. However, due to the lack of knowledge in the field they labeled this as pathology. Scientists as were Karl Ulrichs, Richard von Krafft-Ebing, Havelock Ellis, Magnus Hirschfeld were formulating their concept about female homosexuality. This led to discussions about this phenomenon in public circles. Sigmund Freud widely described this "disease". He named female homosexuality "inversion" and those carrying this sexuality – "inverts".

Such approaches strengthened the process of pathologisation of lesbianism in society. This was accompanied by stigmatization, exclusion and visible violent treatment.

Oppressive approach used by the Soviet authorities further limited the possibility of realization of sexuality of human beings. Homosexuality had been associated with a political crime and fight against it became a prioritized direction. A crime of "sodomy" defined in the Criminal Code was equally destroying lives of homosexual men, as well as women. As a result, women in homosexual relations have either been hiding their private lives, or getting used to the label of marginalized and creating small sub-cultures. Lesbian sub-culture found shelter within less unacceptable "feminism" for a long while. Factual invisibility of LBT women in the Soviet state was perceived as a consequence of "correct understanding of genuine role of women" and was considered as a victory of the ruling policies.<sup>10</sup>

#### **Bisexual women**

A very limited attention had been devoted to bisexualism historically. The phenomenon is understudied in current times too and it is very difficult to establish the scale of its prevalence in a society. Some scientists deny the existence of bisexualism all together. They consider that bisexuals are

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<sup>8</sup> *Sappho of Lesbos* - <https://www.thoughtco.com/sappho-of-lesbos-biography-3530337>

<sup>9</sup> *Shankle, Michael D. (2006). The Handbook of Lesbian, Gay, Bisexual, and Transgender Public Health: A Practitioner's Guide To Service.*

<sup>10</sup> *the Swiss lesbian magazine "die", Number 9, Fall 1998*



hidden homosexuals in reality and they hide themselves behind heterosexuality. Those, who claim that by nature all human beings are bisexual, but their primary alternative impulses are suppressed either by society (in cases of heterosexuals), or by certain earlier experience (in cases of homosexuals), oppose this idea.<sup>11</sup> There may be a variety of theories on this topic, however bisexual women in real life, just like lesbians, are unacceptable for a wide society and are subjected to discriminatory attitude.

Life of lesbian and bisexual women has not been “cloudless” at all times and in all societies. The starting point for increasing discrimination was their behavior which was “incompatible with the norm” and lesbian and bisexual persons had been considered in one context – this was considered as a disease.

### **Trans women**

Transgender women belong to a separate group. Study of this topic has been made possible, as their visualization was relatively obvious.

Transgender is an umbrella term for people whose gender identity or/and gender self-expression differs from a sex assigned to them at birth. This term might include, but is not limited to, the following categories: transsexual, cross-dresser and other non-gender conformal people. Transgender people may be identifying themselves as transgender women (Male to Female (MtF) – a biological male who is undergoing a transition as a woman) and transgender men (Female to Male (FtM) – a biological female who is undergoing a transition as a man). A transgender person may decide to change own body by means of hormones or/and by surgery. Transgender people may be heterosexuals, lesbians, gays or bisexuals. For example, a man, who is undergoing a transition from a male gender to a female gender and is attracted to women, may be identified as a lesbian woman. A transgender person considers own psychological sex in solid contradiction with his/her genetic and gonadal sex. Transgenders perceive constitution of their own body and sexual organs as wrong, unnatural and at times this is accompanied by the aspiration to change sex by any means. Frequency of cases of transgender is on average 1: 100,000-200,000 persons.<sup>12</sup>

## **LBT Community and Legal Environment**

### **Legislation of Georgia**

Historically, Georgia has not had any legal basis to provide for adequate legal mechanisms to fight various forms of discrimination. On 2 May 2014 Law of Georgia on Eliminating All Forms of Discrimination entered into force. The Law unified all the bases of discrimination recognized internationally, including sexual orientation and gender identity. As a mechanism to implement the Law along with the court the Office of the Public Defender (Ombuds person) of Georgia was identified. The special Equality Department established within the Office of the Public Defender started work on cases of discrimination.

Relatively earlier, in 2010 Law of Georgia on Gender Equality was adopted. The Law defined

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<sup>11</sup> *Dynes, Wayne R (2016). Encyclopedia of Homosexuality, Volume 2. Routledge. ISBN 1317368126*

<sup>12</sup> *Bettcher, Talia Mae; Lombardi, Emilia (2005). "Lesbian, Gay, Bisexual, and Transgender/Transsexual Individuals". In Levy, Barry; Sidel, Victor. Social Injustice and Public Health. Oxford University Press.*

principles of equality in the most problematic fields, including education and employment processes. However, the Law does not contain a separate reference to sexual orientation and gender identity. Therefore, the interpretation of postulates declared by this document may lead to divergence of views.

Up until 2012 the Criminal Code of Georgia defined crimes committed on the discriminatory ground only based on racial, national, ethnic and linguistic characteristics. This automatically excluded the crimes committed based on sexual orientation and gender identity. To eliminate this gap, a new – 53<sup>1</sup> Article was added to the Criminal Code of Georgia on 27 March, 2012. The Article established as aggravating circumstance for any crime committing a crime based on hate motive due to sexual orientation and gender identity. The Article is formulated as follows: “committing a crime based on a motive of intolerance towards sexual orientation, gender identity, [...] or other grounds is aggravating circumstance for any relevant crime envisaged by this Code”. The adoption of the norm was promoted by the Recommendation issued by the European Commission against Racism and Intolerance (ECRI) to Georgia in 2010. The ECRI once again called upon Georgia’s authorities to establish racial motive as an aggravating circumstance for all crimes.<sup>13</sup>

The above noted amendment may be considered as substantially positive, however absence of application of the norm in practice and non-existing statistical data raise doubts about its efficiency. This is mentioned in the 2015 Report of the European Commission against Racism and Intolerance (ECRI) about Georgia, where in the Chapter "Specific Issues for Georgia" the following recommendation is provided:

"... ECRI recommends taking steps to combat intolerance and discrimination against LGBT persons"<sup>14</sup>

In 2014 Government of Georgia approved the 2014-2015 Human Rights Action Plan<sup>15</sup> and the 2014-2020 Strategy of Human Rights<sup>16</sup>. The adoption of these documents is a step forward, as the Governmental Plan is the first political document, which separately considered measures to undertake for the improvement of legal situation of LGBT persons. However, it shall be noted that the Action Plan does not devote a separate chapter to this issue and unifies it under the Gender Equality chapter.

Alongside the above cited documents Georgia also has thematic Action Plans of the Government (e.g. 2016-2017 Action Plan for the Fight against Domestic Violence and Measures to Protection Victims of Domestic Violence).

The legislation of Georgia is not discriminatory. Article 14 of the Constitution of Georgia includes a principle prohibiting discrimination. However, this Article does not envisage SOGI, in the list of grounds of discrimination, separately. When read word for word, the provision contains an exhaustive list. However, the case law of the Constitutional Court of Georgia confirms that the list is

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<sup>13</sup> European Commission against Racism and Intolerance (ECRI) Report (2010) *2010* <http://www.nplg.gov.ge/gsd/cgi-bin/library.exe?e=d-01000-00---off-0periodika--00-1----0-10-0---0---Oprompt-10---4-----0-1--11-ka-50---20-about---00-3-1-00-0-0-11-1-0utfZz-8-00&cl=CL3.15.22&d=HASHefce109ccfffd2fedc534af.9.1&gt=1>

<sup>14</sup> *Report of the European Commission against Racism and Intolerance (ECRI) (2015)*

<https://www.coe.int/t/dghl/monitoring/ecri/country-by-country/georgia/GEO-CbC-V-2016-002-GEO.pdf>

<sup>15</sup> *2014-2015 Human Rights Governmental Action Plan* <https://matsne.gov.ge/ka/document/view/2391005>

<sup>16</sup> *2014-2020 Human Rights National Strategy* - [http://gov.ge/files/428\\_51453\\_705840\\_Strategy-GEO\(1\).pdf](http://gov.ge/files/428_51453_705840_Strategy-GEO(1).pdf)

open: “the aim of [this norm] is considerably larger-scale, than prohibition of discrimination based on a limited list of grounds enumerated in it [...] only narrow grammatical interpretation would have attenuated Article 14 of the Constitution of Georgia and degraded its meaning in Constitutional legal space”.

The principle of prohibiting discrimination is included in such thematic legislative acts, as the Law of Georgia on Healthcare (Article 6.1.), the Law of Georgia on General Education (Article 13.3.), the Law of Georgia on Higher Education (Article 3.2(h)), the Law of Georgia on Gender Equality. The principle of prohibition of discrimination on the grounds of SOGI is also noted in Article 2(3) of the Labor Code. The positive amendments that entered into force on 12 June 2013 widened the grounds for protection from discrimination and included pre-contractual relations too.

On 2 May 2014 the amendments were introduced into the criminal legislation of Georgia. In particular, the grounds for crime envisaged by Article 142 (infringing equality of persons) expanded to also include sexual orientation, gender identity and expression.

On 27 March 2012 another legislative amendment was introduced in the Criminal Code of Georgia. Article 53<sup>1</sup> was introduced<sup>17</sup> which describes the aggravating circumstances in the following manner: "Commission of a crime on the grounds of race, colour, language, sex, sexual orientation, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social origin, material status or rank, place of residence or other discriminatory grounds shall constitute an aggravating circumstance for all the relevant crimes provided for by this Code."

However, even with the existence of these laws, without effective accompanying regulations and will to implement them it is impossible to talk about benevolent legal environment.

According to the 2015 Report of the Public Defender of Georgia, from the date of entry into force of the Anti-Discrimination Law of Georgia to 31 August 2015, inclusive, 107 complaints/applications were submitted to the Office of the Public Defender of Georgia. Of these 11 % refer to possible facts of discrimination against the applicants on the basis of SOGI. Very few of these cases were investigated and legally responded as per real grounds.

The weak anti-discrimination mechanism envisaged by the Law and inexistence of consistent, effective anti-discrimination policy make it almost impossible to eradicate negative outcomes of discrimination not only on a societal level, but at the individual level too. Therefore, it is important for the state to realize and analyse existing experience and recommendations of international and national human rights instruments and plan steps directed at the improvement of efficiency of law enforcement mechanisms by taking them into consideration.

### **International assessment**

Starting from 2003 the United Nations have permanently been calling on states to focus on suppression of increased numbers of murder on the basis of SOGI. In 2011 the UN Human Rights Council adopted the first Resolution 17/19<sup>18</sup> on sexual orientation and gender identity. The Council expressed grave concern at acts of violence and practice of discrimination against LGBTI people. The Resolution was followed by the first official Report of the UN High Commissioner for Human Rights

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<sup>17</sup> *Criminal Code of Georgia* - <https://matsne.gov.ge/ka/document/view/16426>

<sup>18</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>

A/HRC/19/41<sup>19</sup>, focusing for the first time on negative outcomes of discrimination and identifying the most problematic fields from the point of view of discrimination, including labour relations, adequate housing and social protection rights. The Commission indicated that discrimination is often noted in labour relations with LGBTI persons, as they do not match the binary sex and gender identity perceptions, and thus leading to the oppressive practices.

The Yogyakarta Principles<sup>20</sup> adopted in 2007 in relation to sexual orientation and gender identity indicate that everybody have a right to enjoy human rights without discrimination on the SOGI basis. Law shall be prohibiting any discrimination and ensuring guaranteeing equal protection of rights to all.

Along with the above mentioned the Recommendation CM/Rec(2010)5<sup>21</sup> of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity addresses in depth measures to be implemented by states for suppression of discrimination and calls upon them to establish efficient legal mechanism to this end.

In 2016 the US State Department published a country report on human rights practices in Georgia for 2015.

The Report has a chapter devoted to acts of violence, discrimination, and other abuses based on sexual orientation and gender identity. The positive legislative amendments are staidly assessed therein. The Report among others considers as positive the formulation of bias motives of an offender as an aggravating circumstance for all crimes. However, the report also underlines the rare enforcement of the law, which is linked to both lack of political will of the state to fight such a crime, as well as lack of robust training on hate crimes for law enforcement authorities.

Council of Europe's European Commission against Racism and Intolerance published its report on Georgia on 1 March 2016. The Commission carefully stresses its attention to the systemic gaps in the policies directed against homo- and transphobic crimes in Georgia. The Report notes that number of attacks against LGBT persons has essentially grown and incidents range from attacks against individuals in public places and private environments, as well as limiting the freedom of assembly and actions against NGOs. The Commission indicates that victims often refrain from reporting cases due to a very homo-/transphobic climate in Georgian society, fear of one's sexual orientation or gender identity being revealed and resulting in reprisals, and lack of support, or even discriminatory attitudes, from the Police.

### **Coming-out**

Coming-out is a complex process. Outing has a positive influence on general well-being and health of the members of the group not only because this decreases suicidal ideas and self-destructive behaviours, but it also increases their self-estimation and social activity. Therefore, indicator for outing is an important factor in the process of the description of the group.

The Study undertaken by the Organisation Women's Initiatives Supporting Group on LBT

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<sup>19</sup> [http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41\\_English.pdf](http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf)

<sup>20</sup> <http://www.yogyakartaprinciples.org/principles-en/>

<sup>21</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805cf40a](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a)

Healthcare<sup>22</sup> indicates that men are more open and forthcoming and more people know about their sexual orientation than LB (lesbian and bisexual women) group members; there is a sharp difference in respect of outing of different groups of men (e.g. medical doctors, teachers, etc.), whereas this indicator is more or less evenly distributed among women. The difference in openness to healthcare specialists is striking (in terms of sequencing, this group is the second for men and the last one – for women. Respectively: men – 64%, women – 16%). This may be explained by the fact that women care about their health less and use the healthcare services more rarely than men. Women are characterized as more open in the educational field and with teachers. The group whom the respondents of the study trust the least turned out to be teachers/lecturers (GB – 6%, LB – 12%).

### **LBT Health**

The right to health is protected by the Constitution of Georgia and discrimination when enjoying this right is prohibited.<sup>23</sup> The principles of outlawing discrimination are envisaged in the Law of Georgia on Healthcare,<sup>24</sup> according to which “no discrimination is allowed due to race, skin colour, language, sex, confession, political and other opinions, national, ethnic and social belonging, origin, property and social status, place of residence, disease, sexual orientation or personal prejudices of a patient.” Along with this, the Law of Georgia on the Rights of a Patient<sup>25</sup>, the aim of which is to protect rights of individuals in the healthcare sector, provides for inviolability of patient’s honour and dignity.

Various studies undertaken by NGOs in Georgia confirm discriminatory approaches in relation with lesbian, gay, bisexual and transgender persons in the process of provision of healthcare services.

The qualitative study<sup>26</sup> by the Center for Information and Counselling – Tanadgoma in 2012, focusing on experience of gay/MSM men and transgender women notes that “a part of the respondents has, due to their sexual orientation or gender identity, experienced cynical, indifferent attitude by medical personnel or has heard about such facts from other MSM persons.” The expectation of negative, indifferent attitudes from medical personnel makes some of the respondents to provide a doctor with incorrect information, which then affects the selection of a method of treatment by a doctor. In some cases this causes refusal of treatment by some individuals.

The 2012 Study by WISG (Womens' Initiatives Supporting Group)<sup>27</sup> identified the following main trends in LB group: in general application to medical services is very low. The majority tries to acquire information about the health related problems via internet and/or ask a friend who had the similar problem and revert to self-treatment. They also consider that finding “a good” specialist in Georgia is difficult (assessment “good” includes three components: a) high qualification, b) knowledge of specificities of the group (STI risks for women who have sex with women – e.g. for a gynecologist or a venerologist), c) doctor’s attitude towards the members of the group).

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<sup>22</sup> „LGB health needs technical report“, WISG, 2015

<sup>23</sup> <http://www.parliament.ge/ge/kanonmdebloba/constitution-of-georgia-68>

<sup>24</sup> [http://ssa.gov.ge/files/01\\_GEO/KANONMDEBLOBA/Sakanonmdeblo/30.pdf](http://ssa.gov.ge/files/01_GEO/KANONMDEBLOBA/Sakanonmdeblo/30.pdf)

<sup>25</sup> <https://matsne.gov.ge/ka/document/view/16978>

<sup>26</sup> <http://new.tanadgomaweb.ge/upfiles/dfltcontent/1/118.pdf>

<sup>27</sup> *Situation of LGBT Persons in Georgia. WISG. Tbilisi. 2012.*

LB women, as they try not to reveal information about their sexual identity and/or life style, have less experience of being discriminated against by healthcare specialists. Those with a negative attitude speak about breach of confidentiality by a doctor, as well as a doctor advising them “about the need to change the style of life”, “preaching” and displaying an inappropriate attitude.

Considering the existing experience the respondents of the study stated that they prefer to approach a specialist to whom they may be referred by a friendly organization (e.g. WISG or “Tanadgoma”). This frees them from the problem of “extra explanations and educating a doctor regarding these issues on the spot”.

The majority of respondents for the 2015 Study on Situation of Transgender Persons undertaken by WISG<sup>28</sup> note that they have not experienced any discrimination and negative attitude from medical doctors. However, this is also due to the fact that majority of them avoid visiting doctor and undertake self-treatment. The respondents, who can not change their appearance as desired, do simply not reveal their gender identity when visiting a doctor. This may be promoted by wrong information about SOGI among medical personnel.

Despite the fact that homosexuality is out of the list of the World Health Organisation’s (WHO) list of diseases, medical personnel in Georgia do still consider it as a disease and deviation. The studies undertaken by non-governmental organizations confirm malpractice in medical system. According to this wrong practice, even as there are no clinical indications, doctors still use some non-scientific methodologies for change of sexual behavior. This may be essentially harmful to an individual “subjected” to such a treatment.

“Treatment” practice is much more acute when a minor is subjected to it. Article 22 of the Law of Georgia on the Rights of Patient states that “an indispensable condition for provision of medical service is an informed agreement of a patient, or when a patient is a minor or incapable to make an informed decision such an agreement shall be made by a relative or a legal representative of a patient.”

As the above noted demonstrates, legislation of Georgia allows medical intervention in relation to a minor patient only with the informed agreement of a relative or a legal representative of a patient. At the same time, medical services to patients below 16 years of age will only be provided with consent of a parent or a legal representative. In reality it is exactly a close relative of a patient, often a parent, initiating such an intervention. This leaves children absolutely unprotected from forced “treatment” from homosexuality. Along with this, the legislation of Georgia does not fully regulate issue of protection of children from such medical interventions.

Approaches to healthcare of transgender persons are obscure. Georgia’s healthcare system fully medicalises and pathologises a phenomenon of transgender and its wide spectrum is not taken into consideration.

As for the surgical change of sex, from a medical perspective, change of biological sex of a transgender person is divided into three stages. These are in particular: diagnosing with “gender disphoria”, hormonal therapy and change of sex by means of surgery.

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<sup>28</sup> [http://women.ge/data/docs/publications/WISG\\_Transgender\\_survey\\_2015.pdf](http://women.ge/data/docs/publications/WISG_Transgender_survey_2015.pdf)

Focus group meetings with transgender persons<sup>29</sup> organised by the Human Rights Education and Monitoring Center (EMC) reveal that a part of respondents would like to have surgery, in particular, breast enlargement, mastectomy, getting rid of penis/testicles, however a part of them do not have appropriate financial means. Some of them are not sure if they would like to have any type of surgery, whereas others refrain from hormonal therapy, as well as operation to avoid emergence of a conflict in their families.

Information on specific healthcare services for transgender persons is not collected in any specific information resource. This is due to the fact that transgender persons are often left outside the legal framework. Despite this, some still manage to start transition and bring own appearance into harmony with gender self-perception as much as possible. Along with this, this provides an internal comfort to them. They also have better opportunities for integration into a society and better protection from unexpected transphobic attacks.

It is important to note that the legislation of Georgia does not prohibit surgeries accompanying transition and other medical interventions. However, these are not regulated by the legislation either. Therefore, decision making on the matter is often a discretion of a given doctor or a clinic. Due to this correct information on the topic can not be collected and often even the organizations working on the issues of transgender persons do not have a clear information on the matter.

In general, healthcare specialists use international classification of disease that is a normative document aimed at ensuring uniformity of methodological approaches and international compatibility of materials. International classificatory of disease in force today is the 10<sup>th</sup> edition of international classification of diseases (ICD-10)<sup>30</sup>. Chapter F64 of this document describes deviations from gender identity, that is to be considered as issues of mental and behavioural disorder. This chapter nosologically includes transsexualism (this is exactly the term used to describe this nosology – Transsexualism F64.0), dual-role transvestism (Dual-role transvestism F64.1) and non-specific transgression of gender identity (F64.9). The existence of the cited notes in such a guiding document further strengthens incorrect attitude of medical personnel, and otehrs, to representatives of trans groups. It is true, that in the trial version of the international classification of diseases (ICD-11), which is still at the stage of fine-tuning, and getting ready for potential publication for wider public by Spring 2018, this chapter is mitigated and tytled as “gender incoherence” within the category “conditions related to sexual health” and considers the situation as synonymous to trans-sexualism and gender dysphoria, however does not refer to it as a mental or behavioural deviation. This at the end supports de-pathologisation of this issue. Still, the classification is not yet in force and its final content is also not clear yet.

Another classification used internationally (including in Georgia) is Diagnostc and Statistical Manual of Mental Disorders, DSM-5<sup>31</sup>, published by the American Association of Psychiatrists starting from 2013. Its 5<sup>th</sup> edition is currently in force. Unlike the previous edition, this document considers a possible influence of stigmatization and “deviation from gender identity” is substituted by “gender dysphoria”. Apart from this, sub-types of this category that had been based on a form of sexual orientation have been removed. Such international approaches prove to be quite a good way to

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<sup>29</sup> [http://women.ge/data/docs/publications/WISG\\_Transgender\\_survey\\_2015.pdf](http://women.ge/data/docs/publications/WISG_Transgender_survey_2015.pdf)

<sup>30</sup> <http://apps.who.int/classifications/icd10/browse/2010/en>

<sup>31</sup> <https://www.psychiatry.org/psychiatrists/practice/dsm>

support depathologisation of trans conditions. These nuances shall be brought to the attention of specialists and wider public, to decrease stigmatized, stereotypes-based attitudes and approaches in the country. The situation in respect of health of intersex persons is even more obscure. A term “hermaphrodit” was widely used to refer to intersex persons in XVIII and XIX centuries. “Intersex” was established as a medical term in XX century. Until the contemporary classification of sexual development disorders variations of sexual characteristics in intersex persons was categorized separately. These included: congenital adrenal hyperplasia, a syndrome of insensitivity of androgens, gonadal dysgenesis, hypospadias and unusual composition of chromosomes, such as XXY (Klinefelter Syndrome) or XO (Turner Syndrome).

At present the World Health Organisation places variations of sexual characteristics in intersex persons (Disorders of Sex Development) in medical classifications of pathologies or disorders.

Medical norms related to biological bodies of intersex persons have in relation to “a man” and “a woman” have established a practice of medical and surgical interventions, including in the direction of “normalising” genitals. This is practiced even in cases when such an intervention has a cosmetic purpose and is not based on a medical need.

In Georgian practice recognition of a so called “genuine transsexual” plays an important role in the life of a transgender person wishing to undergo a gender reassignment surgery. This is a conclusion issued by a doctor sexologist following minimum a year of observation (including interviews with psychologists, psychiatrists and sexologists, as well as variety of hormonal and chromosomal analysis and ultrasound examinations). The document that is subsequently issued is required by a plastic surgeon before agreeing to carry a gender reassignment surgery.

According to the organization “Transgender Europe” (TGEU) the requirements of gender reassignment surgeries and sterilization oppose to a persons’ right to bodily integrity. A number of transgender persons agree to face post-surgical risks only to have identity documents adequately reflecting their gender self-perception. Even more, the above noted requirements exclude possibilities of changing a sex and gender self-expression in relation with the transgender persons who are not able to revert to surgery or hormonal treatment due to health related complications.

### **LBT and violence**

Homophobic and clearly negative attitudes of society towards LBT persons often take violent forms and provide for social isolation and marginalization of the members of the community. Not observing positive obligations of a state for suppression and efficient investigation of crimes committed based on homophobic and transphobic motives seems to be trend in the reality we witness. This on its turn establishes impunity syndrome and promotes violence. It is noteworthy in this regard that law enforcement agencies do not keep hate crime official statistics. This shows on the one hand that a state does not have a specific vision and strategy to fight against hate motivated crimes; on the other hand this also shows that a state is indifferent to prevent such crimes. Information on hate crimes collected and publicized by the state is clearly too little and it does not reflect the reality. A low number of applications to law enforcement in principle shall be explained by low trust of this community to law enforcement, problem of inefficient investigation and grave and traumatic experience of ill-treatment. The policy of ineffective reaction by the Police to oppression and humiliating treatment of LGBTI persons by the community members made victims



of repeated violence.

State official information on documenting hate crime differs from the information collected by non governmental organizations. According to the 2012 research<sup>32</sup>, of 48 respondents who were victims of physical violence, 60.87% had become victims once only in 2011-2012, 17.39% were victims of such violence twice, whereas 21.74% happened to be victims three or more times. Out of 134 respondents, who had experienced psychological violence (threatening), 75.37% were victims of such violence three or more times, 11.94 – twice, whereas 12.69% - only once.

It is not possible to filter only LBT group data from the general information. Therefore we provide the results of the study summarily, however the trends identified may be easily extrapolated on representatives of this group.

According to the study by the organisation “Identoba”<sup>33</sup> of 150 interviewed LGBT persons 45.83% indicated a street as a place of an attack, 18.75% stated that they were attacked in the family, whereas 14.58% named a bar/club. As attacks most frequently take place on the street, we may conclude that subjects of violence against LGBT persons happen to be mainly strangers. Beating (58.33%) and sexual coercion (11.67%) are identified as the most widespread forms of physical violence.

According to the same study, the rate of application by the LGBTI persons on the facts of their rights violations to Police was very low. This, according to the respondents, was determined by a negative past experience of dealing with Police.

It shall be noted that LBT community representatives describe in private interviews attempted “corrective rape” they have faced. Such a practice is described in different countries of the world and is recognised to be a grave crime. Corrective rape is a sexual physical violence – this is rape, to correct a victim’s possible sexual orientation or gender identity, to make a victim behave in accordance with the reigning gender stereotypes. This is considered to be a hate motivated crime.

Inefficient state policy to tackle hate crimes is also evidenced by murder of a transgender woman on 11 November 2014. Tbilisi City Court acquitted a person charged with that murder on 7 August 2015. The Judge assessed the defendant’s action as a necessary repel. Taking into consideration that the Court did not study a possible hate motive and did not analyse the casual link alongside other important evidences of the case, the Court decision did not comply with the reasonable standard of prove requirement.

Another result of ignoring by the state of LGBTI persons's issues is a court decision in respect of the 17 May 2013 events. Court acquitted all four defendants due to lack of evidence in the case.

In 2012 homophobic social and religious organized groups violently suppressed the event dedicated to the International Day against Homophobia and Transphobia advertised by the organization “Identoba”. The latter appealed before the European Court of Human Rights, claiming violation of freedom of assembly and expression on discriminatory grounds. European Court of Human Rights delivered a judgement on May 12, 2015. The Court indicated in the judgment that “having regard to the reports of negative attitudes towards sexual minorities in some parts of the society, as well as the

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<sup>32</sup> [http://women.ge/data/docs/publications/WISG\\_situation-of-lgbt-persons-in-Georgia\\_GEO-www.pdf](http://women.ge/data/docs/publications/WISG_situation-of-lgbt-persons-in-Georgia_GEO-www.pdf)

<sup>33</sup> *Social being of Gay, bisexual and transgender men; Identoba; 2013.*

fact that the organizer of the march specifically warned the police about the likelihood of abuse, the law-enforcement authorities were under a compelling positive obligation to protect the demonstrators, including the applicants, which they failed to do.” The Court further noted, that “given the attitudes in parts of Georgian society towards the sexual minorities, the authorities know or should have known of the risk of tensions associated with ... marking the International Day Against Homophobia”.

Despite the earlier experience, assembly could not be organized to mark the International Day Against Homophobia on 17 May 2013. The event was planned by non-governmental organizations “Identoba” and “Women’s Initiatives Supporting Group”. However, due to massive violence from the side of participants of a counter-demonstration organized by some extremist groups as well as high ranking clergy and majority of priesthood of the Orthodox Church the assembly could not take place.

### **Domestic violence**

Domestic violence shall be addressed as a separate topic. Domestic violence, exercised against LGBTI persons due to their sexual orientation, gender identity or sexual characteristics may be considered as one of a specific forms of hate crimes. Stress and suffering caused by a crime may likely further exceed a classical hate crime, as in this specific case an abuser is a family member, with whom a victim may have tight emotional connection.

No study on identification of domestic violence cases against LGBTI persons has been undertaken in Georgia. It is therefore difficult to identify a number of victims and scope of the problem.

In June 2012 the Parliament of Georgia decided to criminalise domestic violence. In particular, Articles 11<sup>1</sup> and 126<sup>1</sup> were added into the Criminal Code of Georgia. These articles recognized domestic violence as a crime and defined measures of criminal liability.

Domestic violence is also regulated by 2006 special Law of Georgia on the Prevention of Domestic Violence, Protection and Assistance of Victims of Domestic Violence. Despite the fact that the Law envisages protective and restraining orders, the Public Defender’s Report indicates that the failure of undertaking duties by law enforcement authorities is noticed in cases of personal acquaintanceship, kinship or friendship with an offender. In some identified cases law enforcement authorities had shown indifference or had acted as a counselor. Such gaps in law enforcement activities were also revealed via focus-group meetings with LBT persons organized by organization EMC. The participants have been noting that they had felt superficial attitudes of law enforcement officers. The attempts to make victims change their position and solve a conflict by informal means have been identified.

### **Hate speech**

Recommendation of the Committee of Ministers on “Hate Speech” adopted in 1997 notes that “the term “hate speech” shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred or intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”

Hate speech resorted to and propagated by various actors, as accumulated in media, is among other factors based on religious discourse. The latter deem homosexuality as incompatible with the Georgian values. Existence and strengthening of such a discourse is to a large extent related to the expansion of a role of the Church, as a social institute and its active involvement in the country's political processes.

Media surveys carried out in Georgia in the recent years confirm the replacement of sharply negative expressions by neutral language. There are instances of positive media coverage too. Despite this, hate speech and sharp homophobic attitudes remain to be actual problem in some of media actors. This is reflected in hate speech used and sharp homophobic attitudes displayed by media representatives, as well as invited guests. These serve the purpose of politisation of the LGBTI related issues, thus devalueing rights dimension of LGBTI persons.

Until 2015 hate speech was not a crime in Georgia. However, in June 2015 Criminal Code provision devised to partly limit manifestation of hate speech in public space entered into force. The regulation reflected in Article 239<sup>1</sup> provides as follows: “public incitement to acts of violence orally, in writing or using other means of expression in order to cause a discord between certain groups based on their racial, religious, national, provincial, ethnic, social, political, linguistic and/or other characteristics, provided that this poses clear, direct and substantial risk of acts of violence”. The text of the norm is quite generic. It does not comply with the requirements of predictability of law. This, on its turn allows for possibility of diverse interpretation and incorrect application of the law in practice.

### **Homophobic environment**

Homophobic and transphobic attitudes prevailing in Georgia's public schools or university environments reinforces limiting a right to access to education for members of LGBT community. Established hostile environment leads to exclusion of this group from there. Majority of regulating acts in the education system have declaratory character. They do not turn into efficient instruments in practice. Low level of sensitivity towards LGBTI issues and distorted information essentially influence over the development of pupils and development of tolerance and their attitudes based on acceptance.

### **Legal recognition of gender**

Legal recognition of gender for transgender persons is a wide-spread problem throughout the world. Transgender people may not get identity documents compatible with their desired gender in many countries. Therefore, they are subjected to diverse rights limitations. Among others existing marginalization and utter vulnerability turns them into a risk group of jobless and homeless people.

Rules regulating pre-requisites for change of gender in countries often establish unjustified and unfair. These requirements among others include divorce, irreversible sterilization, sex re-assignment forced surgery and other medical procedures that are in clear breach of international human rights standards.

Georgia belongs to a group of countries where legal recognition of gender is related to medical procedures. In reality no legal document regulating this issue in details, providing for adequate legal

basis for trans-gender persons willing to change a record about their sex in their identity documents exists.

According to currently established practice in Georgia undergoing procedures of irreversible sterilization, hormonal treatment and preliminary surgical procedures is obligatory for a person to be able to get new identity documents. A person is entitled to change data on sex in official documents in case of fully undergoing sex re-assignment surgery.

Only procedures related to change of a first name and last name are regulated in our country. In Georgia the issue of changing name and surname is regulated by Law of Georgia on Civil Acts and the 31 January 2012 Order N18 of Minister of Justice of Georgia on the Approval of a Rule of Registration of Civil Acts. Article 47 of the Rule approved by this Order establishes a list of documents to be submitted for change of a first name and/or a last name. This list does not include any specific requirement.

Transgender people do not come across difficulties in practice either when changing a name or/and a surname. They may change name in identity documents without any extra requirements. However, there are no specific regulations in respect of change of a record about sex.

It shall be noted that on 18 May 2015 Public Defender proposed to Ministry of Justice of Georgia to elaborate and approve a procedural rule on a change of record regarding sex in civil acts. Changes have not been considered by now.

### **Sex worker women and sex worker trans women**

Sex worker women and trans sex worker women in Georgia make one of the most vulnerable groups in terms of their rights, social and economic situation. The situation is particularly severe and unfavourable in relation with (including trans-gender) women working in a street and/or in low/average level closed institutions.

In 2014 International Foundation Curatio and Centre for Information and Counselling “Tanadgoma” carried out a study assessing a size of women sex worker population. According to results received by resorting to various methods, population of low and average income sex worker women consists of 6525 women. The methods used were as follows: network scale-up – NSU method, census, capture-recapture method as service multiplier method. The study was carried out with the financial support of the project “Generating Trustworthy Information about the Behavioural Change in Risk Groups for HIV/AIDS Dissemination and Undertaken Preventive Measures” funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria.

In 2014 behavioural supervision assessment among “HIV-related risky and safe behavior among sex workers” was undertaken in Tbilisi and Batumi. One of the issues of the study was researching violence among sex workers. A part of sex workers covered by the study had turned out to have been victims of physical violence (beating, smothering, etc.) in both cities (17.5% in Tbilisi and 13.3% in Batumi). Over 80% of physical violence cases relates to violence from clients. Small number of sex workers in Tbilisi (8.8%) and in Batumi (9.2%) note that they had been victims of sexual violence by means of blackmailing or threatening. This is again related to their clients. A very small group of

respondents (2.5% in Tbilisi and 4.2% in Batumi) stated that they had been victims of coerced sexual relation/rape. The following were named as abusers: clients (in 4 cases), strangers (in 1 case) and police (in 2 cases). In total, the study established that 21.3% of sex workers in Tbilisi and 20.8% in Batumi had been victims of some form of violence during the last year.<sup>34</sup>

There are cases when sex worker women, including trans sex worker women, are fined pursuant to Administrative Violations Code by Police. A quantitative research carried out in 2016 also revealed that as they are insufficiently informed about their rights and means of protection, they turn to be particularly vulnerable to various forms of violence (physical violence, blackmailing, etc.).<sup>35</sup>

There are frequent cases of attacking, resorting to violence against and degrading treatment of sex worker (including trans sex worker) women from the side of clients or passers-by at their work places. It shall be noted, that trans sex worker women are a way more informed about their rights and legal aid provided by different community organizations is much more accessible to them than to sex worker women. A number of cases of violence against transgender persons are noted in the 2016 Parliamentary Report of the Public Defender “Human Rights Situation in Georgia”, whereas the same is not true in respect with sex worker women.

### **Overview of prostitution related legislation of Georgia**

Prostitution belongs to administrative violation and is subject to fine as per legislation of Georgia. Engagement in prostitution of minors, forced engagement in prostitution (threatening, blackmailing, deceit) and making an area or dwelling place available for prostitution are punished by Criminal Code of Georgia. In particular:

- Engaging a minor in prostitution without use of violence, threat of violence or deceit, shall be punished by deprivation of liberty for a term of two to five years (Article 171, Criminal Code of Georgia).
- Engagement in prostitution using violence, threat of violence or of destruction of property, blackmail or deception, shall be punished by a fine or deprivation of liberty for up to two years (Article 253, Criminal Code of Georgia).

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<sup>34</sup> The study was carried by International Foundation Curatio and Centre for Information and Counselling “Tanadgoma” in the framework of the project “Generating Trustworthy Information about the Behavioural Change in Risk Groups for HIV/AIDS Dissemination and Undertaken Preventive Measures” funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria.  
<http://new.tanadgomaweb.ge/upfiles/dfltcontent/1/146.pdf>

<sup>35</sup> Consultation Report – GEORGIA “SMALL GROUP DISCUSSIONS AMONG YOUNG KEY POPULATIONS AT HIGHER RISK OF HIV INFECTION ON ACCESS TO AND AVAILABILITY OF SRH/HIV SERVICES”\_UNFPA, 2016

- The same act committed by an organized group knowingly against minors, or acquiring benefit from the engagement of a minor into prostitution, shall be punished by deprivation of liberty for a term of five to seven years (Article 253, Criminal Code of Georgia).
- Making available an area or dwelling place for prostitution, shall be punished by a fine or deprivation of liberty for a term of two to four years (Article 254, Criminal Code of Georgia).

### **Structure and specifics of sex business**

Sex business has different structures in big and small cities of Georgia. For example, in such small places as the towns: Telavi and Zugdidi places of gathering (work places) of sex workers differ from the ones in big or average sized cities, such as Tbilisi, Kutaisi and Batumi. The main difference is the absence of a street stage in small cities. Therefore, in small cities sex workers primarily work from homes and/or trade booths. In big cities, however, a structure of sex business is diverse. In particular, it includes: a street, sauna, hotel, bar-restaurant, brothel, home (on call by means of mobile phone, online chat). Each of the categories is described below:

**Overview of a street specifics** – an open system, the lowest hierarchical level. Sex-workers of this category belong to the lowest level of social, economic and intellectual development. They do not have a structure, work independently, without any “patron” and subordination. They are usually grouped into small sub-cultures (so called “kutoks”).

**Overview of sauna specifics** – it is divided into two main categories:

1. Saunas, where sex workers are not present at all times. In such a category of saunas sex-workers working in different places (a street, a bar-restaurant and others) bring their clients along to provide service. They are not subject to sauna owner or any administrative rules and are not accountable to them. They only pay as much as is to be paid for hourly service at sauna or other services (bar, towels, etc.).
2. Saunas, where sex workers are present at all times. This is a higher hierarchical level. They have an owner of the establishment, often times present, work is structured, and they belong to relatively higher social, economic and intellectual development level. This category too has administration (the very owner of the sauna or an employee therein). Working conditions of sex workers are established in agreement with these persons. Security service of the establishment ensure safety of the establishment, and of sex workers. Service provision takes place on the spot (sex workers are usually officially registered within the establishment as a massage therapist, a bar waitress and other support personnel).

**Overview of hotel specifics** – see: sauna specifics.

**Overview of bar-restaurant/discotheque specifics** – this is a structured system too. Unlike sauna and hotel, sex-worker does not provide service to client on the spot. This is only a place to seek and contact a client (in this category too, majority of sex workers are officially registered as waitresses, dancers and other support personnel).

**Overview of brothels specifics** – this is the highest hierarchical level. It is a closed system, with an owner. The services are provided on the spot.

**Overview of home specifics** – this is divided into two main categories:

1. Sex workers provide services to clients on the spot. This is mainly a case in regions.
2. On-call by mobile phones or online chat is used. The group of sex workers, who clients contact by phone or internet, shall be separately noted. They provide service to clients in saunas and hotels and are not subjected to an owner of an establishment.

Note: as migration of commercial sex workers from one place to another is frequent clearly distinguishing different categories of sex workers from each other is made difficult. For example, some categories of sauna and certain places in a street belong to the same hierarchical category. Migration of sex workers is high exactly between these categories. However, sex-workers may also migrate between different hierarchical levels in cases of compliance and/or non-compliance with certain conditions.<sup>36</sup>

### **Social-demographic characteristics of sex worker women**

Results of the 2014 behavioural observation survey carried out in two cities of Georgia, Tbilisi and Batumi, show that majority of sex workers are over 25 years old. The largest part of the group belong to the "40+" age group. Majority of them are Georgian, with general education, divorced and had arrived to the place or the city of survey (71.9% - in Tbilisi and 93.3% - in Batumi) from another place. Arriving to the city of survey from another place contemplates that women involved in sex business try to chose a city to work in which is far away from their own city or village.<sup>37</sup>

The majority of the sex worker women have general education, however they do not have knowledge and skills supporting them in getting employment and finding alternative income. The majority of them had migrated to big cities and they are the only source of material support to their families.

As in case of sex worker women sex business is the only source of income for trans sex worker women too. Despite their education and professional skills trans women are forced to earn their living by sex business, as this is the only place where they are not dependant on pre-disposition of an employer. "I can apply to any vacancy and in approximately 80% I will be refused. This is why many transger persons are sex workers. This is due to the fact that no other, alternative way exists for them".<sup>38</sup>

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<sup>36</sup> Interview with the Head of Field Work Team of the Center for Information and Counseling on Reproductive Health – "Tanadgoma

<sup>37</sup> Behavioural observation study in Tbilisi and Batumi.

<http://new.tanadgomaweb.ge/upfiles/dfltcontent/1/146.pdf>

<sup>38</sup> Quality survey of trans sex worker women, 2017, Women's Initiatives Supporting Group

This clearly violates Article 23 of the Universal Declaration of Human Rights, providing as follows: everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.<sup>39</sup>

### **Various discriminatory and degrading attitudes displayed towards sex worker women and trans sex worker women**

Stereotypes and strong stigma firmly established in the society often determine violation of rights of sex worker women and trans sex worker women not only in their working environment but also within their families, as well as in various institutions and structures.

#### **Discriminatory and degrading attitudes in medical services**

Sex worker women and trans sex worker women are often stigmatized and get discriminatory attitudes during the medical services. The issue is particularly acute in relation with trans sex worker women, due to their gender identity and feminine appearance. Financial issues related to health care do also create barriers that are difficult to overcome. This ultimately hampers sex-workers in applying to medical services and, in some cases, pushes them to self-treatment.

#### **Discriminatory and degrading attitudes in relations with law-enforcement agencies**

Frequently, representatives of law-enforcement agencies are themselves coercing rather than protecting rights.

In 2014, a qualitative study conducted by an organization "Identoba" identified instances of power abuse and degrading treatment by police officers towards trans women sex workers. According to the study, there are frequent instances of police dispersing the gathering spots of women involved in commercial sex, including the gathering spots of trans women sex workers. As a rule, such actions are random and are somewhat based on personal attitudes and decisions. Attempts of dispersing gathering spots of women sex workers and trans women sex workers on behalf of police, in general, results in an administrative punishment – 250 GEL fine for disobeying police orders.

The attitude of the society towards the police mandate is in itself interesting. In the opinion of Identoba, it is damaging to the development of civic consciousness and a threat to public safety when police are witnessing illicit acts but chose to turn a blind eye to it, since a victim is a representative of stigmatized, vulnerable groups that are ostracized from society. Such acts tarnish the professional reputation and authority of the police as a whole.<sup>40</sup>

The 2016 Report of the Public Defender reflects an attack on a transgender woman in the vicinity of Heroes' Square on June 25 of the same year as a result of which the latter sustained injuries on the body. The assailed called patrol police, however, the law-enforcement did not attempt to detain the assailant or react in any other manner. To protest this fact, the gathered transgender women called

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<sup>39</sup> <http://ungeorgia.ge/uploads/UDHR-60Geo.pdf>

<sup>40</sup> A report on the study of rights condition of transgender sex workers. Identoba, 2014.



for another patrol police crew and requested from them to act on the crime. The second police crew deemed the protest of transgender women a violation of law and arrested four of them, transporting them to the relevant police station. The police charged the detained with Article 166 (minor offence) and Article 173 (disobeying a legal order or request of a law-enforcement officer).<sup>41</sup>

There are instances when police officers request sexual intercourse free of charge. In 2014, according to a study conducted by the Institute of Social Research and Analysis, 20% of women sex workers say that they have had cases of police officers requesting sexual intercourse for free.

### **Discriminatory and degrading attitudes from society**

Findings of a qualitative study conducted by the Women's Initiatives Supporting Group reveal that part of women sex workers, including trans women sex workers, who work in open spaces face elevated risks to encounter insult and humiliation not only from clients but from passers-by as well. Some of the citizens go to the gathering spots of sex workers for the sole purpose of "mocking, humiliating and insulting women sex workers; the conditions are ever more severe with regards trans women sex workers".

### **Discriminatory and degrading attitudes from a client**

A 2014 study conducted by the Institute of Social Research and Analysis reveals that part of the research participants has experienced instances of discrimination and degrading treatment at varying degrees of frequency. Namely:

- Verbal abuse from clients – 30%
- Mocking attitude from clients – 25%
- Physical abuse, beating from clients – 12%

88% of respondents say that the discriminatory and degrading treatment directed at them influenced their physical and mental well-being.<sup>42</sup>

Majority of women sex workers (including trans women sex workers) try to resolve conflict situations mostly on their own and help each other in critical situations. They try to avoid involving patrol police in problematic situations, since they expect that the police officers will be biased. Besides, in their experience, there are old cases that still remain unsolved.

### **Discriminatory and degrading attitudes in media environment**

In 2016 reporting period Public Defender reacted on cases numerous times when ads were encouraging discrimination, including due to gender identity. One of such instances was when CC

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<sup>41</sup> PDO Report on the protection of human rights and freedoms in Georgia, 2016.

<http://www.ombudsman.ge/uploads/other/4/4494.pdf>

<sup>42</sup> A study identifying the needs of sex workers and factors causing discrimination. The study was conducted by the Institute of Social Research and Analysis, with the support of the association "HERA XXI". The geographic area of the quantitative study were the cities of Batumi and Poti. 92 women sex workers participated.

Loan LTD released an advertisement video in which a transgender person is mocked – resorting to prostitution in order to earn money.<sup>43</sup>

### **Organizations working on issues of LBT, sex worker women and sex worker trans women**

Ever since in 1990 the World Health Organization removed homosexuality from the list of diseases and the development of Georgian statehood continued its path based on pro-European values, the quality of expression of human sexuality increased and origins of LGBT movement budded.

- In 2000, a feminist organization – Women's Initiatives Supporting Group (WISG) – working on women's issues was registered. One of the target groups of the organization was lesbian, bi-sexual women and transgender persons. The objectives of the organization are as follows: facilitating women empowerment, on personal, as well as on interpersonal level; ensuring equal rights for women through advocacy and lobbying; promoting the ideas of equality, feminist vision, rights of women and minorities as well as establishing respect to their rights in the society.<sup>44</sup> These objectives were promoting the development and activity of community movements. In 2010, the organization openly issued its first grant towards the needs of an LBT group, which resulted in critical assessments in Georgian print media.
- Since 2005 the community movement intensifies and community organizations are being established, which openly advocate for protecting the rights of LGBT representatives. "Inclusive Foundation", "Identoba", "LGBT Georgia" (nowadays "Equality Movement"), "Temida" – these are the organizations whose programmatic line specifically addressed LBT community needs. Support was provided to these organizations in joint projects by rights defenders and research organizations which contributed to making significant steps in describing the existing situations and acquiring/collecting evidence.
- Foreign organizations also entered Georgia (RFSL<sup>45</sup>, ILGA Europe<sup>46</sup>, COC Netherlands<sup>47</sup>, Astraea Lesbian Foundation<sup>48</sup>, Kvinna till Kvinna Foundation<sup>49</sup>, etc.) as project partners or financiers and the LGBT movement in Georgia was afforded international visibility.

There are various programmes in the country directed towards women sex workers, supported by a diverse range of international organizations and implemented using the resources of local NGOs. In certain instances programmes are being implemented through coalition of governmental and non-governmental organizations.

- Since 2004, the Global Fund financed programme – "Increasing HIV Prevention Actions in High-Risk Groups – Commercial Women Sex Workers, Men who have Sex with Men, and Prisoners". The project aims to prevent STDs/HIV/AIDS in high-risk groups through informing/consulting, decreasing risk behavior and providing them with quality medical

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<sup>43</sup> A remark indicated in the 2016 Report of the Public Defender about the advertisement video on stereotypes around transgender persons and posing threat to equality.

<sup>44</sup> <http://women.ge/ka/about/>

<sup>45</sup> <http://www.rfsl.se/>

<sup>46</sup> <http://ilga.org/>

<sup>47</sup> <http://www.coc.nl/>

<sup>48</sup> <http://www.astraeafoundation.org/>

<sup>49</sup> <http://kvinnatillkvinna.se/en/>

consultation and services. Center for Information and Counseling on Reproductive Health – "Tanadgoma", Georgian Association of Dermatologists and Venereologists and Georgian AIDS and Clinical Immunology Research Center are providing free examinations and treatment of various sexually transmitted diseases for commercial women sex workers and trans women sex workers. Concurrently, preventive programmes are working actively and a large portion of sex workers have access to such preventive programmes, as: free condoms, free voluntary consultation and examination on HIV/AIDS, educational meetings, informative-educational materials. Such activities cover 5 cities in Georgia (Tbilisi, Kutaisi, Batumi, Zugdidi, Telavi).

- As of 2017 the project "Empowering Vulnerable Women to end Discrimination" funded by EU is being implemented. The implementing coalition is composed of: Center for Information and Counseling on Reproductive Health – "Tanadgoma"; Georgian Young Lawyers Association; Alternative Georgia; Institute of Democracy. The objective of the project is to develop skills of women sex workers and drug users and their support in directing and using defense mechanisms from violence and discrimination; support in determining policy, in the process of service monitoring, for preventing violence and discrimination. Within the frames of the project, social bureaus are operating for women sex workers and drug users, covering three cities in Georgia (Tbilisi, Batumi, Kutaisi).
- An EU-funded project – Providing Access to Protection for the Victims of SGBV/DV and Strengthening Protection Mechanisms – is being implemented as of 2017. The implementing coalition is composed of: Center for Information and Counseling on Reproductive Health – "Tanadgoma", DEA, STOP, DWO. The objective of the project is to provide services for women victims of violence (including women sex workers), such as: free legal aid, psycho-social rehabilitation, shelter provision, provision of emergency first aid, strengthening the skills of the victims.
- A community organization "Women for Freedom" is active in the country, which aims to facilitate the formation of a free and just environment in Georgia. The organization targets various vulnerable groups, such as: HIV+, Hepatitis B and C, those with tuberculosis, drug users, women victims of domestic violence, sexual minorities and sex workers. The main activities of the organization are: managing the cases of rights violations, advocating, strengthening community activism.

## **Conclusive part**

This document aimed to review human rights and legal status of LBT and sex worker women in Georgia.

It was outlined that negative stereotypes and stigma in respect with LGBTI persons and women (particularly those involved in sex business) are still firmly entrenched in a large part of society. At the same time, steps taken by the state to improve legal situation of these persons still remain minimalistic and are of a formal character. A number of studies show that facts of discrimination, physical and psychological violence against LGBT persons and sex worker women still remain quite frequent. Studies directed at discrimination and experience of non-governmental organizations working on the topic confirm that strong prevalent negative attitudes towards LGBT persons and

their equal rights issues in the country are directly reflected on facts of discrimination, physical or psychological violence.

This Review described structure and specifics of sex business, which may be experiencing certain changes with time passing. Its form and specificities are determined by the legislative environment and societal attitudes existing in a particular period of time.

Difficult conditions created in the country with respect to protection of human rights and devoting improper attention to the issues of vulnerable groups is particularly negatively reflected at the conditions of LBT, sex worker and trans sex worker women. Stereotypical and discriminatory attitudes displayed towards them are coupled with difficult women rights' environment in general. In this case we may presume that sex worker women remain outside the state regulated relations and their experience is ignored more in comparison to other groups. The Review demonstrated that despite the abundance of legal regulations of the country, international recommendations and direct indications the discriminatory and degrading environment in which LBT and sex worker women have to be do not guarantee to representatives of small (vulnerable) groups realization of their rights and freedoms, as prescribed by the Constitution and International Law.

The existing information, which relies on the results of the surveys undertaken by different organisations and data generated/described in the process of work with the populations make it clear that general homophobic, biphobic, transphobic environment and degrading treatment and discriminatory approaches revealed at various institutional levels (family, law enforcement structures, healthcare, education and employment) are left without attention in majority of cases. This deepens the problem of vulnerability of LBT and sex-worker women.

Provision of information on discrimination, as a social phenomenon to wide circles of society and particularly to the structures directly responsible for protection of human rights is important. Awareness raising and teaching is important also not to have law enforcement officers themselves as violators of human rights. Improper response by the state to the facts of crimes and violence against LBTI and sex worker women encourages nihilism towards the justice system in this group on the one hand. On the other hand such a approach further promotes violence against the group members.

It is clear that such legal and social environment hamper LBT and sex worker women to take care of protection of their rights. This, on its turn, adversely affects the qualitative indicator of well-fare of the society on the whole.

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