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COMMONWEALTH OF INDEPENDENT STATES

Amnesty International working against laws
punishing sexual relations between men

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SUMMARY

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Consenting sex between adult men is still criminalized in most of the countries of the Commonwealth of Independent States (CIS)¹. In one of them, the Russian Federation, although consenting same-sex activity has been decriminalized in federal law since 1993, one territory within the Federation - the Chechen Republic-Ichkeriya - is reportedly implementing its own separate criminal code which punishes consenting same-sex acts between men by caning and even by death. In seven other CIS countries men who have consenting sex with other men in private can be imprisoned.

Amnesty International is lobbying for repeal of the relevant laws. Amnesty International considers that use of "sodomy" laws to imprison men for same-sex relations in private is a grave violation of human rights, including the rights to privacy, to freedom from discrimination, freedom of expression and association, protected in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), to which all the states featured in this report are bound by accession or by their status as successors of the USSR.

AI's position finds support in the decisions of several inter-governmental human rights mechanisms. In March 1994 the Human Rights Committee, created by the ICCPR to oversee states party's adherence to their obligations under the Covenant, found that provisions of the Tasmanian Criminal Code criminalizing consensual homosexual relations in private violated Articles 2 (1) and 17 of the ICCPR.

Article 2 (1) provides that each state party shall ensure to all individuals the "rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The Committee noted that, in its view, the prohibition of discrimination on grounds of "sex" referred to in Articles 2 and 26 of the ICCPR "is to be taken as including sexual orientation".

Article 17 provides that no-one shall be "arbitrarily subject to arbitrary or unlawful interference with his privacy". The Committee considered that consensual sexual activity in private was undisputably covered by the concept of privacy. It rejected both justifications advanced by the Tasmanian authorities for restricting this right with regard to homosexuals. Criminalization, the Committee found, was not "a reasonable means or proportionate measure

¹ The CIS is a loose grouping of 12 of the 15 former republics of the Soviet Union, all of which became sovereign independent states in 1991. The CIS countries are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russia Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

AZERBAIJAN

(94)

The legal framework

Azerbaijan is still using the old Soviet-era Criminal Code (in force since 1961), with amendments. Article 113 punishes "sodomy", defined as "sexual relations of a man with another man". Part one of the article punishes consenting sex by up to five years' imprisonment. Same sex relations between women are not criminalized.

Revision of the Criminal Code is said to be under discussion, but AI has no specific information about prospects for the repeal of Article 113 part 1.

Recommended Actions

In letters to officials in the Milli Majlis (parliament):

- Call on them to initiate moves to repeal Article 113 part 1 of the Criminal Code of the Azerbaijani Republic.

In letters to the Procurator General:

- Call on him to instruct procuracy officials at all levels not to pursue criminal prosecutions of people for consenting same-sex relations between adults in private.

In letters to all authorities:

- Urge that authorities ensure that all people are equal before the law and that the human rights of every individual in the Azerbaijani Republic are fully respected, regardless of their ethnic origin, religious or political beliefs, age, gender or sexual orientation.

Target addresses

- 1) Chairman of the Presidium of the Milli Mejlis of the Azerbaijani Republic
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