

Georgian Young Lawyers' Association

VIOLENCE AGAINST CHILDREN NEEDS ASSESSMENT

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1. MAIN FINDINGS

By virtue of Art.19 of the Convention on the Rights of the Child (UNCRC), State Parties must take all appropriate legislative, administrative, social and educational measures to protect children. The aim of this article is to protect the child from violence by the child's parent, legal guardian or any other person – whether it is physical or psychological violence, injury or abuse, negligent treatment, exploitation, sexual violence and other forms of violence.¹

This research addresses violence against children in settings that are especially important for development of children and protection of their best interests, including family, school, society and media. It explores underlying causes of violence against children and provides corresponding recommendations.

Research methodology comprised of the following stages:

- Determining theoretical basis of the research, sampling rules and methods;
- Identifying basic principles of the research and outlining the research problem;
- Reviewing normative material, existing experience and literature to gain insights into the topic.

Below are main findings of the research of violence against children, categorized by the above-mentioned settings:

1. Gaps in legislation on violence against children

During examination of different forms of violence against children it has been found that applicable legislative framework is incomplete:

- there is no separate provision on children's rights in the Constitution of Georgia;
- because violence against children has become frequent, tightening of sanctions should be considered;
- child pornography law needs to be improved;

¹ UNCRC, Art.19

- the issue of establishing the office of the Ombudsman for Children should be put on the agenda, and if a political agreement is reached corresponding normative act should be drafted.

2. Quality of programs for preventing violence against children and the need to further develop these programs

While working on this issue, implementation of the following measures has been found necessary:

- Actively campaigning about the child referral system and applicable procedures;
- Bolstering the role of the following participants of the child referral procedures:
 - a) the police;
 - b) social workers;
 - c) schools;
 - d) child protection services;
 - e) medical institutions, etc.
- campaigns about the role and responsibility of the society in identification of instances of violence against children should be conducted.

3. Problems related to media reporting on violence against children

This is an innovative area for the research but in view of importance of media the following challenges have been identified:

- lack of in-depth analysis of the problem and excessive use of sensationalism in media reporting of issues related to children and to violence against children;
- the need for media to develop and implement policy designed to eliminate stereotypes.

4. **Flaws identified in ministries involved in the child referral system**

a) ***Ministry of Education and Science***

- Educational programs should be reviewed to eliminate any stereotypes;
- Teachers and school personnel should be trained on issues of violence against children, with regard to timely identification of child victims of violence and preventing violence against children;

b) ***Ministry of Internal Affairs***

- Regular training of police patrol and district police on identification of violence against children continues to be the primary challenge;
- So does regular training of police patrol and district police on consideration of issues related to children during issuance restraining orders;
- The need to train the newly established Human Rights Department at the Ministry of Internal Affairs on issues of violence against children.

c) ***Ministry of Labor, Health and Social Affairs***

- Strengthening the role of a psychologist in the Social Service Agency;
- Regular training of social workers for their effective involvement in the referral system;
- Preparing guidelines for doctors and medical personnel for identification of child victims of domestic violence and implementation of applicable procedures.

2. INTRODUCTION

To protect child victims of violence, a number of effective measures need to be taken with the aim of creating social programs, identifying crimes perpetrated against children, creating mechanisms for protection of children and enabling punishment of perpetrators. By virtue of the UNCRC, every child under the age of 18 has needs and demands pursuant to the following international standards:

- 1) Equal rights of children
- 2) Recognizing evolving capacities of the child based on the following principles:
 - protection from discrimination;
 - interests of the child;
 - the right to life, survival and development;
 - the right to be heard.
- 3) The UNCRC defines violence against children as a degrading treatment and/or any treatment that limits the child's life and development.²

Physical and mental effects of violence on child victims is viewed in the same context and manifested by a range of actions punishable under criminal or administrative law. Violence against children is mainly categorized as physical, sexual, psychological violence, neglect, etc.

These forms of violence against children occur in settings such as families, schools, society and media with varying frequencies, posing serious risks to children. In light of this, the present research categorizes different settings where violence against children occurs, based on frequency of violence and risks of repeat victimization. The section on recommendations deals with the damage, psychological, physical and other types of trauma sustained by children as a result of violence, resulting consequences and needs.

Purpose of this research is to examine the foregoing forms of violence against children in the settings described above, which is rather important for identification and assessment of children's needs, selection of adequate measures of protection and comprehensive rehabilitation.

² Ibid.

3. FORMS OF VIOLENCE AGAINST CHILDREN

Violence against children is one of the most painful and serious problems of human rights violations. Despite recent changes at the international or national level, the issue of violence against children is still relevant. The problem is further exacerbated by the fact that often violence against children is latent, warranting introduction of specific approaches.

Children have the right to be protected from all forms of violence, including physical, psychological and any other form of violence, negligent treatment, maltreatment or exploitation.

International instruments and research indicates that violence against children can take the form of physical, verbal, material, sexual violence, etc. Any action that may damage mental and physical state of the child and threaten the child's health and development constitutes violence against children.

Violence against minors will be discussed by individual forms, however structural categorization based on different types of settings where instances of violence against children occur - families, schools, society and media – is warranted by the fact that each different setting demonstrates different needs, so it is important to formulate different types of recommendations that deal with these distinct needs.

3.1. Violence against children in families

Over the last few years domestic violence has been recognized as crime similar to and as threatening as violence outside domestic setting. Domestic violence is no longer a problem that concerns a victim or a perpetrator, rather it also negatively affects other members of the family that may not even be direct targets of violence. Effects of domestic violence are especially destructive for children, irrespective of whether the child is a direct or indirect victim.

Chances and possibility of repeat violence depends on whether actions of the perpetrator are dealt with promptly and adequately and whether needs of the victim and especially a child victim are identified promptly, with the aim of the victim's assistance and comprehensive rehabilitation.

However, of note is the fact that domestic violence and prevention of re-

peat domestic violence does not depend exclusively on actions of the law enforcement authorities. Rather, a very important role is played by public engagement and sense of responsibility, which unfortunately is often completely inadequate. Because of negative public attitudes, a victim is often reluctant to confront domestic violence, report the incident to law enforcement authorities, protect children's future, etc. Such approach is resulted by the fact that often and in many cultures including in Georgia domestic violence is viewed as a family affair, a private matter between a victim and a perpetrator. This is further acerbated by subordinated role of women and children compared to the perpetrator, which often engenders tolerant attitudes towards domestic violence.

Such practice and approach has a destructive effect on children's mental state. Often child victims of domestic violence not only learn and become used to cruel treatment but they also see that such treatment is acceptable and is viewed as an established form of behavior by the society. Domestic violence experienced as a child has a serious effect on victim's domestic life as an adult.

In addition to the forms of domestic violence against children listed below, the legislation also defines other forms of domestic violence³ but the present research will focus on the most common forms of domestic violence against children and their effects on the process of development of the child.

3.1.1. Physical violence

Physical violence is one of the most common types of domestic violence. It is defined as use of physical force against the child that results in physical pain or a bodily injury. Most common forms of physical violence are hitting, slapping, pushing, sometimes beating and torture, resulting in physical pain or suffering of the child.

Identification of physical violence is easier compared to other forms of violence, which is due to visibility of injuries from violence, including bruises,

³ The Law of Georgia on the Elimination of Violence against Women and/or Domestic Violence and Protection and Assistance of the Victims of Such Violence, 2006, Art.3

bumps, fractures, wounds with varying degrees of healing.⁴ Female children are especially vulnerable to such risks as they may be subjected to violence not only by parents but also by other members of family, including siblings. Research and reports indicate that more than 20% of children between the ages of 2-14 in Georgia are subjected to physical beating, mostly by their fathers.⁵

Such violence has different effects on children. Most children that experienced physical violence display only superficial injuries, however effects of violence are far deeper than that. Child victims of violence become fearful, anxious, aggressive, adopt extremely cruel behavior, mainly as a response to violence that they have experienced. Often the child realizes that it is impossible to escape violence, that s/he depends on the perpetrator and has nowhere to go. As a result, s/he reacts by extreme obedience or by cruel behavior, both of which are equally dangerous to development of the child.

Use of corporal punishment against children is never effective and it is not an acceptable way or method of upbringing. After physical violence the child only experiences moral trauma, physical pain and anger towards the perpetrator.⁶ Fearing punishment, the child may correct his/her behavior, however this is not motivated by the child's own will but by the fear of punishment. It should certainly be viewed as a mistake made in upbringing of the child. Children raised using violent methods grow to be reclusive and often unsuccessful people.

3.1.2. Psychological violence

Psychological violence often referred to as emotional violence is the most common form of violence. Psychological violence against the child may entail his/her intimidation, criticism by members of the child's family, aggressive approach and sometimes unfair accusations, blames, the practice

⁴ UN Report on Domestic Violence, 2006

<http://www.unicef.org/violencestudy/worldreportonviolenceagainstchildren.pdf>

⁵ Ibid.

⁶ T.Makharoblidze, "Forms of Violence against Children and Legal Remedies", Current Issues of Criminal Law, 2, 2017, p. 26.

of excessive control, making fun of the child, yelling, systematic insults,⁷ as well as verbal humiliation, threat of abandonment, etc.

Psychological violence is difficult to detect, especially when perpetrated against the child. Effects of such violence are far more serious than those of physical violence because it is directed towards controlling the child and his/her every action. Such form of violence aims to achieve full obedience of the child.⁸

This leads to development of low self-esteem, self-isolation, the child loses sense of independence. In addition to psychological trauma, subjecting the child to such form of violence systematically leads to development of speech disorder, headaches, neurotic behavior, self-harm, enuresis and other types of health problems.

Rehabilitation of child victims of psychological violence requires long-term professional intervention and is discussed in more detail in the recommendations section.

3.1.3. Sexual violence

Sexual violence is one of the most serious and destructive form of violence against children. Sexual violence includes engaging in sexual activities with the child by violence or threat of violence or abusing the child's state of helplessness. Sexual violence can take the form of sexual activity as well as touching, caressing and other similar actions, making sexual comments, exposing the child to pornographic photos and films, taking pornographic photos of the child.

Consequences of sexual violence against the child that occurs in domestic setting include the following physical injuries in addition to psychological problems: genital trauma, stomach pains, nightmares, sleeplessness, depression, eating disorder, pregnancy, sexually transmitted diseases.

In cases of sexual violence, it does not matter whether the child consented to it or not, because often the child does not fully understand the nature of actions perpetrated against him/her.

⁷ M.Meskhi, "Protection of child victims and rights recognized by international standards that should absolutely be taken into consideration during legal proceedings (according to the UN's model legislation)", *Current Issues of Criminal Law*, 1, 2017, p.37.

⁸ Ibid.

According to the national survey on violence against women and domestic violence,⁹ only 3,9% of women acknowledged that they are victims of sexual violence in the home. The rate is even lower among children because the issue is considered a taboo subject, children are afraid or ashamed, etc. This further complicates not only identification of such form of violence but also assessment of needs of child victims of violence and development of emergency measures for their rehabilitation.

3.1.4. Child neglect

The Law of Georgia on the Elimination of Violence against Women and/or Domestic Violence, Protection and Assistance of the Victims of Such Violence,¹⁰ defines child neglect as “failure by a parent and/or a legal representative to satisfy physical and psychological needs of the child, restriction of the child’s right to basic education, failure to protect the child against a threat or to perform actions necessary to register the child’s birth or receive medical and other services, provided the parent and/or the legal representative has adequate information and access to the appropriate services.”

Neglect is recognized as a type of domestic violence by the document on “Adoption of Referral Procedures for Protection of Children”.¹¹ The document defines neglect as failure of the child’s parent(s), other legal representative and/or other responsible person to fulfill physical (including food, hygiene, housing) and psychological needs of the child, limiting the child’s right to basic education, failure to protect the child against a threat, failure to carry out actions necessary to register birth of the child and/or put the child’s birth-related documentation in order, and to receive medical and other types of services, if the parent(s), other legal representative and/or responsible person has (have) adequate information, opportunity and access to adequate services.

Consequences of such violence against the child is manifested by failure to protect hygienic norms, chronic diseases, excessive eating, low self-esteem, which hinders physical development of the child and puts him/her

⁹ UN Report on Domestic Violence, 2018.

¹⁰ See footnote 3

¹¹ Resolution of the Government of Georgia no.437 on Adoption of Child Protection Referral Procedures, dated 12 September 2016, Art.3, subparagraph “h”.

at risk in terms of poor access to healthcare services, education and other fundamental rights.

It should be underlined that child neglect is a specific form of violence that mostly occurs in the home and therefore, it is not addressed by subsequent chapters of this research.

Review and analysis of different forms of violence against children that occur in the home indicates long-term and damaging effects inherent to criminal actions perpetrated against children. Assessment of needs of child victims of violence requires that relevant specialists understand and act on the foregoing forms of violence.

3.2. Violence Against Children in Schools

Risks and threats of violence against children exist not only in homes but also in schools and educational institutions on account of the fact that next to the family children spend most of their time in school.

Below is an overview of the most common forms of violence against children in schools, which is of vital importance for the recommendations section of this report.

3.2.1. Physical Violence

Violence against children in schools is a worldwide problem. Next to family, school is another place where children can fall victim to physical violence. The research indicates that 28% of respondents are victims of violence or know about physical violence perpetrated against a friend.¹²

Corporal punishment is used against children in schools for several reasons. Often teachers beat students for poor behavior or failure to complete a homework.

By virtue of the Law of Georgia on Secondary Education, the state must ensure elimination of violence in schools. Violence against children or any other individual is unacceptable. In an event of physical or any other type of abuse school must act immediately, in accordance with the procedure prescribed by law.

¹² National Survey on Violence in Schools in Georgia, the Georgian Foundation for Development of Public Health and Medicine, p.5.

In addition, the Law of Georgia on Early and Preschool Education prohibits any violence against children. Training of teachers in this area should be ensured.

In view of frequency of violence and especially physical violence in schools, discussing effectiveness of legislation is inexpedient, especially considering that in its General Comment no.8, UNICEF recommends prohibition of use of corporal punishment or any similar forms of punishment as a disciplinary measure.¹³ In this regard, the law should be tightened, continued training of teachers should be ensured, in order for schoolteachers to be actively involved in elimination of violence since violence against children whether in homes or in schools brings about equally destructive physical or psychological consequences.

3.2.2. Psychological violence/bullying

Methods of psychological violence against children in schools are identical to those used for perpetrating psychological violence in families. Therefore, the present chapter mostly focuses on a form of violence called bullying. Effects of bullying on children are as harmful as those of physical or psychological violence.

Bullying is usually perpetrated by victim's peers and it is not viewed as a form of violence related to upbringing of a child. Bullying is defined as repeated aggressive behavior of a child towards another child, involving a real or perceived power imbalance. Bullying includes humiliation of a child by his/her peer(s), humiliating remarks about the child's appearance and clothes, about his/her academic performance (including for good academic performance). Bullying also includes making demands for money or favors like doing homework or forcing the child to take the blame for certain actions.

Child victims of bullying often become asocial because they are afraid or embarrassed to report the aggression of their peers, and as a result of the duration and the process of aggression that they have been subjected to they start oppressing other smaller children or express their protest with extremely cruel actions.

¹³ UNICEF General Comment no.8, para.35

3.2.3. Sexual violence

The rate of sexual violence against children in schools is not as high as rates of other forms of violence described above, however such incidents still take place.

Sexual violence in schools can be perpetrated by a teacher or by peers. A teacher can perpetrate sexual violence by a promise of better grades or other favors, or by abusing authority of a teacher. Even if a child consents to a sexual activity, actions perpetrated by a teacher against the child should be viewed as sexual violence and the teacher should be held criminally liable.

As to sexual violence perpetrated by peers, in terms of psychological or physical traumas that such violence inflicts, it is not very different from violence perpetrated by a teacher. To avoid such incidents, school administration and the state should take specific measures, including but not limited to empowering the office of Mandaturi, broadening the scope of their rights and introducing other types of measures described in the recommendations section of this report.

All of the above forms of violence perpetrated in schools are equally harmful to children. To avoid such crimes, the state should tighten corresponding measures.

3.3. Violence Against Children in the Society

There is an alarming situation in Georgia with regard to violence against children. Nearly more than a half of the population believes that violence against children is acceptable and use of violent methods for upbringing is more effective than use of non-violent ones.¹⁴ Such approach is even more dangerous since it promotes tolerance towards violence, which suggests that a number of necessary measures need to be implemented.

Research indicates that society differentiates between forms of violence against children but it does not equally understand the meaning of each form. For instance, as stated earlier physical violence is not viewed as vi-

¹⁴ Violence against Children in Georgia – National Survey on Existing Knowledge, Attitude and Practices, UNICEF 2013

olence and moreover, it is often accepted as means of upbringing. Previous chapters discussed physical and psychological violence perpetrated against children in families and schools as well as neglect, and whatever the public attitudes towards such forms of violence may be, forms of violence against children in the society certainly includes physical and psychological violence as well.¹⁵

In light of the above, the present chapter will discuss the forms of violence against children that were not addressed by previous chapters but are not rare in the society.

3.3.1. Exploitation

Exploitation of children is a serious form of violence against minors. Children should be protected from exploitation and especially from participating in activity that is detrimental to their health and mental, physical and social development.

Children are exploited in two ways: economic and social exploitation or both.

To avoid economic violence against children, the state should ensure their protection from any such activity. Measures that should be implemented in this regard include:

- establishing a legal working age;
- establishing strict requirements about working time and working conditions;
- ensuring effective implementation of these requirements by introducing applicable sanctions.¹⁶

It is equally important that children are protected from sexual exploitation, a form of violence different from sexual violence, which is why sexual violence is discussed separately in the following chapter.

As to sexual exploitation, a child should be protected from participation in any sexual activity. Special actions should be taken and corresponding

¹⁵ Since previous chapters provided detailed overview of forms of physical and psychological violence, they are not addressed by the present chapter

¹⁶ See footnote 7, p.12

measures should be tightened to avoid sexual exploitation of children, which includes the following basic forms:

- convincing or coercing a child to participate in an illegal sexual activity;
- using a child in prostitution or any other type of sexual practice;
- using a child in pornography and pornographic materials.

Economic and sexual exploitation of children is becoming pervasive mostly on account of economic crisis, poverty, increase of demand for sexual services of a minor and many other reasons. As stated earlier, children are used for prostitution, pornography, sex-tourism, labor exploitation, participation in antisocial activities and more. Children are involved in such activities using means like deception and making attractive promises. Sometimes they also use threats and coercion to persuade minors.

As to child pornography, any child can fall victim to such crime but children who live in the street or are engaged in prostitution are especially vulnerable in this regard. They face the highest risk of being engaged in production of pornography.

Technological advances have made it even easier to persuade minors to engage in such activities, especially considering that minors constitute majority of users of social networking sites, Internet and other means of communication.

All of these actions have an adverse effect on children's personal rights and freedoms, protection from discrimination, the right education, different elements of welfare and above all, children's health, their psychological or moral development.

It should also be underlined that child victims of exploitation may later exploit others, which is why it is important for the state to focus on protecting children from exploitation, create applicable legislative framework, tighten punishments and use all other measures to eliminate the crime.

3.3.2. Sexual violence

As stated in previous chapters in addition to families and schools sexual violence can also occur in the society. Therefore, it is important that children are protected from violence in every setting and in every aspect.

After The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “the Lanzarote Convention” came into force, State Parties became obligated to institute criminal proceedings regarding different forms of sexual violence against children. The process of improving the national legislation is ongoing.

In addition to harmonizing the legislation, it is also necessary to determine psychological types of sexual perpetrator. This will help prevent violence and identify instances of violence that often go unreported by children.

In sexual violence against children, there are two categories of offenders: situational and preferential.

Situational offenders have no genuine sexual interest in children, they offend when they are presented with such opportunity, when they find themselves in a situation where they can perpetrate such actions against a child and they take advantage.¹⁷

Preferential offenders have true sexual interest in children and they prefer children over adults.¹⁸

Even though preferential offenders are not as many as situational ones, in any case the damage that they can inflict on children is equally serious. This assumption is further reinforced by categorization of preferential offenders. There are three main categories of preferential offenders:

- Seducers, who use different means for engaging with children, including grooming them with presents, affection and attention. A seducer is most likely someone that the child knows and therefore, he or she does not resist. However, later such individuals can also use threats or blackmail to prevent the child from exposing them, but they may also not have to resort to such means because children often blame themselves for what happened and usually perpetrator tries to cause such feelings in the child;
- Introverts, who lack seductive skills and they usually do not engage or avoid verbal contact with children. They mostly choose children that they don’t know or small children;

¹⁷ See footnote 6, p.29

¹⁸ Ibid

- Sadistic offenders are less common but also the most dangerous because in addition to sexual violence they also take pleasure inflicting pain on children. Often crimes perpetrated by sadistic offenders also involve kidnapping and murder.¹⁹

Child victims of sexual violence often do not understand what happened, feel ashamed or are afraid to report the incident.

Children also tend to hide sexual violence perpetrated against them because they are convinced that no one will believe them or they will be punished.

Needs assessment of child victims of violence also requires understanding of the child sexual abuse accommodation syndrome (CSAAS), which helps specialists better understand the fear and reluctance of child victims to report the incident of sexual violence.

According to CSAAS, reaction of children to sexual abuse consists of the following elements:

- Secrecy;
- Helplessness;
- Accommodation;
- Delayed disclosure;
- Retraction.²⁰

Knowledge of the theory is extremely important for specialists since, as stated earlier, child victims of sexual abuse often choose to hide the fact or they disclose it later, in an unconvincing manner. Lack of qualified assistance will most likely have an opposite effect instead of helping the child.

All of the above-enumerated factors, including understanding of psychological types of perpetrators, should be taken into account in the process of identification of needs of child victims of sexual abuse and planning corresponding measures.

¹⁹ Ibid

²⁰ The theory has been developed by American psychiatrist Roland Summit, who introduced the foregoing elements as child sexual abuse accommodation syndrome (CSAAS) in 1983

3.4. Violence Against Children in Media

Violence against children in media is an innovative area for this research, introduced in view of relevance of reporting of children's issues by media, which requires taking into account and abiding by the standards of reporting about children.

In 2017, the Georgian Charter of Journalistic Ethics conducted media monitoring of reporting about children's issues in several areas:²¹ education, reporting of accidents and healthcare. The research found lack of in-depth reporting of children's issues by media.

Media coverage of incidents of violence against children is relevant for this research. Even though cases of disclosing the child victim's identity are fewer, the problem still persists. Cases where media reports on violence against children permit identification of the minor are not rare.

In addition, lack of professionalism in coverage of violence against children may further promote stigmatization and subject the child to secondary victimization as a result.

Media reporting of a child's suicide should also be criticized. Detailed coverage of suicide methods, place, motive and other personal issues, without analysis and proper conclusions will have an adverse effect, and media outlets should absolutely take this into account. A sensitive report that provides a detailed description of the suicide of a child, including suicide methods may encourage other children going through similar problems to do the same. A report on suicide should be prepared in a way that prevents suicide in children that has become frequent, instead of doing the opposite.²²

Problems of children with health issues or children living in poverty should be reported in the same manner, ensuring that reports do not stigmatize children or cause them emotional stress.

Overall, positive trends are evident in reporting of violence against children or other problems but the issue is still relevant. Editorial policy should be designed in a way that avoids secondary victimization of children.

²¹ Media monitoring of reporting on children's issues, the Georgian Charter of Journalistic Ethics, 2017, p.8

²² Ibid

4. CONCLUSION AND RECOMMENDATIONS

The present assessment of needs of child victims of violence addressed violence against children in families, schools, society and media. These are the settings where children are most susceptible to the risk of violence. It is safe to say that such classification of settings covers nearly all possibilities of violence against children.

Protection from violence is one of the most important rights of the child. Even though in some cases public may condone violence as a method of upbringing, such practice should absolutely be eliminated. The state should create effective and comprehensive mechanisms for protecting rights of the child.

Protection of children from violence should be based on implementation of a range of mechanisms, and in consideration of needs of child victims of violence, the strategy for identification of child victims of violence and implementation of rehabilitation measures should be viewed as a part of these mechanisms.

Involvement of law enforcement authorities, educational institutions and other professionals is necessary for identification of incidents of violence. Research and frequent cases of violence against children indicates that the system of protection of children from violence needs to be improved and perfected.

Measures for protection of children from violence, in view of and including the needs of children, should be carried out in the following areas:

Improving/perfecting remedies for protection of children from violence

To eliminate violence against children it is necessary to improve applicable legislation, both by promoting effective administration of juvenile justice and ensuring effective enjoyment of the right of the child to be protected from violence.

Protection of children from violence is regulated by a range of legislative acts in Georgia – for instance, Art.126¹ of the Criminal Code of Georgia criminalizes domestic violence, which also entails violence against children.

In addition, the Code of Juvenile Justice contains special provisions on

child victims of domestic violence. The Code of Administrative Offences (Art.172⁶) prescribes administrative punishments for violation of child protection referral procedures, however these punishments are not proportional to the violation and should be tightened.

As to the latest amendments to the Constitution of Georgia, in its recommendations the Venice Commission underlined the importance of introducing a separate provision on children's rights in the Constitution. However children's rights, including issues that are provided in constitutions of other countries, are inadequately reflected the Georgian Constitution.²³

This pathos is shared by the Parliamentary Assembly of the Council of Europe. According to the PACE position and opinion, expression of children's rights in the Constitution should be considered as expression of child welfare policy and a necessary measure. The Constitution of Georgia does not provide for fundamental rights of children, including protection from violence, labor exploitation, the state's obligation to protect children, ensure development of children and protect their true interests. It was also stated that children should be viewed as a subjects of their own rights, not as objects of charity.²⁴

Such provision in the Constitution would create a strong foundation for protecting children against violence, exploitation and other forms of abuse.

The law should also guarantee protection of children's rights and their involvement in decision-making process.

Different types of children's ombudsman exist in about 15 countries. Due to objectives and format of this research, it would have been impossible to provide a detailed overview of every children's ombudsman by country. Most countries view a children's ombudsman as a separate institution.²⁵

In addition, based on the practice of developed countries, Georgia should establish the institute of Ombudsman for Children whose primary obligations include creating/improving the legal framework for protection and support of children and overseeing its implementation. Functions of the

²³ See footnote 6, p. 33.

²⁴ Ibid.

²⁵ Austria, Croatia, Finland, Ireland, Italy, Lithuania, Norway, Poland, Sweden and more.

institute of Ombudsman for Children can also include implementation of educational activities, participation in legislative process, etc.

When discussing sexual violence against children earlier, it was stated that there is an increasing trend of children's involvement in pornography both internationally and nationally. In light of this, it is important to create adequate legal framework and ensure its implementation.

Legislation on children's rights should be reviewed on a regular basis and legal gaps should be eliminated, which would be another step forward for preventing all forms of violence against children and violation of their rights.

Development of mechanisms for preventing violence against children

Development of preventive mechanisms is equally important for elimination of violence.

In the process of establishment of preventive mechanisms, it is important to analyze underlying causes of violence – whether it is caused by social-economic situation of personal characteristics of perpetrator.

The increasing trend of development of preventive mechanisms is commendable. To establish preventive mechanisms and determine strategies, all causes of violence against children should be analyzed.

Many countries use the so-called universal strategy for prevention of violence against children and assistance of child victims of violence. The strategy is based on the experience accumulated overtime by these countries and it may include use of strategies of both direct and indirect impact.

The strategy of direct impact may include parental education about child rearing and care, as well as raising public awareness on violence against children.

The strategy of indirect impact may include early identification of instances of violence against children, timely interference and intervention.

When discussing such strategies, one should keep in mind that each strategy or measure may not bring about absolute results after one-time use. Mechanisms for prevention of violence against children should be considered, developed and implemented in a comprehensive manner.

It is especially important to consider both risk and protective factors of violence against children in the process of planning preventive strategies. Therefore, preventive measures and strategies should be developed in a way that reduces risk factors of child abuse and reinforces and increases protective factors.

Preventive mechanisms should be established in consideration of psychological problems of the perpetrator, which will promote effective implementation of such mechanisms.

Development of programs for protection and assistance of child victims based on their needs

Development of programs for protection and assistance of child victims is a necessary component for prevention and elimination of violence against children and protection of child victims of violence.

In this regard, deepening of inter-agency cooperation, exchange of information among specialists as well as state entities is important. Events necessary and beneficial for children should be planned in a joint and coordinated manner.

In this regard, of a special note is an important document on child protection referral procedures and the role of lead ministries in its implementation: the Ministry of Education and Science, the Ministry of Internal Affairs and the Ministry of Labor, Health and Social Affairs. These ministries are entrusted with an important role in planning and implementing measures based on the needs of child victims of violence.

In light of the foregoing, recommendations prepared based on the present assessment entail general recommendations as well as specific recommendations intended for these ministries.

RECOMMENDATIONS

1. ***For implementation of legislative changes concerning violence against children:***
 - introduce a separate provision in the Constitution of Georgia on protection of children’s rights;
 - improve mechanisms for protection of children from violence, periodic revision of all relevant legislative acts and their harmonization with international standards;
 - tighten criminal sanctions for violence against children;
 - improve and perfect all normative acts, institutions and instruments involved in the process of protection from violence (child pornography, reporting on children’s issues by media, sexual violence, etc.);
 - establish the Ombudsman for Children and preparing applicable legislative framework.

2. ***For development of programs for prevention of violence against children:***
 - raise public awareness on the child protection referral system and procedures and on rights and responsibilities of all participants of the referral system. Public should be informed about the role of following participants of the referral system:
 - the police
 - social workers
 - school and child protection services;
 - medical institutions;
 - other entities involved in the referral system.
 - raise public awareness about role of the society during incidents of violence against children, their responsibility and obligation to notify law enforcement bodies about any incident of violence against a child, whether the child requests it or not;

- such awareness raising activity should focus on helping public understand the following important issue - response of the law enforcement authorities on violence against a child does not necessarily entail taking the child from his/her family. Public should be informed about grounds for taking the child from his/her family, otherwise lack of information may hinder identification of an act of violence against a child due to such motive;
- in addition to raising public awareness on the referral system, role and responsibility of the society during incidents of violence against children, it is also important to promote the role of schools and child care facilities in identification of violence against children and planning of further actions;
- improve preventive mechanisms by planning parental awareness and education campaigns on effects of violence on children, help parents recognize first signs of violence against the child for purposes of identification, for determining and implementing further actions;
- raise parental and public awareness on unacceptability of violence against children as means of upbringing and on all possible manifestations of negative effects of violence against children should be viewed under the same category;
- focus the strategy of the mechanism for prevention of violence against children on systematic information campaigns for vulnerable groups where violence against the child is not viewed as a crime and moreover, it is reinforced by cultural and religious traditions (e.g. ethnic minorities, religious minorities, etc.).

3. ***For identification and prevention of violence against children by media:***

- media should report on incidents of violence against children in accordance by the norms of ethics established by the Journalistic Charter to avoid secondary victimization of the child;
- media should develop programs to promote mechanisms for prevention of violence against children and identification of incidents of violence, programs for protection and assistance, including by conducting campaigns provided in the section 2 of these recommendations;
- media should develop and implement policy designed to eliminate stereotypes.

4. ***For the Ministry of Education and Science:***

- review educational programs to reflect information on protection of children from violence and eliminate any stereotypes in school programs;
- design information brochures and implementing events to train teachers and help them develop skills for identification of incidents of violence against children;
- develop guidelines for identification of violence and taking of further actions, based on the referral system and procedures;
- improve the referral procedures and harmonizing it with the legislation;
- hold information meetings with parents about negative effects of violence against children, especially domestic violence as well as physical, psychological and other forms of violence;
- plan and implement information and educational activities for children to enable them to take adequate measures in cases of domestic violence, bullying and violence in the society and help them acquire adequate skills;
- train relevant personnel for identification of child victims of violence or children at the risk of violence;

- strengthen the role of mandaturis in prevention of violence in schools and for identification of child victims of violence and their involvement in the referral procedures;
- review higher education programs for social, legal and educational departments, in order to include training courses on violence against children in the educational programs as much as possible.

5. *For the Ministry of Internal Affairs:*

- continue working with the Police Academy, develop their skills and abilities for identification of child victims of violence and taking of further actions in response to incidents of violence against children;
- further strengthen the role of patrol officers and district inspector, continue trainings for development of their skills, inform them about legislative changes and new trends on a regular basis;
- train police officers on the referral system and the child protection referral procedure on regular basis;
- identify possible violence against the child in the process of issuing restraining orders by the police in cases of domestic violence, even when the minor has not reported any such incident.

6. *For the Ministry of Labor, Health and Social Affairs:*

- introduce and strengthen the institute of psychologist in the Social Service Agency, to promote adequate communication with child victims of violence;
- ensure timely and effective involvement of social workers in instances of violence against children;
- to this end, workers of the Social Service Agency should be trained;
- ensure participation of all health and child care institutions in the referral system;

- develop guidelines for identification of violence against children by health organization and medical institutions;
- conduct information campaign and training for all participants of child protection system, including private clinics and religious organizations, for identification of violence against children, putting the referral system into operation and taking relevant legal measures;
- ensure protection of health of child victims of violence and implementation of health programs, facilitate quick rehabilitation and healing of physical or psychological traumas.