



**Human Rights Violations against
Lesbian, Bisexual, and Transgender Women in Georgia**

Shadow Report by Tbilisi Pride in relation to the 6th Periodic Report of Georgia

84th Session of the Committee on the Elimination of
Discrimination against Women (CEDAW)

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INTRODUCTION

1. The present report is prepared by Tbilisi Pride - a member-based, LGBT-led non-governmental organization aiming to achieve policy change and reshape public opinion through placing issues affecting LGBT+ community on political agenda and reclaiming the freedom of assembly and expression.

2. The report critically assesses Georgia's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter: Convention) in the context of lesbian, bisexual, and transgender women (hereinafter: LBT), as well as fulfilment of recommendations issued by CEDAW within the concluding observations on the combined 4th and 5th periodic reports of Georgia.

BACKGROUND INFORMATION

3. Having a “State Party” status, Georgia acceded to the Convention and its Optional Protocol in 1994 and 2002, respectively. During the first cycles of reporting and reviews, issues related to LBT women were not raised neither in list of issues, nor in concluding observations. However, in the concluding observations on the combined 4th and 5th periodic reports of Georgia, dated 24 July 2014, CEDAW called upon the State party to address physical violence and harassment faced by LBT women and restrictions on obtaining identity documents for transgender persons.¹ In its replies, Georgia left LBT women-related issues unaddressed.² Those issues were not mentioned in the follow-up letter sent to the State party by the Rapporteur on follow-up of CEDAW either.³

4. According to the 6th periodic report submitted by Georgia, Georgia's antidiscrimination legislation prohibits discrimination based on sexual orientation and gender identity (hereinafter: SOGI). In 2017, a special questionnaire was created, containing the instruction on conducting interview/interrogation of a probable victim, defendant, and witness of hate crime. During 2016–2017, homo/bi/transphobia motive was established in 73 criminal cases. During 2018–2019, sexual orientation and gender identity as hate motives were examined in 132 cases. Prosecutions were launched against 59 individuals. 76 individuals and 1 legal person were recognized as victims. In 2018, the Ministry of Internal Affairs established the Human Rights Protection Department with the core function to investigations into hate crimes.⁴

5. In the list of issues in relation to the 6th periodic report of Georgia, CEDAW inquired about: 1) the access of LBT women to healthcare services, education, and employment; 2) measures taken to combat discrimination against LBT women and intersex persons in all spheres of life; 3)

¹ Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW, 24 July 2014, paras. 34-35. Available at: <https://bit.ly/3PGywgF>

² Information provided by Georgia in follow-up to the concluding observations, 18 July 2016. Available at: <https://bit.ly/3vLvJRY>

³ Follow-up letter sent to the State party, 26 April 2017. Available at: <https://bit.ly/3PGmlR1>

⁴ 6th periodic report of Georgia, 23 November 2020, paras. 235-238. Available at: <https://bit.ly/3vomqjU>

measures taken to ensure the prompt investigation of cases of violence against and harassment of LBT women and intersex persons.⁵

PROGRESS MADE BY THE STATE PARTY

6. Tbilisi pride commends Georgia on several achievements made within its domestic legislation and policies to improve the protection of the rights of LGBT+ community, including LBT women. Adopted in 2014, the antidiscrimination law prohibited SOGI-based discrimination in public and private spheres. Additionally, Article 53¹ was introduced in the Criminal Code of Georgia according to which committing a crime based on SOGI is an aggravating circumstance for all the crimes determined under the Criminal Code. In 2018, Human Rights Protection Department was established within the Ministry of Internal Affairs the mandate of which is to monitor investigations on hate crimes. In 2019, the Public Defender of Georgia was granted the power to apply to a court if a legal entity or any other entity of private law failed to respond to or to consider its recommendation. In 2020, with the support of the Council of Europe, the Supreme Court, the Office of the General Prosecutor, the Ministry of Internal Affairs, and the National Statistics Office of Georgia signed a memorandum on cooperation to create a joint data system for hate crimes.⁶

7. Notwithstanding some positive achievements, due to poor implementation of existing legal safeguards, LBT women form one of the most vulnerable and marginalized groups in Georgia, being subject to pervasive discrimination, stigma, persecution, and hate crimes.

REMAINING PROBLEMS AND CHALLENGES

LEGAL GENDER RECOGNITION (Articles 1, 2, 3 and 15 of the Convention)

8. Georgia stays among the countries where there is no clear legal framework, legislative or administrative tools and mechanisms establishing adequate legal opportunities for transgender people wishing to change their gender marker in their identity documents. Even though Georgia recorded its first-ever legal recognition of gender for a transgender woman in 2021, legal recognition of gender in the country is linked to mandatory sex reassignment surgery. In practice, civil registrar bodies deny transgender people, including transgender women, changing their gender marker unless they bring a certificate that proves they have undergone such medical procedure. As noted by the Public Defender of Georgia, transgender people encounter substantial difficulties in social life due to the prerequisite requirement to undergo sex reassignment surgery to change their gender marker in their official identity documents.

⁵ List of issues and questions in relation to the sixth periodic report of Georgia, CEDAW, 16 July 2021, para. 20. Available at: <https://bit.ly/3OOW7uo>

⁶ See more at: <https://bit.ly/3vKSpLF>

9. Such practice is a clear violation of international human rights standards which has been affirmed by the UN High Commissioner for Human Rights and the UN Human Rights Committee.⁷ The Council of Europe High Commissioner for Human Rights recognizes the link between involuntary gender reassignment and a breach of prohibition of torture and ill treatment.⁸ The right to effective recognition of one's gender identity is linked to the right to equal recognition before the law.⁹

10. Apart from the legal flaws of mandatory sex reassignment surgery, most transgender people in Georgia are not able to undergo this medical procedure due to financial problems, health-related risks or simply because it is against their free will.

11. As a result, transgender people, including transgender women, in the country are virtually unable to obtain the identity documents that would go in line with their gender, making them even more vulnerable to unemployment, homelessness and receiving social services.

Recommendation(s):

12. To create transparent and clear legal framework for recognition of gender in line with international human rights standards, which will be detached from a medical sphere and will not foresee inappropriate and intrusive medical intervention as a precondition in the legal gender recognition process.

SOGI-BASED HATE CRIMES (Articles 1, 2, and 3 of the Convention; General Recommendation No. 35)

13. The incidence of SOGI-based hate crimes remains alarming, but only in very few cases this results in prosecution and/or conviction of the perpetrators. Secondary victimization often occurs as the police lack sensitivity towards hate crime victims, especially to those who are subject to hate crimes because of their SOGI status. Consequently, most hate crime incidents remain unreported as hate crime victims do not trust law enforcement authorities. Regretfully, while investigating and prosecuting incidents of hate, authorities tend to ignore bias as a motive for aggravation (Article 53¹ of the Criminal Code of Georgia).

14. In May 2022, 5 transgender women were attacked by a mob of up to 30 men at their home.¹⁰ The attack was allegedly organized. The Ministry of Internal Affairs launched investigation under Article 151 (2a) of the Criminal Code of Georgia (threat by a group of people). In April 2022, a

⁷ Concluding observations on the seventh periodic report of Ukraine, UN Human Rights Committee, 22 August 2013, para. 10. Available at: <https://bit.ly/3OWn2UX>

⁸ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, para. 38. Available at: <https://bit.ly/3gK33dA>

⁹ Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 12 July 2018, p. 7. Available at: <https://bit.ly/3zxWHqH>

¹⁰ <https://bit.ly/3PWxBsm>

neighbor attacked lesbian couple, verbally assaulted them, and threatened the couple with a knife. The perpetrator was detained by the police. He was released within 24 hours on bail. The Prosecutor's Office commenced prosecution under Articles 150, 151 and 284 of the Criminal Code of Georgia (coercion, threat, and unauthorized access to a computer system, respectively). The trial is still pending. In April 2021, a 38-year-old Thai transgender woman, who resided for work in Georgia, was brutally murdered at one of the Thai massage parlors in Tbilisi. Another transgender woman, Z.S. died in a hospital over a month after being attacked in Tbilisi in 2016. In 2014, S.B, a transgender woman was found dead in her apartment, having multiple wounds on her body. Her apartment room was set on fire. These individual cases which represent only a small fraction of SOGI-motivated hate crimes, indicate that LGBT+ people, especially transgender women, are most vulnerable to hate crimes in Georgia.

15. In its 6th periodic report, Georgia highlighted the establishment of the Human Rights Protection Department within MIA, having "*the core function to investigations into [hate] crimes.*"¹¹ Even though the establishment of the Department is a positive step forward, its mandate does not fully respond to the existing challenges as the Department is not authorized to carry out investigations. Rather, the function of the Department is limited to only reviewing and monitoring hate crime investigations. It is also noteworthy that the State party has established hate crime statistics system, however, as per the Public Defender's Office, the system does not analyze the reasons/grounds giving rise to hate crimes, nor it examines the factors why law enforcement authorities fail to identify such reasons/grounds.¹²

16. Additionally, it is of great concern that Georgian administrative legislation does not recognize hate-motivated administrative offences. Therefore, in case administrative offence is committed on account of bias, prejudice, and hatred, this will not aggravate respective administrative penalties or sanctions.

Recommendation(s):

17. Establish a specialized unit within the police that would carry out investigations on hate crimes. When setting up this unit, the State party should seek expert advice from the Public Defender's Office, relevant CSOs and international organisations.

18. Scale up training programs for law enforcement authorities and the judiciary on investigating and prosecuting hate crimes, encompassing homophobic and transphobic hate crimes. Monitor and report the effectiveness of such training programs and make improvements where necessary.

¹¹ 6th periodic report of Georgia, 23 November 2020, para. 238. Available at: <https://bit.ly/3vomqjU>

¹² Report: Positive obligations of law enforcement authorities to protect the equality of vulnerable groups, Public Defender's Office, 2021, p. 4.

ACCESS TO EDUCATION (Article 10 of the Convention)

19. Homophobic and transphobic attitudes, stigma, and violence in educational settings results in limited access to safe, equitable and good quality education for LBT women. The problem is especially critical at schools. For example, the research shows that for 32.2% of the respondents (N=292), SOGI-based discrimination by teachers and school administration created a barrier to general education, while 41.9% of the respondents reported homophobic bullying by classmates and peers at schools. 44.1% (N=136) reported that they had missed school days due to discrimination and bullying faced because of SOGI.¹³ More than half of respondents (N=89) have experienced violence at school because of their sexual orientation and/or gender identity (N=49).¹⁴ According to another study, lesbian and bisexual women with masculine expressions were oppressed at schools for their deviation from gender norms of appearance and femininity.¹⁵

20. Additionally, there is no comprehensive sex education in Georgia. Even though topics related to early marriage, pregnancy, and STIs have been sporadically introduced into some of the modules, attempts to incorporate topics related to sexuality, sexual orientation and gender identity have failed because of the persistent opposition from neo-conservative groups.¹⁶ A survey conducted by the Public Defender of Georgia in 2018 revealed that there are no specific policies or programs to promote tolerance towards LGBTI people in educational settings and there are no regulatory frameworks with regard to bullying on account of sexual orientation or gender identity.¹⁷

Recommendation(s):

21. Incorporate comprehensive, accurate, scientifically sound, and discrimination-free sex education into school curriculum, encompassing topics related to sexual orientation, gender identity and expression, and sex characteristics.

22. Train and sensitize teachers to increase their awareness of the issues effecting LGBTI students at schools.

¹³ Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020, p. 11. Available at: <https://bit.ly/3JkMpl1t>

¹⁴ Ibid. p. 96

¹⁵ A Research on Social and Economic Needs of LGBTQI Community in Georgia, Equality Movement, 2022, p. 16

¹⁶ Sexuality and reproductive health and rights: national assessment, Public Defender of Georgia, 2019, pp. 12-16. Available at: <https://bit.ly/3JxhPkc>

¹⁷ Survey of human rights in education and educational environment in general education field, Public Defender's Office, 2018. Available at: <https://bit.ly/3hb0odf>

ACCESS TO EMPLOYMENT (Article 11 of the Convention)

23. The Labor Code of Georgia prohibits discrimination in the workplace on account of SOGI. Antidiscrimination clauses also apply to pre-employment relations and hiring process. Workers who are subject to discrimination can file complaints to the Labor Inspection Office, the Public Defender's Office, and courts. Notwithstanding this, because of the fear of losing a job and the threat of forced coming-out, cases of SOGI-based discrimination in the workplace rarely reach equality bodies and courts. Consequently, LGBT+ people in Georgia conceal their sexual orientation and gender identity to have decent work. In this regard, transgender women are most vulnerable, having a very little chance of being employed, unless they live a double life. As a result, most transgender women are left with no option but to work in informal economy being subject to poor working conditions and inadequate remuneration.¹⁸

24. The pandemic has been particularly detrimental to transgender women in the context of employment. Because of the exclusion from formal labor market, sex work is a primary source of income for most transgender women in Georgia. Thus, due to the pandemic-induced long-term lockdown and curfew, transgender women were left with no income which put them at an imminent risk of homelessness.¹⁹ In response to the government ignorance towards transgender women amid COVID-19 outbreak, one of the transgender sex workers, M. K. set herself on fire in front of Tbilisi City Hall on April 30, 2020. Regretfully, Georgia failed to address the needs of LGBTI people, including LBT women, in its anti-crisis plan on handling the pandemic, leaving them beyond the scope of State support.

Recommendation(s):

25. Strengthen the enforcement of antidiscrimination clauses of the Labor Code by raising awareness for the private sector on discrimination in the workplace.

26. Train labor inspectors on how to address, investigate and respond to SOGI-based discrimination in the workplace.

ACCESS TO HEALTH (Article 12 of the Convention)

27. Access to healthcare is especially problematic for transgender people as there are no medical standards, protocols, and guidelines for trans-specific healthcare in Georgia. In 2020, the Public Defender of Georgia called upon the Ministry of Health to adopt such protocols and guidelines. In response, the Ministry started to form a multidisciplinary working group, however no progress has been made in this regard thus far. Due to non-existent protocols and guidelines, transgender people

¹⁸ Visit to Georgia: Report of the Independent Expert on protection against violence and discrimination based on SOGI, 2019, para. 73.

¹⁹“Employment and labor rights of LGBTQI community in the context of COVID-19 pandemic”, Equality Movement, 2021, pp. 26-31. Available at: <https://bit.ly/3H6SsUP> [accessed: 15.02.2022]

often resort to self-treatment without any professional supervision, putting their physical and mental health at serious risk.

28. Additionally, financial barriers hinder access to healthcare for transgender persons. Trans-specific healthcare services, such as doctor consultations, hormonal treatments, and other procedures, are covered under neither State, nor private insurance programs.

Recommendation(s):

29. With the engagement of health experts and competent LGBTI organizations, adopt protocols and guidelines for trans-specific healthcare, taking into account respective international standards.

CIVIL PARTNERSHIP (Article 16 of the Convention)

30. The Constitution and The Civil Code of Georgia recognizes marriage only between a man and a woman, excluding same-sex couples from getting married legally. LGBT+ people are not granted the right to form civil unions either. Therefore, LGBT+ couples (including LBT women) are denied the civil, social, and other entitlements that legally recognized relationships usually entail.

31. As per the UN Independent Expert on SOGI, non-recognition of any form of same-sex partnerships fuels negative sentiments and contribute to stigma, discrimination and stereotypes against LGBT+ people.²⁰ According to the European Commission for Democracy through Law (Venice Commission), Constitutional definition of marriage should “in no case be interpreted as prohibiting same-sex partnerships” and Georgia must provide legal recognition, such as civil unions or registered partnerships for same sex couples.²¹

Recommendation(s):

32. Ensure that same-sex relationships are legally recognized in a form of civil unions or registered partnership.

CONCLUDING NOTE

33. Even though Georgia has put antidiscrimination and hate crime legislation and policies into place, owing to homo/transphobia, ineffective enforcement of existing legislation, and political instrumentalization of LGBT+ people, they form one of the most vulnerable and marginalized groups in the Georgian society. Pervasive discrimination, stigma, homo/transphobia, and violence results in economic, social and political exclusion of LGBT+ community in the country. Tbilisi

²⁰ Visit to Georgia: Report of the Independent Expert on protection against violence and discrimination based on SOGI, 2019, para. 73.

²¹ Draft opinion 876/2017, CDL-PI(2017)006 of 22 September 2017, para. 38, and opinion 876/2017, CDL-AD(2017)013 of 19 June 2017, para. 63

Pride is hopeful that Georgia ensures full exercise of freedoms and rights enshrined in the Convention for all women in Georgia, including LBT women.

34. Present alternative report can be published on CEDAW's website.

Tbilisi Pride

<https://tbilisipride.ge/en-US>

Contact: Anri Abuladze, Research Lawyer

anri@tbilisipride.ge