

# ADVANCING SEXUAL RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS

## GEORGIA

This country brief is part of a series to assist Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) members and other advocates in using the Sustainable Development Goals (SDGs) to hold governments accountable to commitments they have made towards protecting and promoting sexual rights. This brief covers an overview of key sexual rights issues within a country and compares them with commitments at the national, regional and international levels, and outlines opportunities for advocates to engage with governments and other stakeholders to strengthen accountability.

## I. SEXUAL RIGHTS AND THE SDGs

“Sexual rights” refer to a range of human rights relating to sexuality, reproduction, sexual and reproductive health (SRH) and gender. This includes issues such as comprehensive sexuality education, sexual and gender-based violence, contraception, rights of intersex persons, gender identity, safe and legal abortion, early and forced marriage, same-gender relationships, female genital mutilation, and rights of sex workers.

The SDGs are the cornerstone of an ambitious global agenda for development, known as Agenda 2030, which all United Nations (UN) Member States, including Georgia, have committed to achieving in the next 15 years. With 17 goals and 169 targets, it spans a range of human rights and development issues, including sexual rights.

Certain sexual rights issues are explicitly included in the SDGs:

- Target 3.7 on SRH, and target 5.6 on SRH and reproductive rights;
- Target 3.1 on maternal mortality;
- Target 3.3 on AIDS and other communicable diseases; and
- Goal 5 on gender equality and the empowerment of women and girls.

Other goals and targets have clear links to sexual rights issues that are not directly included:

- Target 4.7 (on education for human rights and gender equality) could encompass comprehensive sexuality education;
- Target 10.3 (on reduction of inequalities, including through law and policy reform) could be used to advance the rights of sex workers and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and others; and

- Target 16.1 (on reduction of violence and related deaths) could include the reduction of sexual and gender-based violence, including violence based on sexual orientation, gender identity and expression.

The SDGs carry significant political weight, and are attracting a large investment of resources. They are expected to affect both policy and programming efforts in Georgia, including national development strategies, international assistance, and budget allocations. Implementation of the SDGs affords important opportunities to advocate for the advancement of the full range of sexual rights in Georgia.

## II. GEORGIA'S COMMITMENTS AND OBLIGATIONS

Several international and regional level commitments protect and promote sexual rights. Of them, Georgia has ratified the following and is thus legally bound to comply with their provisions:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of Persons with Disabilities (CRPD)
- The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) – signed

Georgia has also endorsed other agreements that provide a blueprint for government action on sexual and reproductive rights at the country level but are not legally binding:

- Programme of Action of the 1994 International Conference on Population and Development (ICPD) and the outcome documents of its subsequent reviews, the latest of which is the 2013 Asian and Pacific Ministerial Declaration on Population and Development.
- Beijing Platform for Action of the Fourth World Conference on Women, 1995, and the outcome documents of its subsequent reviews, the latest of which is the 2014 Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment.

Georgia's policies and strategies on SRH issues are not wholly compatible with the human rights obligations contained in the international instruments it has ratified or endorsed. In particular, strategies and policies that promote SRH have not been implemented effectively.

### III. SEXUAL RIGHTS POLICY AND LAW IN GEORGIA, COMPARED WITH ITS COMMITMENTS<sup>1</sup>

#### ABORTION

##### POLICY AND LAW

Abortion is legal, although it is regulated. It may be provided only if the pregnancy is within 12 weeks; there is a mandatory waiting period of five days between a consultation and the procedure; and physicians are directed to give priority to "protection of the life of the foetus" during pre-abortion counselling (Law of Georgia on Health Care, Article 139). These regulations undermine a pregnant person's control over their body, and their ability to access safe and legal abortion services. The mandatory waiting period might cause mental anguish, or surpass the permissible gestational limit, or increase the cost of accessing the procedure (including travel costs and wages lost by foregoing work and additional time), among others. The directive to physicians to give priority to the life of the foetus might result in a pregnant person receiving biased advice directed at continuing the unwanted pregnancy.<sup>2</sup>

##### COMMITMENTS AND OBLIGATIONS

During the country's Universal Periodic Review (UPR) at the UN Human Rights Council in 2015, Denmark recommended that Georgia "take steps to ensure that SRH services, including abortion and contraception services and information, are available, accessible and affordable to all women and girls, especially in rural areas and among vulnerable groups."

In 2014, the CEDAW Committee recommended that Georgia ensure "access by adolescent girls and young women to sexual and reproductive health services by eliminating prejudices, training medical personnel and enhancing the number of obstetric health facilities and their equipment" In its General Comment No. 22 on the right to SRH services, the Committee on Economic, Social and Cultural Rights stated that preventing unsafe abortions required all States to "liberalize restrictive abortion laws; to guarantee women and girls access to safe abortion services and quality post-abortion care, including by training health care providers; and to respect the right of women to make autonomous decisions about their sexual and reproductive health."<sup>3</sup>

#### AGE OF SEXUAL CONSENT

##### POLICY AND LAW

Law and policy on this subject are quite sound in Georgia. The age of sexual consent is 16 years (Criminal Code, chapter XII, articles 140–141). This is consistent for different-sex and same-sex individuals. Young people aged 14–18 have a legal right to seek treatment for sexually transmitted infections, non-surgical contraceptives, and abortion, without parental consent.

#### SEX WORK

##### POLICY AND LAW

"Prostitution" is an administrative offence, punishable by fine. The criminal code does not criminalize the sale of sexual services. It punishes engaging a person in 'prostitution' and operating a brothel, by fine or by imprisonment (Criminal Code, chapter XXXII, articles 253–254). This restrictive framework contributes to the stigmatization of sex work, which creates barriers to sex workers' access to health care and justice. Violence and discrimination against sex workers is common, including at the hands of police officers, who often force them to have sex without a condom and threaten sex workers with blackmail, extortion, arrest and/or violence.<sup>4</sup>

##### COMMITMENTS AND OBLIGATIONS

The government has an obligation to prevent and redress discrimination and violence against sex workers and ensure their access to health services, as per its obligations as a party to ICCPR (article 26) and ICESCR (article 12). In 2010, the Special Rapporteur on the right to health called upon governments to decriminalize sex work and practices around it.<sup>5</sup> The World Health Organization (WHO) has also recommended that all governments decriminalize sex work, and establish anti-discrimination and other laws and policies that promote the rights of sex workers.<sup>6</sup>

In 2014, the Law of Georgia on the Elimination of All Forms of Discrimination was introduced. The law is intended to "eliminate every form of discrimination and to ensure equal rights of every natural and legal persons..., irrespective of race, skin colour,

language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics". It is important to ensure that this law be applied for the protection of the rights of sex workers.

## SEXUALITY EDUCATION

### POLICY AND LAW

The Georgian National Youth Policy Document (2014) recognizes that it is important for young people to have information about SRH and reproductive rights, with the objective of supporting the "development of modern educational programmes on the issues of sexual and reproductive health and rights according to the best modern international standards for formal and informal education systems." Due to opposition from religious bodies, among others, such education programmes have not yet been developed and implemented.

### COMMITMENTS AND OBLIGATIONS

In 2014, the Committee on the Elimination of Discrimination against Women recommended that Georgia "introduce age-appropriate sexual and reproductive health and rights education, including on responsible sexual behaviour, at all levels."<sup>7</sup> During its previous UPR (in 2015), Georgia was asked by the Netherlands about steps taken to increase awareness on SRH and reproductive rights, but no further recommendations were made. Georgia's commitments under the ICPD Programme of Action (including, but not limited to, paragraphs 7.41, 7.46–47) obligate it to provide information and education pertaining to gender, sexuality and SRH.

## IV. ADVOCACY OPPORTUNITIES

Georgia is developing its national SDG response plan, which will likely guide the SDGs implementation, monitoring and review processes. Advocates can **push for inclusion of additional indicators related to sexual rights in their country's monitoring frameworks**, such as:

- annual number of unsafe abortions per 1,000 women aged 10–49 years;
- inclusion of sexuality education in national education policies, curricula, teacher education and student assessment; and
- decriminalization of sex work.

Advocates can **promote inclusion of specific rights-based actions in the SDG implementation plan**; for example, a review of laws and policies pertaining to sexual rights; a consultative process with marginalized groups, such as sex workers and transgender and intersex persons to develop

robust policies and programmes; and training of teachers and health workers on young people's sexual rights.

Advocates can **follow up on the voluntary review that Georgia underwent at the UN High-Level Political Forum on Sustainable Development** in July 2015 and participate in national preparatory reviews in advance of future reviews.

Advocates can **encourage the formulation of new national policies, strategies and action plans, or revision of existing ones**. For example, advocating for a gender equality policy or a SRH strategy, if none exists, and advocating for improvements in the human rights action plan during its revision. Advocates can engage with the transition plan from donor to state funding for HIV and hepatitis C virus prevention (being developed in 2016) to ensure that human rights-based actions are planned and funded. Elections, such as the parliamentary elections in October 2016, and constitutional review processes present other opportunities to advocate for advancements in sexual rights.

Advocates can **push for the rights-based implementation of the SDGs during human rights reviews of the situation in Georgia at the UN**, such as the Universal Periodic Review, and reviews by treaty bodies, such as the Committee on Economic, Social and Cultural Rights, the Child Rights Committee, and the Committee on the Elimination of Discrimination against Women, among others. Advocates can raise sexual rights issues during national SDG preparatory processes and submit information to UN reviews on the country's sexual rights situation and their recommendations. Below is a schedule of Georgia's next review at the universal periodic review and its reporting deadlines for the following treaty bodies:<sup>8</sup>

WHAT	WHEN
UPR	November 2020
ICESCR review	Report was due in 2007
CRC review	Submitted in 2011; review in 2017
CAT review	Report was due in 2015
ICCPR review	July 2019
CEDAW review	July 2018
CRPD review	Not Available
Istanbul Convention	Not Available

At the 2016 Regional Forum on Sustainable Development,<sup>9</sup> held in May 2016, the United Nations Economic Commission for Europe Member States continued the process of informal consultations on a future regional follow up and review mechanism for the 2030 Agenda, with a decision expected by April 2017 on its establishment. Advocates can **engage with this process of informal consultations, encouraging States to form strong regional and national monitoring and review processes**. At the national level, advocates can work to influence government priorities, strategies and actions for implementation of the SDGs.

**Advocates can also engage with the Asia-Pacific Forum on Sustainable Development**, organized by the Economic and Social Commission for Asia and the Pacific, to push for stronger regional and national monitoring and review processes, as well as influence priorities, strategies and actions. Advocates can encourage their government to participate in the Forum's regional review process and support civil society participation as Observers and included in government delegations. Civil society organizations can also engage with the Asia Pacific Regional Civil Society Engagement Mechanism, for which APA is co-coordinator (with ARROW) of the cross-constituency Thematic Working Group on Gender, Sexuality, and SRHR.

**Regional reviews of the ICPD Programme of Action and the Beijing Platform for Action**, planned for 2018 and 2019 respectively, also provide opportunities for highlighting gaps in the implementation of commitments made by countries along with recommendations for greater achievement of those commitments and the SDGs, all of these being complementary in nature.

**Don't be overwhelmed by all these options! Your organizational mandate and capacity will help determine which opportunities you engage with. Remember, consistent evidence and recommendations can be easily tailored to suit different advocacy opportunities, and working in collaboration can help distribute the burden of engaging with multiple reviews. Advocates in Georgia can engage with regional networks, including ASTRA Network, Eurasian Harm Reduction Network, Eastern Europe and Central Asian Network of PLHIV, to promote sexual rights at the national, regional and international levels.**

<sup>1</sup> Based on information from the Sexual Rights Initiative's National Sexual Rights Law and Policy Database. Accessed 6 July 2016, <http://sexualrightsdatabase.org/countries/362/Georgia>.

<sup>2</sup> Joint submission 9 for Georgia's Universal Periodic Review in 2015. [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRGEStakeholdersInfoS23.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRGEStakeholdersInfoS23.aspx).

<sup>3</sup> E/C.12/GC/22, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/22&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/22&Lang=en).

<sup>4</sup> Joint submissions 8 and 9 for Georgia's Universal Periodic Review in 2015, [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRGEStakeholdersInfoS23.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRGEStakeholdersInfoS23.aspx).

<sup>5</sup> Anand Grover, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health* (New York: OHCHR, 2014), [www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf).

<sup>6</sup> World Health Organization. *Prevention and Treatment of HIV and Other Sexually Transmitted Infections for Sex Workers in Low- and Middle-Income Countries* (Geneva: WHO, 2012), [www.who.int/hiv/pub/guidelines/sex\\_worker/en/](http://www.who.int/hiv/pub/guidelines/sex_worker/en/).

<sup>7</sup> CEDAW/C/GEO/CO/4-5, <http://uhri.ohchr.org/document/index/b6a06da8-5637-4715-a904-949bf6078e22>.

<sup>8</sup> For more information and updates, go to [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx) and [www.coe.int/en/web/istanbul-convention/evaluation](http://www.coe.int/en/web/istanbul-convention/evaluation).

<sup>9</sup> Learn more about the 2016 Regional Forum on Sustainable Development at [www.unecp.org/index.php?id=42919#/](http://www.unecp.org/index.php?id=42919#/)



## ABOUT APA

The Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) is a network of national, regional and global civil society organizations that advocate for the fulfilment of sexual and reproductive health and rights for all persons in the Asia Pacific region. APA mobilizes civil society advocacy across the region to hold governments and other stakeholders accountable for their obligations and commitments to SRHR. Interested in becoming an APA member? Check out our website or email [join@asiapacificalliance.org](mailto:join@asiapacificalliance.org).

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