

U.S. Department of State - 25 February 2004
U.S. Department of State Country Report on Human Rights
Practices 2003 – Georgia

Women

Societal violence against women was a problem. There are no laws that specifically criminalize spousal abuse or violence against women, although the Criminal Code classifies marital rape and sexual coercion as crimes. During the year, 795 crimes were registered against women, compared with 867 in 2002. Crimes included 18 murders, 24 attempted murders, 52 rapes, and 41 attempted rapes; the remainder consisted of battery, assault and lesser crimes. Spousal abuse was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos against raising the problem outside of the family. Domestic violence continued to rise as economic conditions became more difficult. Police did not always investigate reports of rape. A local NGO operated a shelter for abused women, and the Government operated a hotline for abused women but did not provide other services. There were anonymous telephone services that assisted rape victims, but no shelters, specialized services, or other mechanisms to protect or assist them.

The kidnapping of women for marriage continued to occur, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times these abductions occurred against the will of the intended bride and sometimes involved rape. Police rarely took actions in such cases even though such kidnappings are a crime according to the Criminal Code.

Prostitution is not a criminal offense, and trafficking in women for the purpose of prostitution was a problem (see Section 6.f.). In the past, police officers reportedly beat and raped prostitutes; there were no such confirmed reports this year.

Sexual harassment and violence against women in the workplace was a problem, particularly as economic conditions worsened, according to a U.N. Development Program (UNDP) report. Sexual harassment in the workplace rarely, if ever, was investigated.

The Constitution provides for the equality of men and women; however, discrimination against women was a problem. The Civil Code gives women and men equal inheritance rights. Divorce is legal and can be initiated by either a husband or wife. Younger women reported that the economic balance had shifted in their favor because many traditionally male jobs had disappeared due to the depressed economy. Women's access to the labor market had improved but remained primarily confined, particularly for older women, to low-paying and low-skilled positions, often without

regard to high professional and academic qualifications. As a result, many women sought employment abroad. Salaries for women continued to lag behind those of men. Reportedly men were given preference in promotions. Of the more than 150,000 registered unemployed persons throughout the country, 48 percent were women. Women sometimes, but not often, filled leadership positions. According to the UNDP, employers frequently withheld benefits connected to pregnancy and childbirth.

A number of NGOs promoted women's rights, including the women's group of the Georgian Young Lawyers' Association, the Women's Center, and Women for Democracy. Women's NGOs took an active role in the 1999 parliamentary election, the 2001 by-elections, and the 2002 local and municipal elections, engaging candidates in discussions about issues of concern. Posters urging women to vote were a prominent part of the publicity campaign.

THE INTERNATIONAL LESBIAN AND GAY ASSOCIATION, WORLD SURVEY - GEORGIA

*Laws covering sexual activity			
Status			
Same-sex male	Legal	Same-sex female	Legal
Description of discriminatory sexual offence laws and their application			
<p>A message in July 2000 to ILGA confirms that a new criminal code which removed all discriminatory provisions was passed by the Georgian parliament on 22 July 1999 and entered into force on 1 June 2000.</p> <p>An earlier message gave more details of the (then) proposed new law:</p> <p>"A new draft criminal code is currently being debated in the Parliament. It has passed its second reading and is awaiting the third (probably at the end of July). Some delay can be expected as the bill is controversial. However, there seems to be no controversy regarding the new provisions relating to homosexuality. The new bill decriminalises homosexuality and imposes an age of consent for both hetero and homo sex of 16." (Message to ILGA dated 1 July 1999)</p> <p>"As to the Criminal Code, the new version doesn't prohibit (although doesn't overtly permit either) sexual intercourse between consenting adult gays/lesbians, i.e. persons over 16." (Message to ILGA Europe dated 23/6/00)</p> <p>The previous legislation of Georgia followed the corresponding Section 121 from the Former Soviet Union, which only specifically criminalized "buggery" (anal intercourse between men). Lesbian and non-penetrative gay sex between consenting adults was not explicitly mentioned in the law as being a criminal offense. (PB)</p>			
Age of consent			
Same-sex male	16	Same-sex female	16
Heterosexual	16		

Rozhodnutí belgické Permanent Refugee Appeals Commission

Beslissing nr 98-352/W5662, 30 augustus 1999, Georgië – homoseksualiteit

Decision nr.... ,

« Overwegende dat appellants asielaanvraag in hoofdzaak berust op problemen die hij ondervond ten gevolge van zijn homoseksuele geaardheid; dat hij aanvoert dat hij in Georgië onder moeilijke omstandigheden leefde omdat homoseksualiteit er maatschappelijk niet aanvaard wordt; dat indien homoseksualiteit in de Sovjetperiode inderdaad strafbaar was op basis van artikel 121 van het Strafwetboek, uit algemene informatie evenwel blijkt dat reeds begin jaren negentig het gedeelte dat vrijwillige seksuele contacten tussen meerderjarige mannen strafbaar stelde, geschrapt werd; dat in zijn huidige vorm het artikel 121 homoseksuele gemeenschap enkel strafbaar stelt indien er sprake is van dwang of contacten met minderjarigen (zie onder meer Nederlands Ministerie van Buitenlandse Zaken, Situatie in Georgië, 27 juli 1998, DPC/AM 568734, 48); dat van vervolging door de Georgische overheden bijgevolg niet kan worden gesproken; dat noch uit de stukken van het administratief dossier, noch uit het verzoekschrift, noch uit het verhoor ter zitting blijkt dat appellant dusdanig gediscrimineerd werd dat hij hierdoor in zijn bestaansmogelijkheden of zijn maatschappelijk functioneren ernstig werd beperkt; dat het enkele feit dat homoseksualiteit in Georgië nog steeds niet maatschappelijk aanvaard wordt onvoldoende zwaarwegend is om te besluiten tot een gegrond beroep op het vluchtelingenschap »

The application for the asylum is above all based on the problems that he experienced as a result of his homosexual orientation. He states that he was placed under difficult circumstances because homosexuality is not accepted in Georgia. While homosexuality was indeed liable to punishment based on the article 121 of the penal code, from the general information it appears that already at the beginning of the nineties, the part that said that voluntary sexual contacts between adult men were punishable (?), was erased. The contemporary version of the article 121 states that homosexual contact is only punitive in the case of constraint (when sb's forced to do sth) or contact with an underaged person (see for example Dutch Ministry of Foreign Affairs, Situation in Georgia.....). Therefore it appears that there is no legal basis for persecutions from the part of the authorities, that neither in the excerpts from the administrative dossier nor from the application/request or the interrogation it appears that the (apelant) was discriminated and because of that his living conditions or functioning in the society was limited. The fact that homosexuality is still not socially accepted is not important enough to be qualified as a legal basis for refuge.

GEORGIA: REPUTATION FOR TOLERANCE SLIPPING AMIDST ATTACKS AGAINST RELIGIOUS MINORITIES

Robert Parsons: 7/30/03

A EurasiaNet Partner Post from [RFE/RL](#)

Nor is it just religious minorities that are under fire. Gvakharia says homosexuals and Armenians are also finding themselves being discriminated against.

Ramishvili at the Liberty Institute agrees: "It's absolutely impossible to speak about the rights of homosexuals because it's hidden. It's not reported. Nobody complains about violations, but you can detect this hate on every corner. I think it's hate toward people who are different. When these hate speakers want to stigmatize someone, they are portraying their opponents as homosexual, Armenian, Jehovah's Witnesses, Freemasons."

Georgia is one of the most open societies to have emerged from the rubble of the Soviet Union. It is also one of the few to invite the United Nations to monitor the observance of human rights. But it gives the impression of a society standing on the brink.

When Sandro Bregadze, a member of parliament from the Aghordzineba (Renaissance) Party, says on television that Hitler got it right when he drowned homosexuals, there is little or no protest. When Vakhtang Rcheulishvili, the leader of the Socialist Party, stigmatizes the leader of another party by calling him gay and Armenian, nobody bats an eye.

Little wonder then that Armenians, Azerbaijanis, and other minorities in Georgia are finding it increasingly difficult to identify with the state.



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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20 November 1995

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***Communication No 31/1995 : Netherlands. 20/11/95.
CAT/C/15/D/31/1995. (Jurisprudence)***

Convention Abbreviation: CAT
Committee Against Torture

Fifteenth session

ANNEX

Decisions of the Committee Against Torture under article 22 of the
Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment

- Fifteenth session -

Communication No. 31/1995

Submitted by: Mr. X and Mrs. Y (names deleted)

[represented by counsel]

Alleged victims: The authors

State party: The Netherlands

Date of communication: 19 September 1995

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 20 November 1995,

Adopts the following:

Decision on admissibility

1. The authors of the communication are Mr. X and Mrs. Y, Georgian citizens, currently residing in the Netherlands. They claim to be victims of a violation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Netherlands. They are represented by counsel.

Facts as submitted

2.1 The authors married in 1991 and a child was born in 1992. In January 1993, X began a homosexual relationship and became a member of an organization to promote rights for homosexuals and bisexuals. Y states that she was not aware of her husband's activities.

2.2 In July 1994, after X had spoken in a meeting of this organization, his house was ransacked by four armed militia men, wearing military uniforms. They mishandled X and threatened his wife and son. The authors reported the incident to the police, but state that the police refused to write in the report the real reason for the attack. The police opened an inquiry, but in the end the case was filed for lack of evidence.

2.3 The authors state that in September 1994, their child was kidnapped from his day nursery, allegedly by four men in military uniforms. In the evening X and Y received a telephone call, informing them that their son would be killed unless they left the country. Subsequently, the authors arranged for airplane tickets to Germany, their son was returned to them and they left the country. Two days after their arrival in Germany, the authors and their son entered the Netherlands and requested recognition as refugees.

2.4 On 3 November 1994, their request was rejected by the Secretary of Justice and they were ordered to leave the country. On 2 February 1995, the authors' appeal against the refusal to grant them a residence permit was declared inadmissible. On 18 July 1995, the court in The Hague rejected the authors' request for an order to stay their expulsion. Since no appeal possibility is said to exist against the court's decision, the authors claim that they have exhausted all available domestic remedies.

2.5 It appears from the enclosures that the authors were no longer in possession of their passports when they entered the Netherlands. The documents further show that the Netherlands authorities were of the opinion that the authors' story lacked credibility, *inter alia*, because X did not mention in the first hearing his activities in support for sexual liberty and his wife had no knowledge about his bisexuality; further, it was noted that the authors had never reported the abduction of their son to the local authorities, so that it cannot be said that the authorities failed to give them protection; nor did the authorities find any indication that the alleged intimidation of the authors' family was linked with X's activities. In this respect it

is noted that the assault in July 1994 was reported in the police report as a robbery and that there is no indication that the alleged abduction of the authors' son was related to X's activities or that State authorities were involved. Furthermore, the authors were able to leave Georgia with a valid passport, justifying the conclusion that the authors had not negatively attracted the attention of the Georgian authorities. In arriving at his decision the Netherlands Secretary of Justice also based himself on information from the Ministry of Foreign Affairs that there was no active prosecution policy in Georgia against homosexuals.

The complaint

3. The authors claim that they fear for their life if they are to return to Georgia. In this context, they state that X's boyfriend was found killed and that X's parents were assaulted by militia men at their home in October 1994, allegedly because they were looking for X, that his father was abducted and found injured on 15 February 1995 and died on 16 February 1995. They further refer to a report by the Internationale Gesellschaft für Menschenrechte in which it is stated that killings are a common measure of repression in Georgia.

Issues and proceedings before the Committee

4.1 Before considering any claims contained in a communication, the Committee must decide whether or not it is admissible under article 22 of the Convention.

4.2 The Committee notes that the facts as submitted by the authors relate to a claim of asylum but that no evidence has been adduced that the authors could be personally at risk of being subjected to torture if returned to Georgia. The Committee considers that no substantiation of a claim under article 3 of the Convention has been presented and that the communication is therefore inadmissible under article 22, paragraph 2, of the Convention.

5. The Committee against Torture decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the authors and, for information, to the State party.

[Done in English, French, Russian and Spanish, the English text being the original version.]