Right to Health

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Introduction

The present report outlines the problems existing in Georgia with respect to the protection of the right to health. It incorporates health-related topics concerning drug users, persons in need of palliative care, persons with mental health problems, LGBT, and sexual and reproductive health and rights. In cooperation with the Georgian Young Lawyers' Association the report was prepared by the following organizations: Union "Step to Future", Georgian Harm Reduction Network, Alternative Georgia Partnership for Human Rights ,Women's Initiatives Supporting Group and HERA XXI. Preparation of the report was supported by the Open Society Georgia Foundation. The report covers the period between 2010 and 2014.

1. Drug Use and Human Rights

1.1. Starting from mid-2000s, as a result of a zero tolerance policy on drugs and so called "Georgian drug war", Georgia introduced strict administrative and criminal sanctions for drug use and other drug-related crimes. In recent years there has been a dramatic increase in random street drug testing by the police, leading to the urine drug screening of tens of thousands of persons under the "reasonable doubt" of drug use by a police officer. E.g. in 2011 more than 27 000 cases of police drug testing were recorded, while only 6500 adults received any kind of substance use treatment.[i]

1.2. In case of drug use, the law does not provide any alternative to punishment and there is no mechanism in place that would allow police to refer individuals in need of assistance to medical treatment services or other assistance.[ii]

2. Availability and Accessibility of Drug Treatment

2.1. A significant part of drug treatment services, in particular, low-threshold harm reduction services, is provided thorough international funding. Access to drug treatment services, to a large extent, depends on an individual's ability to pay, rather than the existence of programs which would allow accessible and affordable care.[iii] Neither state, nor private health insurance programs cover screening, assessment or treatment for problems related to drug use.[iv] Funding for drug use treatment remains largely insufficient compared to the needs identified. As a

result, substance use treatment and harm reduction programs, taken together, deliver services to only 5-10% of problem drug users.[v]

2.2. Current drug treatment services lack the observance of quality standards, clinical protocols and commonly agreed indicators to provide quality care and measure the success of treatment.[vi] Health care personnel lack professional qualifications and skills to effectively address the need for particular groups, including persons who use drugs.[vii] They lack opportunities to advance their competence as well, as the Ministry of Labour, Health and Social Affairs abandoned a system of continuing education for the health care professions since early 2008.

3. Women who use drugs

3.1. Absence of gender-sensitive health services

3.1.1. Some available data suggests that women constitute 10% of the estimated 40 000 problem drug users in Georgia.[viii] Women constitute 1-2% of the whole number of clients who use services provided in the framework of Global Fund or the government of Georgia.[ix]

3.1.2. Women who use drugs remain one of the most marginalized and underserved groups in Georgia.[x] Health services for women drug users often are either limited or inaccessible due to stigma, discrimination and shame associated with the drug use. Access to Opioid Substitution Therapy, Needle and Syringe Exchange Programmes (NSP), as well as general health care services including reproductive health, is particularly limited and in many cases ignored. Fear of revealing drug use status, fear of being rejected of health care, Lack of information on drug treatment services, lack of confidentiality, lack of services based on the needs of women drug users, stigma and judgmental and discriminatory attitude of health service providers are some of the major problems impeding women from accessing health care.[xi]

3.1.3. In places of detention women who use drugs are largely absent from state health programme.[xii] Under the Public Defender's Office of Georgia, '*there are no gender-sensitive, accessible, and evidence-based drug treatment programmes in the community both in urban and rural areas. Neither such programmes are discussed to be introduced near future. At the same time, such gender sensitive programmes are largely absent from the places of detention.*[xiii]

3.1.4. There are no adequate health care services for pregnant women who use drugs[xiv]. Medical professionals lack awareness of treatment for drug dependency during pregnancy. In many cases doctors avoid or refuse providing consultations to women who use drugs and are pregnant, leading women to hiding their drug use.[xv]

3.1.5. A social worker states: '*often we negotiate with doctors from our acquaintances to give consultations to our pregnant clients. These women are ashamed and stigmatized to reveal their drug use with doctors and prefer unofficial consultations and non-judgmental*

services for them – not yet available in Georgian society.' Social Worker, AKESO, Georgia[xvi]

3.1.6. **Recommendations:**

- Adopt a human rights-based approach while addressing the problem of drug use, including the provision of adequate health care, psychological support services and rehabilitation for drug users (including drug dependence treatment such as opioid substitution therapy and harm reduction programmes);

- Conduct a nationwide study to establish the number of women who use drugs, including while pregnant;

- Provide gender-sensitive and evidence-based drug treatment services for women who use drugs and harm reduction programmes for women in detention.

4. Palliative Care and Human Rights

4.1. Provision of palliative care in Georgia faces 2 main challenges: universal accessibility and quality of services.

4.2. State funded in-patient hospices and home care were developed in Georgia in 2004 as a result of support of the Open Society Georgia Foundation. Currently 2 hospices are operational in Tbilisi and palliative care beds are available in the regions (Batumi, Kutaisi, Kakheti and Zugdidi). The service is financed by the state program for Georgian citizens only, while non-citizens have to self-fund.

4.3. Recently there has been the decrease in the availability of palliative care. By 2013, under state funding, 60 beds for in-patients functioned in Tbilisi and the regions and home care was delivered to up to 2300 patients. However, by 2014, the number of inpatient beds was reduced to 18, while the home care was provided to 165 patients.[xvii] Under the Recommendation of the World Health Organization, 50 beds of palliative care need to be operational for every 1 000 000 persons. Georgia currently has 18 beds in comparison to the required 200.

4.4. The quality of medical services also deteriorated since 2004. In spite of inflation, the amount of funds allocated for the in-patient palliative care, as well as the cost per visit for the home care has not changed. This has had a negative impact on the quality of provided services.

4.5. Since 2013, the number of patients involved in home care has decreased 10 times due to various reasons, including the fact that under the changes in the state program, the program of home care lasts for only 6 months, after which the program discontinues and the provision of service is terminated.

5. Pediatric Palliative Care

5.1. Pediatric palliative care is unavailable in Georgia. Children in need of palliative care are served in palliative departments of hospitals, which are not tailored to the needs of children.

5.2. Access to Palliative Care Medications

5.2.1. In Georgia, the suffering of 60-90% of the patients in need of palliative care remains ignored and unnoticed.[xviii] Even though the legislation provides for prescription of opioids for persons in need of palliative care, doctors tend not to prescribe the medicine with adequate doses. Management of chronic pain is not of adequate quality, leading to torture when the pain could be avoided. Medical professionals lack expertise for pain management and eradication of pain.

5.2.2. In addition, access to pain relief is hindered by the complications in normative acts of opioid purchase and subscription, inadequate means of pain relief applied by medical professionals (e.g. codeine – step 2 mild opioid – is not available in Georgia), low demand on opioids, fear of sanctions by doctors to prescribe opioids, fear of pharmacies to store opioids and overall lack of prioritizing palliative treatment and pain management by the state. [xix]

5.2.3. **Recommendations**

- Promote the development of pediatric palliative care;
- Remove the fixed period of 6 months for involvement in home care and determine the term based on patient's individual circumstances. Clearly define the criteria for the entry into the program;
- Develop and ensure the availability of in-patient palliative care in the regions and accessibility of care for non-Georgian nationals.

6. Mental Health and Human Rights

6.1. In Georgia persons with mental health problems are not provided adequate standard of treatment and care by the state. The 2012-2013 reports of the Public Defender's Office documented pervasive human rights violations of persons with mental health problems, including unavailability of medical services and even inhuman and degrading treatment. These violations have not been met by an adequate response from the state. Inadequate treatment is prevalent in state shelters, as well as the penitentiary system and involuntary psychiatric care institutions. The above reports document the isolation of women with mental health problems by their family members for more than 10 years. They do not have decent living conditions and are not provided with adequate medical treatment.

6.2. On 31 December 2014 the Government of Georgia approved "Strategic Document for the Development of Mental Health and Action Plan of 2015-2020". Under the document, only half of the persons with mental health problems are registered. Accordingly, the remaining half does not receive any medical or social assistance. E.g. the number of individuals with schizophrenia per 100 000 inhabitants is 9.5 in Georgia, while in most countries of the world the number ranges from 20 to 54.

6.3. The state budget for mental health allocates its 71% to in-patient care – 12 psychiatric establishments all around the country, in which there are only 10 beds for pediatric mental health care. This proportion is in contravention with the reform of deinstitutionalization,

recognized as a priority in the world. This demonstrates that the deinstitutionalization of persons with psycho-social needs has not even started and the state policy is to isolate them in the institutions. According to the monitoring of the Public Defender's Office (2012) and the Council of Europe (2013) pervasive violations of human rights still occur in the specialized psychiatric hospitals, including physical restriction contrary to the law, inadequate treatment and medical services, limitations in the access of rehabilitation services and institutionalization for the period of more than 20 years.[xx]

6.4. Even though there are 18 outpatient clinics in the country, they only provide medicines and medical consultations. Persons with mental health problems cannot access any type of rehabilitation services or assistance in these establishments. At the same time, outpatient clinics are mostly located in the cities and these services are geographically unavailable for village residents.

6.5. Under the information provided to the NGO "Partnership for Human Rights" by mental health professionals, confirmed by official documents[xxi], medicines provided free of charge through the state program do not meet the needs of patients, most of whom are socially unprotected and lack the circle of supporters. Accordingly, the problem of medication management arises, which deteriorates the patient's condition immediately after leaving the hospital.

6.6. In outpatient facilities, other than 1-2 exceptions, there are no multidisciplinary teams and the doctors apply traditional medical model. Most of the doctors are overloaded with patients - they have to treat 70 or more persons daily and, therefore, are unable to provide adequate or any consultations to each of them. Inadequate remuneration of medical personnel also constitutes a demotivating factor. Absence of multidisciplinary teams makes it impossible to carry out rehabilitation programs, in the absence of which medical treatment proves to be ineffective and insufficient.

6.7. Community services are highly deficient. 3 psycho-rehabilitation centers of the country receive insignificant funding (less than 1% of mental health budget) and crisis centers are not available in the entire territory of Georgia. Since the state program is lacking, a single donor-funded community care team operates in Tbilisi. There are neither community accommodations, nor an employment promotion system for persons with mental health problems. Consequently, the risk of deterioration of mental health condition is significant in outpatient conditions and the frequency of re-hospitalization is high.[xxii]

6.8. **Recommendations**

- Eliminate the practice of inhuman treatment and inadequate medical treatment to persons with mental health problems and insure access to quality medical and social services;

- Increase the number and quality of community-based services and promote the integration of persons with mental health problems into the society with full realization of their rights.

7. LGBT Health and Human Rights

7.1. **Right to health**

7.1.1. Sexual orientation as the basis for prohibiting discrimination is found also in the Law of Georgia on Health Care.[xxiii] The Law of Georgia "on the Rights of Patient" also prohibits discrimination of patients on any grounds[xxiv]. Principles of non-discrimination are also outlined in the ethics standards that regulate the healthcare field[xxv]. However, according to the studies conducted by WISG, show that there are many significant gaps in healthcare field both in terms of legal regulations and practice. These shortcomings place LGBT people in an unequal position and in concrete cases may further lead to their discrimination and other violations of their fundamental rights and freedoms[xxvi].

7.1.2. Neither the state action plans nor the state's current strategy on health-care issues,[xxvii] or researches conducted in the field take into consideration any specific needs of LGBT groups (especially transspecific health care needs). WISG'studies on LGBT needs in health care showed that only few respondents have experienced discrimination from physicians during past two years. However, this may as well be caused by the fact that majority of respondents avoids visiting the physicians due to high level of stigma and marginalization. Majority of healthcare specialists have quite a vague knowledge (or none at all) about sexual orientation/gender identity[xxviii]. Currently available textbooks and methodology are not consistent with contemporary standards either and do not reflect clinical experience accumulated in recent years or study results and the best medical practices. Lack of awareness among medical personnel on trans-specific issues/needs is one of the significant factors affecting the highest attainable standard of health for transgender, intersexual and gender non-conformist persons[xxix].

7.1.3. The right to receive quality medical services is regulated in Georgia at legislative level as well as by ethical and medical standards. Quality control mechanisms include licensing of a medical institution by the state as well as certification system of physicians and development of national clinical guidelines. Although trans-specific medical services are available in Georgia, a clinical guideline still does not exist in Georgia, which would describe transition-related diagnostic and treatment measures for transgender persons[xxx].

7.1.4. Georgian legislation neither prohibits gender reassignment surgery, nor regulates it. This gives absolute discretion to medical institutions when deciding who is eligible for the gender reassignment surgery and on procedures applicable to the entire reassignment process. Such a gap can result in arbitrariness, lack of consistency and create obstacles for people willing to undergo the procedure. Sex reassignment procedures for transgender persons, despite their high social importance, are not included in any legal act. Taking into account that the majority of transgender persons encounter serious problems in the process of employment due to inconsistent gender records in their IDs procedures required for transition and gender reassignment remain financially non-affordable for them. Hence, escaping from this somewhat vicious circle is rather difficult without relevant regulations or special measures taken by the state.

7.1.5. **Recommendations:**

- Ministry of Labor, Health and Social Affairs should coordinate its work with Ministry of Education in order to provide revision of medical textbooks containing stigmatizing and discriminatory terminology;

- Inclusion of basic information on SOGI in the qualification/requalification or certification programs and curricula for personnel working in the healthcare sector;
- Regulation of a medical transition process in a way that transgender persons have effective access to relevant medical services of universally recognized international standards and the public healthcare covers these costs.
- Adopt and introduce international clinical guideline focused on the needs of transgender, transsexual, and gender non-conforming persons for securing transgender persons' access to quality healthcare.

8.Sexual and Reproductive Health and Rights

8.1 Safe Abortion

8.1.1. In Georgia many women do not have access to quality, and affordable abortion services. Religious, geographical, financial obstacles, low quality of services, lack of information about contraceptive methods in rural areas and a non-competitive medical environment creates artificial obstacles for women seeking abortion.

8.1.2. The National Strategy 2011-2015 on Health Protection of Georgia – "Qualified Available Health care" omits a number of important issues in relation reproductive health, including in relation to traditional practices and stereotypical roles. For example, the Strategy aims to develop mothers' and children's health services, but does not address issues such as: adoption of services assessment frame for family planning, monitoring and ways of solution for traditions / stereotypes.

8.2. Contraception

8.2.1.The major problems concerning sexual and reproductive health protection and rights are as follows: insufficient information about family planning, insufficient number of relevant necessary contraceptives and fertility control mostly by abortion, lack of sufficient education and priority of juvenile reproductive health protection and rights, domestic violence against women and lack of awareness about reproductive and sexual health and rights in the society.

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

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

8.3. Family planning services

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

population and keeps in them in informational vacuum.[xxxii] Rural women and women in the mountainous areas must travel to large towns to access clinics.

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

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

8.4.Youth

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

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

8.4.3. Recommendations

- Contraception should be included in the list of essential drugs covered through state health programs;
- Revision health care state programs in order to provide Family Planning services by creating the financial incentives for Family Doctors and developing competitive environment for the medical providers especially in rural areas (e.g. raising the qualification, training and popularization), support education about consultation technique regarding modern methods of contraceptives and widening consultation volume;
- Create National IEC Strategy and elaborate action plan to promote acceptance and demand for Family planning services as an alternatives to abortion, with special emphasis on population. Strategy should be targeted at: increasing awareness, enhancing the role of communication and educating people about reproductive Health & Rights and family planning services.

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[xvi] *Ibid*
[xvii] Information communicated by the Open Society Georgia Foundation on 23.03.2015
[xviii] In 2010 Institute for Oncoprevention and Palliative Medicine conducted research on accessibility of opioids through questionnaire, which were completed by patients and/or their family members. The research is the indicator of determining the quality of life for incurable patients suffering chronic pain.
[xix] Ibid
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[xxi] Resolution of the Government of Georgia #762, adopted on 31 December 2014, on approving Strategic Document for the Development of Mental Health and Action Plan 2015-2020", available at: www.matsne.gov.ge
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[xxiii] Article 6, Paragraph 1.
[xxiv] Article 6.
xxv Until very recently blanket ban on blood donation by certain categories of individuals, including homosexuals, alcohol-addicts, sex-workers, etc. Such a blanket ban was inconsistent with the principles of equality, honor and dignity of individuals. The Constitutional Court of Georgia ruled on February 14, 2014 (decision #2/1/536) in the Case of Asatiani et.al v. The Minister of Labour, Health and Social Protection, that this Order was unconcstitutional.
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