



*Partners for Justice*

# **Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in GEORGIA**

## **A Shadow Report**

### **ACKNOWLEDGEMENTS**

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**Global Rights**

**Inclusive Foundation**

## **Introduction**

The Pennsylvania State University's Dickinson School of Law Advanced Applied Human Research class is honored to have the opportunity to participate in the writing of this shadow report on the status of lesbian, gay, bisexual, and transgender (LGBT) persons in Georgia. Working in cooperation with Global Rights and their contacts in Georgia, we gathered the information in this report with the hope that it would contribute to increased advocacy for the greater protection and promotion of rights of LGBT persons in Georgia.

The Human Rights Committee regularly reviews submissions from every state party to the International Covenant on Civil and Political Rights (ICCPR). Georgia ratified the ICCPR on May 3, 1994<sup>1</sup> and will present their regular report to the Human Rights Committee in October 2007. Non-governmental organizations may submit "shadow reports."

We hope that the findings in this report will be useful to the Human Rights Committee, as well as serving as a catalyst for future advocacy efforts.

Stefano Fabeni  
Director  
Lesbian, Gay, Bisexual, Transgender and Intersex Initiative  
Global Rights  
StefanoF@globalrights.org

Geoffrey Fox (J.D. expected '08)  
gef125@psu.edu

Under Supervision of:

Professor Stephanie Farrior  
Professor  
Pennsylvania State University, The Dickinson School of Law

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<sup>1</sup> United Nations, *Ratifications of the International Covenant on Civil and Political Rights*, available at: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty6.asp>.

## Executive Summary

Georgia could make more of an effort to protect the rights of its lesbian, gay, bisexual, and transgender citizens. While Georgian domestic legislation has improved somewhat after Georgia joined the Council of Europe, further harmonization, as well as effective implementation, are needed. Since Georgia's last appearance before the Human Rights Committee, many LGBT individuals' rights have been violated, often with the acquiescence of the Georgian government.

Levan Ramishvili, the director of a Georgian human rights organization, experienced a physical attack on his organization and himself. Ramishvili stated:

It's absolutely impossible to speak about the right 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.<sup>2</sup>

Georgia is one of six OSCE countries that do not have any hate speech or crime legislation.

While Article 36 of the Georgian Constitution provides the right of gender-neutral marriage, the Civil Code defines marriage as a "union of woman and man based on free will."<sup>3</sup> This provision should exist between the gender-neutral voluntary union of two spouses.

Further, article 1246 of the Civil Code states that "two persons cannot adopt a child, unless they are a married couple."<sup>4</sup> Georgia's laws do not recognize any right or benefit to same-sex couples. Kaka Kukava, a member of parliament, stated that the constitution will be amended to provide a gender specific marriage right.<sup>5</sup> Thus, certain groups will not be able to claim equal marriage rights. LGBT couples will face inequality in everyday situations like hospital and prison visits, as well as in legal issues, such as claims to inheritance.

On a positive note, Georgia adopted a new labor code that lists sexual orientation among grounds of nondiscrimination. However, this provision does not apply any procedural mechanisms or definitions on how to effectively implement the law. This problem should

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<sup>2</sup> Robert Parsons, *Georgia: Reputation For Tolerance Slipping Amidst Attacks Against Religious Minorities*, Radio Free Europe report, (Jul. 29. 2003), reprint available at: <http://www.globalgayz.com/georgia-news.html>.

<sup>3</sup> Article 1106, Civil Code of Georgia.

<sup>4</sup> Article 1246, Civil Code of Georgia.

<sup>5</sup> *Imedi TV News*, (aired Aug. 16, 2007).

be remedied.

On its face, the law prohibits discrimination based on sexual orientation. However, no instruments for implementation exist. Moreover, the government does not always enforce the law's provisions effectively.<sup>6</sup>

Prison conditions for LGBT individuals are extremely precarious, affecting the basic rights of the detainees and those of their visitors.

Although Georgia is home to many different minorities, including the LGBT community, Georgia's "reputation for tolerance is slipping."<sup>7</sup> "[I]n the traditional and religious Orthodox Georgian society, homosexuality is a considerable social stigma and remains very much closeted."<sup>8</sup>

Evidence of marginalization comes recently in the cancellation of the Pride festival and the cancellation of the L.O.V.E. Shakespearean theatrical production by a British company in a state sponsored theatre. Additionally, public statements by lawmakers call into further question the Georgian government's commitment to ensure the fulfillment of their obligations in the ICCPR. This trend is troubling by itself, but especially troubling when taking into account abuse of LGBT rights in the region.

There have been multiple instances of discrimination towards LGBT individuals in Georgia over the past few years, some of which are documented below. It is our hope that the information contained in this report will aid the Human Rights Committee in its evaluation of Georgia's adherence to the principles set forth in the ICCPR, and eventually lead to greater progress—and full acceptance—of the civil and political rights of LGBT persons in Georgia.

As far as transgender and transsexual individuals are concerned, Georgian law does not provide a legal procedure for gender reassignment, failing to meet the requirements established by the European Convention on Human Rights, thus violating the right to private life, to marry and to non discrimination of the mentioned individuals.

## **Substantive Violations of the Covenant**

### Articles 2(1) and 26 (Non-Discrimination)

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<sup>6</sup> United States Department of State, *Country Reports on Human Rights Practices: Georgia*, (Mar. 6, 2006) available at: <http://www.state.gov/g/drl/rls/hrrpt/2006/78813.htm>.

<sup>7</sup> Parsons, *supra note 2*.

<sup>8</sup> Johanna Petersson, THE VILLAGER, *For some gay partners, Europe offers a safe haven* (Jun. 2005) available at: [http://www.thevillager.com/villager\\_111/forsomegaypartners.html](http://www.thevillager.com/villager_111/forsomegaypartners.html).

Article 2(1) of the ICCPR establishes that the citizens of each signatory country are guaranteed the rights within the covenant, “without distinction of any kind, such as race, colour, [or] sex.” Article 26 guarantees the right of all people to equality before the law and equal protection of the laws and legal systems of each signatory country. Discrimination in the law “on any ground such as race, colour, [or] sex” is prohibited. In *Toonen v. Australia*<sup>9</sup>, the Human Rights Committee, in establishing that criminalization of consensual same-sex sexual private behaviors violated article 2(1) and article 17 of the Covenant, held that the term ‘sex’ includes sexual orientation, meaning that persons of all sexual orientation are entitled to all of the rights guaranteed by the Convention and are to be free from discrimination and guaranteed the equal protection of the law.<sup>10</sup> In *Toonen* the members of the Committee stated, “[T]he reference to “sex” in articles 2, paragraph 1, and 26 is to be taken as including sexual orientation.”<sup>11</sup>

Moreover, Georgia has ratified the European Convention on Human Rights (ECHR) and its 12th Protocol.<sup>12</sup> The Convention and Protocol establish that public authorities shall not discriminate on any rights in the law based on sex, association with a national minority or other status. The European Court of Human Rights has interpreted the notion of sex to include sexual orientation.

Georgia has partly failed to harmonize this ruling with its internal laws and enforcement mechanisms.

The only organization working for LGBT rights in Georgia is the Inclusive Foundation and they document the following reports, which clearly violate ICCPR norms.

The Georgian constitution expressly prohibits discrimination on various grounds, including sex.<sup>13</sup> However, the Constitution does not mention sexual orientation. The Constitution also provides, “The legislation of Georgia shall correspond to universally recognized principles and rules of international law,” and that international treaties and agreements take precedence over domestic law if they do not contradict the Constitution.<sup>14</sup> Further, the Constitution of Georgia must not deny other universally recognized rights, freedoms and guarantees of individuals and citizens, which are not referred to but stem inherently from the principles of the Constitution.<sup>15</sup>

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<sup>9</sup> Communication no. 488/1992.

<sup>10</sup> *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

<sup>11</sup> *Id.* at 8.7.

<sup>12</sup> European Court of Human Rights website *available at* <http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/Dates+of+ratification+of+the+European+Convention+on+Human+Rights+and+Additional+Protocols/>

<sup>13</sup> Article 14, Constitution of Georgia.

<sup>14</sup> Article 6.2, Constitution of Georgia.

<sup>15</sup> Article 39, Constitution of Georgia.

While academics can argue the delicate balancing act of the Georgian constitution, in actual practice a different process persists. Courts as well as investigative bodies demand clarification as to the particular ground on which one was discriminated.<sup>16</sup> If lawyers cannot refer to a particular ground listed in Article 14 of the Constitution, conventions and treaties carry little weight domestically and practitioners fear to invoke them.

Georgian law bans discrimination on the basis of HIV/AIDS status.<sup>17</sup> However, no legal bureau in the Ombudsman's Office deals exclusively with the rights of those with HIV/AIDS, even though Georgian Health Law requires it.<sup>18</sup> Moreover, there is no penalty for violating this prohibition of discrimination. NGOs reported that societal stigma resulted in individuals avoiding testing or obtaining health care because they feared discrimination. According to reports, some health care providers, particularly dentists, refused to provide services to people who were HIV-positive. Individuals often concealed their HIV-positive status from employers for fear of losing their jobs. In addition, the ministry of internal affairs conducted mandatory HIV testing on all job applicants.<sup>19</sup>

The Law of Georgia on Donation of Blood and its Components of 1995 regulates blood donation. Georgian citizens serve as blood donors after they undergo medical checks, although the law does not provide a clear list of prohibitions for blood donations. However, the law establishes an obligation of the donor to report all diseases, use of drugs or psychotropic materials. Any violation of this obligation results in criminal punishment. Georgian law further specifies procedures for taking blood from donors as well as circumstances when blood donation is prohibited.<sup>20</sup> In the ministerial decree, Article V of the Order gives an extensive list of diseases and circumstances that forbid blood donation, including HIV/AIDS risk groups, such as those who are homosexuals, have a drug addiction, are engaged in prostitution, alcoholism, have tattoos or piercing.<sup>21</sup>

Georgia's new Labor Code prohibits discrimination based on sexual orientation. However, the Labor Code provides little procedural mechanisms for freedom from discrimination based on sexual orientation in employment in hiring situations.<sup>22</sup> Despite a formal prohibition of discrimination on grounds of sexual orientation, the government

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<sup>16</sup> E-mail with Georgian Young Lawyers Association Legal experts, Oct. 12, 2007 (on file with author).

<sup>17</sup> Article 6, Georgian Health Law on Health Protection.

<sup>18</sup> *Id.* at Art. 2.4.

<sup>19</sup> United States Department of State, *Country Reports on Human Rights Practices: Georgia*, (Mar. 6, 2006) available at: <http://www.state.gov/g/drl/rls/hrrpt/2006/78813.htm>.

<sup>20</sup> 17 Order of the Ministry of Health and Social Protection #241/N of December 5, 2000.

<sup>21</sup> Inclusive Foundation, *Overview of Georgian Legislation Related to LGBT Rights*.

<sup>22</sup> *Id.*

failed to effectively and substantially address the question of discrimination against LGBT individuals at the workplace.

Although same sex sexual conducts are not criminalized, articles 138, 139, and 140 of the Criminal Code of Georgia include homosexuality in prohibitions of rape and child molestation. This characterization imputes sexual criminal activity to homosexuality, strengthening social stigma against LGBT individuals and communities. Further, the regulations are not gender neutral.

Evidence of LGBT discrimination or discriminatory intent is based not only in the laws. It stems from the lawmakers. The Head of the Parliamentary Human Rights Committee, Elene Tevdoradze, stated in an interview:

[O]ur problems today, are unemployment, drug dependency, following the criminal tradition and changing orientation. . . . I mean sexual orientation, certainly. To my opinion, it is big misery when so many young people change their sexual orientation. If we do not take proper care of this, we might be facing a terrible catastrophe tomorrow. . . . But we all know perfectly well that many change orientation to copy others. This awfulness is regarded fashionable for some reason. We shall not enable our youth to think about things like this. Mass change of sexual orientation could be more harmful than following criminal tradition.<sup>23</sup>

In addition to the former statement, a public broadcaster denied to show a documentary on LGBT rights violation and the Ombudsman did not include the Inclusive Foundation's LGBT report on human rights in his six month report for the second half of 2006 to the parliament of Georgia.<sup>24</sup>

#### Article 9 (Right to Liberty and Security of Person, Freedom from Arbitrary Detention) and Article 20 (Incitement to discrimination, hostility, violence)

Article 9 of the ICCPR protects the right of individuals to be secure in their persons and to be free from arbitrary detention. The Article also protects rights of detainees see a judge, to know the charges against them and to protest an unlawful detention.

According to the Inclusive Foundation, during murder investigations police interrogate LGBT persons more harshly than they would heterosexual persons. "They visit homes and jobs of these persons by posing questions to their family and colleagues that can make the person's [sexual] orientation explicitly clear."<sup>25</sup>

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<sup>23</sup> Inclusive Foundation, *Representation of Homosexuality/homosexuals in Georgian media*, (Jan. 2006), quoting news report, *Akhali Taoba (new generation)* # 307, (on file with author).

<sup>24</sup> E-mail from the Inclusive Foundation to Global Rights (Aug. 29, 2007) (on file with author).

<sup>25</sup> E-mail from Inclusive Foundation *supra* note 16.

In 2005 Mr. Gargi Doxnadze, a Georgian citizen, publicly announced he was gay on television. He was thrown out of his parents' house and then out of his aunt's house and was assaulted on the streets several times. On August 29, 2005, Mr. Doxnadze was severely beaten and robbed on the street. While beating him, the perpetrators shouted hate words such as, "pederast," "sodomite," "sick," and "dirty."<sup>26</sup>

After being transferred to a hospital, prosecutors in the Isani-Samgori district instituted a case for robbery in violation of Article 178 of Georgia's Penal Code.

Mr. Doxnadze was questioned repeatedly, even though he was a victim. After a short time, the Prosecutor's Office suspended the case due to the lack of identification of the perpetrators. A television show, "Imedi," dedicated a program to Mr. Doxnadze's beating. Instead of causing public compassion, the show strengthened public disgust.<sup>27</sup>

Despite this and other episodes of violence, according to the Inclusive Foundation, "Hate crimes cannot be documented as they are not defined in Georgian legislation. So the crimes committed with hate motivation are documented as regular physical assault or robbery [or] murder."<sup>28</sup>

#### Article 10 (Humane Treatment of Detainees)

Article 10 of the ICCPR states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment clearly addresses this issue, indicating how abuses come both by other inmates and by prison personnel

Georgia's proposed penitentiary code seeks to differentiate long-term and short-term visits for prisoners.<sup>29</sup> In the former code, those granted long visits included spouses, parents, grandparents, children, grandchildren, adopted children, sisters, brothers, and those persons with whom the prisoner lived with and took care of household activities for the previous two years.<sup>30</sup>

Not included in that exhaustive list were same sex partners.

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<sup>26</sup> E-mail from the Georgian Young Lawyers Association Legal Experts (Oct. 12, 2007) (on file with author).

<sup>27</sup> *Id.*

<sup>28</sup> E-mail from the Inclusive Foundation to Global Rights (Oct. 11, 2007) (on file with author).

<sup>29</sup> *Id.*

<sup>30</sup> Article 48(3), Law of Georgia on Imprisonment.

According to an anonymous report, the Georgian prison system has special barracks for homosexual prisoners, like in the Soviet system.<sup>31</sup> These barracks are called the “hen’s barracks.”<sup>32</sup> In these barracks, homosexual persons are often raped, deprived of their choice of sexual partners, and forced into the dirtiest work, such as cleaning toilets. Prisons refuse doctors access to these barracks.<sup>33</sup>

The head official of Prison 6, with the capacity for 900 prisoners, reported that the prison had only 860 prisoners.<sup>34</sup> When asked why the prison had forty vacant places while other prisons were overcrowded, the head of the prison stated that he did not count the forty homosexual prisoners in the “hen’s barracks.”<sup>35</sup>

Due to low levels of awareness of prison personnel, the dignity of deprived people and their visitors may be injured.

### Article 17 (Freedom from arbitrary interference with privacy, family and home) and Article 23 (Family Life)

Article 17 ICCPR states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.”

Article 23 of the ICCPR designates the family as the “fundamental unit of society” and grants it special protection by the State. The UN Human Rights Committee held in *Young v. Australia*<sup>36</sup> that if a state grants benefits, such as pensions or health insurance, to unmarried opposite sex couples, then it must also grant those same rights to unmarried same-sex couples.

In Georgia, there exists no official regulations for gender reassignment. There are only two documents that provide for change of the name and ID – the Georgian National ID and the certificate of residence.<sup>37</sup> The law provides for a name change on five enumerated grounds,<sup>38</sup> none of which include transgender people. No law exists to

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<sup>31</sup> Anonymous Report, E-mail from the Inclusive Foundation to Global Rights (Oct. 11, 2007) (e-mail on file with author, report on file with the Inclusive Foundation).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Interview*, SOLIDARITY, (publ. Public defender of Georgia, Mar. 2007).

<sup>35</sup> *Id.*

<sup>36</sup> Communication No. 941/2000.

<sup>37</sup> Article 11, Law of Georgia on the Rules and Registration of Georgian Citizens and Foreign Residents on the Territory of Georgia, Issuance of Identification Documentation and National Passport (Jun. 27, 1996) #323.

<sup>38</sup> Article 74, Law of Georgia on Registration of Civil Acts, (Oct. 15, 1998) #1644.

regulate change if gender reassignment is needed.

According to reports, one transgender person appealed to get new documents after he underwent phalloplasty.<sup>39</sup> The court concluded that although it is against natural law and morals, the court could allow the protection of transgender people. The Inclusive Foundation conducted interviews with key stakeholders, who agreed that once people undergo observation and are concluded to be "truly and irreversibly transsexual," they can apply for new documents. However, gender reassignment surgery is expensive and most transgender people cannot afford it. The national healthcare system does not cover genital surgery.

In its case law, the European Court of Human Rights (ECtHR) has established that the failure to recognize the legal status of post-operative transsexual individuals constitute, inter alia, a violation of the right to private life under article 8 of the European Convention on Human Rights and Fundamental Freedom (ECHR). Similarly, transsexual and transgender persons are entitled to protection from arbitrary interference with privacy with reference to Articles 17 of the ICCPR.

In particular, in *Goodwin v. UK* (2002), the ECtHR held that the U.K. government failed to protect Article 8 (right to privacy) and Article 12 (right to marry) of the Convention by denying a post-operative transsexual's right to be recognized in her new gender which, as a consequence, would affect the right to formally obtain the status as a woman with her own separate and distinct identity for National Insurance purposes, as well as her fundamental right to marry a person of the opposite sex enshrined under both Article 12 ECHR and Article 23 ICCPR. Furthermore, according to the judges, "the lack of legal recognition of the change of gender of a post-operative transsexual lies at the heart of the applicant's complaints under Article 14 of the Convention."<sup>40</sup> The Court also emphasized the importance of the provisions of Article 8 and their relevance to the case by arguing that "gender identity is one of the most intimate areas of a person's private life"<sup>41</sup>.

In *Van Kück v. Germany* (2003), the Court held that the German government was in breach of Article 6 (right to a fair trial), Article 8 (right to private life) and Article 14 (principle of non discrimination) for failing to provide a means of redress for the transition phase of a post-operative transsexual, which included hormone therapy and surgery, the latter of which an insurance company refused to pay. Also, in its decision "[t]he Court reiterates that where domestic courts base their decisions on general assumptions which introduce a difference of treatment on the ground of sex, a problem

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<sup>39</sup> E-mail from the Inclusive Foundation to Global Rights (Aug. 29, 2007) (on file with author).

<sup>40</sup> *Goodwin v United Kingdom*, 588 Eur. Ct. H.R. available at <http://www.worldlii.org/eu/cases/ECHR/2002/588.html>.

<sup>41</sup> *Van Kuck v. Germany*, 37 Eur. Ct. H.R. Rep. at 73 (2003) available at <http://www.worldlii.org/eu/cases/ECHR/2003/285.html>.

may arise under Article 14 of the Convention.”<sup>42</sup>

The government of Georgia clearly failed to adhere to these standards as far as the provision of healthcare services and legal protection for transgender individuals during gender reassignment is concerned.

## Article 19 (Freedom of Expression)

Article 19 of the ICCPR guarantees the right to freedom of expression. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression several times intervened on the issue of censorship against LGBT communities.

In 2003, a British theatre company, Volcano, was forced to cancel its play of Shakespearean sonnets after threats that the play was based on potential gay and lesbian underpinnings.<sup>43</sup> After the first show, the Patriarch appealed and the Marjanishvili theatre cancelled the play.<sup>44</sup>

Likewise, on July 24, 2007, organizers were forced to cancel the Pride Parade, a council of Europe Campaign, titled, “All different, All equal.”<sup>45</sup> This festival promoted “tolerance and cultural dialogue” and did not focus on LGBT rights.<sup>46</sup> After false rumors spread that the parade promoted LGBT rights, three Orthodox Church staged protests, television broadcasts condemned the parade, and the Patriarch’s office issued a condemnation statement on July 23, 2007.<sup>47</sup> The sponsoring organization cancelled the parade the next day. They feared attacks due to broadcasts by Georgian television and the Orthodox Church.<sup>48</sup>

The BBC report states, “Although homosexuality is legal, it is widely regarded as immoral. Gay rights activists in Georgia say homosexuals are often targets for abuse and physical violence.”<sup>49</sup> The Georgian LGBT community commonly echoes this statement

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<sup>42</sup> *Id.* at 90

<sup>43</sup> Parsons *supra* note 2.

<sup>44</sup> E-mail from the Inclusive Foundation to Global Rights (Oct. 11, 2007) (on file with author).

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Matthew Collin, ‘Gay’ rally in Georgia cancelled, BBC NEWS, July 24, 2007, available at <http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/6914355.stm>.

<sup>49</sup> *Id.*

and refers to the incident as the "The Pride Scandal."<sup>50</sup>

According to local reports, public officials never criticized this occurrence, but responded instead with condemnation and hate speech in more than thirty newspaper articles.<sup>51</sup>

## Article 22 (Freedom of Association)

Article 22 of the ICCPR guarantees the right of association. The only restrictions placed on this right are those that are necessary for national security and public order or safety as is needed for a functioning democracy. This article mirrors Article 11 in the European Convention on Human Rights.

The cancellation of the L.O.V.E. production clearly violates the right of association. Even though the Pride Parade did not deal with LGBT rights, homophobia was the reason for its cancellation and for the restrictions on the right of freedom of expression and association.

The European Court of Human Rights held that the city of Warsaw in Poland violated Article 11, 13 and 14 of the Convention for Protection on Human Rights and Fundamental Freedoms by canceling a parade that promoted tolerance, diversity and pluralism among Poland's minorities.<sup>52</sup>

The Court stated:

A genuine and effective respect for freedom of association and assembly cannot be reduced to a mere duty on the part of the State not to interfere; a purely negative conception would not be compatible with the purpose of Article 11 nor with that of the Convention in general. There may thus be positive obligations to secure the effective enjoyment of these freedoms. . . . This obligation is of particular importance for persons holding unpopular views or belonging to minorities, because they are more vulnerable to victimisation.<sup>53</sup>

Considering this reasoning, the Georgian government had a positive obligation to ensure that the L.O.V.E. production was held, especially because the venue was a state sponsored theatre. The L.O.V.E. production should not have been cancelled, but maybe required more police protection.

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<sup>50</sup> E-mail from the Inclusive Foundation to Global Rights (Aug. 29, 2007) (on file with author).

<sup>51</sup> E-mail from the Inclusive Foundation to Global Rights (Oct. 11, 2007) (on file with author).

<sup>52</sup> *Baczowski v. Poland*, 23 Application no. 1543/06 (Strasbourg, 2007).

<sup>53</sup> *Id.* at para. 64.

## **Concluding Observations**

- Prison conditions and “hen barracks” for homosexuals constitute serious violations of ICCPR Article 10.
- The cancellation of the Pride Parade and the L.O.V.E. production violate the rights to freedom of expression and association. The Georgian government needs to promote LGBT rights along with those of other social groups.
- Georgia has made progress in its adoption of the new Labor Code, which includes sexual orientation in the grounds for discrimination. Effective measures to concretely prevent discrimination are needed.
- Georgian law expressly discriminates against LGBT persons in its laws concerning rape, child molestation, prison visitation.
- Georgian law fails to regulate gender reassignment procedure according to the minimum requirements of the European Court of Human Rights, thus violating the rights to private life, non discrimination and marry of transgender individuals.
- Georgian law expressly discriminates with reference to blood donation.
- Most police investigations regarding the LGBT community are inadequate, if not discriminatory.
- Georgian culture remains deeply repressive of LGBT persons, which public officials’ statements against the LGBT community reflect. Georgia’s population will likely be resistant to radical changes in the status of LGBT persons and the LGBT community. The Orthodox Church is a powerful and influential force in Georgian culture and will contribute to the resistance to increased protection for LGBT rights.
- For a more detailed discussion on the Georgian LGBT culture, please see the Inclusive Foundation’s reports, available at: <http://inclusive-foundation.org/home/?page=publications&lang=en>.

## **Proposed Questions for the Government Delegation**

- How will the government address the conditions of homosexuals in prison? What has the government done to end serious violations in prison “hen barracks?” Is there formal training for prison officials in regards to their treatment of LGBT prisoners?

- In the light of what happened in the cases of the L.O.V.E production and the July 2007 festival, what will the government do to ensure the protection of the rights to freedom of expression and association of every citizen, including LGBT persons?
- What is the government's position on hate speech and hate crime legislation to protect LGBT rights and its plans to harmonize domestic legislation with international norms and to make sure that the right to physical integrity is guaranteed?
- What procedural safeguards does the government plan to implement in terms of reporting discrimination based on sexual orientation and HIV/AIDS?
- Besides the new labor code, what other specific measures is the government considering implementing fight to discrimination against LGBT individuals in Georgia?
- How does the government intend to address the problem of inadequate investigations by police into the murders and other crimes of LGBT persons?