



# **Human Rights Violations Based on Sexual Orientation and Gender Identity in Georgia**

An "alternative report"  
as a commentary on the  
Fifth Periodic Report CCPR/C/GEO/5  
by Georgia  
and  
Concluding Observations CCPR/C/GEO/CO/4

130<sup>th</sup> Session  
Human Rights Committee  
Review of the third periodic report by Georgia

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## **Human Rights Violations Based on Sexual Orientation and Gender Identity in Georgia.**

An "alternative report" as a commentary on the Fifth Periodic Report CCPR/C/GEO/5 by Georgia and Concluding Observations CCPR/C/GEO/CO/4. 130<sup>th</sup> Session Human Rights Committee Review of the fifth periodic report by Georgia.

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## Introduction

1. Georgia acceded to the International Covenant on Civil and Political Rights (hereinafter referred to as Covenant) in 1994 and has a "State Party" status within the framework of the Covenant. Georgia submitted its fifth periodic report on 14 February 2020. The Report contains the State Party's replies to the previous concluding observations and other updates on the state of human rights on its territory.
2. The current Alternative Report — a commentary on Report CCPR/C/GEO/5 and Concluding Observations CCPR/C/GEO/CO/4 — is submitted as per the invitation of the Human Rights Committee (hereinafter, Committee/HRCtee) that welcomes "alternative reports" from regional NGOs regarding the observation of the Covenant by a State Party, in this case, by Georgia.
3. In its Concluding Observations CCPR/C/GEO/CO/4 (later referred to as CO), the Committee voiced its concern with the state of violation of human rights of the LGBT in Georgia. The CO emphasized that freedom of expression and freedom of assembly, as well as any other human rights cannot be violated based on the individual's sexual orientation and/or gender identity. HRCtee indicated that the State Party "should provide effective protection to lesbian, gay, bisexual and transgender persons and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity." The CO also underlined that Georgia "should take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of [LGBT] persons and defenders of their rights." Such comments and urges were made based on the reports from the Georgian civil society, which indicated that despite the positive changes made in material law regarding the issue, violations based on hate for the LGBT were still committed widely and the investigation of such specific crimes fell very far from the internationally regarded standard of justice.
4. Prior to commencing the reports on the actuality of the disadvantage in terms of human rights that the LGBT meet in Georgia, ECOM - Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (hereinafter, ECOM) and NGO "Equality Movement" would like to express their comprehension of the lengths the State Party has to go to in order to actualize and enhance the state of human rights on its territory based on HRCtee's CO not only *de jure* but *de facto* as well. ECOM and "Equality Movement" are aware of the detrimental short-term and long-term effects that the COVID-19 pandemic exercises upon the State Party. We would like to commend and acknowledge the incredibly effective strategies that the government of Georgia adopted in order to contain the pandemic and protect its people. As a result, Georgia is only among 15 non-EU countries that were considered by the EU as such that were capable of stopping the escalation of the disease and to the citizens of which it opened its borders again. Notably, as of 6 August 2020, out of 3.7M population of Georgia, less than 1,200 people were diagnosed with COVID-19 and only 17 people were proclaimed dead as a result of the virus' adverse effects.<sup>1</sup> This proves that the State Party knows how to set priorities and adopt the right decisions when they are needed. Thus, hopefully, it will consider the facts, analyses, and cases in this Report to further enhance its human rights policies, too. ECOM is a regional NGO that is adept in working with gay men, other MSM, and trans people specifically in the area of ensuring their right to health, which makes it competent in revealing drawbacks in state healthcare services and offering professional recommendations to amend them, which public servants may lack due to not having the necessary training. NGO "Equality Movement" is a non-profit non-governmental organization that aims at creating equal rights and opportunities for lesbian, gay, bisexual, transgender, queer and intersex persons and women in Georgia; fostering their integration into society by the means of empowering LGBT community and women, carrying out awareness activities on LGBT and women rights issues, and advocating their interests. Thus Equality Movement provides medical, social and legal services to

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<sup>1</sup> "Why Did Georgia Succeed," <https://www.bbc.com/russian/features-53319658>

empower and mobilize LGBT community and women, as well as public awareness rising and policy advocacy interventions. Together, we forward the following commentary and reports on the right to health in Georgia, as well as other fundamental rights and freedoms that are intertwined with it and inalienable, in the hope to participate in tackling the ongoing stigmatization and discrimination of the LGBT that happens routinely still, despite the newly adopted legislative protections. Further work must be done to establish effective administration and enforcement of the mentioned guarantees.

5. As NGOs that work to ensure the equality and non-discrimination of LGBT and the full realisation of their right to health, ECOM and "Equality Movement" commend Georgia on several monumental achievements it made within its legislation. First of all, the adoption of the Law "On the Elimination of All Forms of Discrimination" (Anti-Discrimination Act) in 2014 with consequential amendments was a huge step towards laying the right foundation for ensuring the equality of all people regardless of their social, economic, political, religious, or biological attributes. Article 1 of the Equality Act, among other grounds, prohibits discrimination based on sexual orientation, gender identity and expression. Out of all the CEECA countries, only Georgia and North Macedonia are the only ones that adopted such major laws<sup>2</sup> and further work to make their non-discrimination framework more effective and inclusive. Sexual orientation, gender identity and gender expression (SOGIGE) were included as protected grounds that serve as aggravating circumstances in case they are the motive for committing a crime (Article 53<sup>1</sup> of the Georgian Criminal Code).<sup>3</sup> SOGIGE are also included as protected attributes in the crime that protects human rights equality (Article 142). The Report (para 38) indicates that the Georgian government established a separate Human Rights Protection and Investigation Quality Monitoring Department within the Ministry of Internal Affairs (MIA) that is tasked with working to increase the effectiveness of the implementation of the mentioned legal novelties, as well as monitors investigation of hate crimes. The State Party argues that hate crime statistics are being extensively collected, that 12 individuals were prosecuted for committing crimes based on gender identity discrimination and 15 based on sexual orientation discrimination in 2018 (Report para 39). Para 42 of the Report states that all those who violated peaceful events (against homophobia and transphobia) on May 17 in 2017 and 2019 were detained. Para 43-51 of the Report depict separate activities held by the State Party to raise the awareness and training of the law-enforcement when it comes to preventing and investigating hate crimes based on SOGIGE. However, despite these achievements, the actual picture is less colorful: the civil society and community members report further discrimination by the police and medical workers; assaults from the general public are being made; and the freedom of peaceful assembly and expression are not as protected by the government and realised by the LGBT as the Report portrays.

6. Article 40 section 1 of the Covenant states that "[t]he State Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights." Article 40 section 2 of the Covenant stipulates that "reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant." Having studied the Report, ECOM and "Equality Movement" consider that, within the scope of the right to equality before the law (article 26 of the Covenant), right to privacy (article 17 of the Covenant), right of peaceful assembly (Article 21 of the Covenant), and the a priori inclusive and universal right to health, Georgia's Report does not provide the HRCtee with the ability to fully grasp the picture of the situation with human rights of the Georgian LGBT. The given Alternative Report is meant to serve as additional information regarding the wider non-discrimination of the LGBT people in Georgia, and as an instrument to further advance and speed up positive changes that will amend the current ineffectiveness of the administration and enforcement of the non-discrimination clauses that impale the reduction of stigma and discrimination based on SOGIGE.

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<sup>2</sup> Comparative Legislative Analysis 2017-2019 Related to LGBTQ Rights, ECOM.

<sup>3</sup> The Criminal Code of Georgia, <https://matsne.gov.ge/ru/document/view/16426?publication=212>

## Article 26 — Right to Equality Before the Law

7. The Report (para 42) argues that “the 2018 statistics demonstrate the rise in the awareness of hate crime among investigators and the improvement of the identification technique of the motive during investigation.” The Report further presents figures on the number of prosecutors being re-educated based on domestic and partnership programmes in terms of raising the levels of awareness and education of the law-enforcement when it came to non-discrimination and hate crimes. Notably, Georgia claims that “during the period of 2015 and 2018, 57 educational activities were conducted on the subject of combatting all forms of discrimination and effective investigation of hate crimes; 1,101 employees of the Prosecutor’s office were retrained” (Report para 51). Had the context and scope of the mentioned activities been broad and effective, it would have meant a visible increased difference in hate crimes statistics. Georgia indicates that “the identification of discrimination as a crime motive in criminal cases has increased in 2018” (Report para 38). If that had been indeed true, then the numbers would have been significantly higher. With this in mind, according to the recent study of 2018, among LGBT respondents, 88.3% (N=226) confessed to be victims of hate crimes since 2015. Psychological and emotional violence was experienced by 85.5% of the respondents, 61.7% experienced sexual violence and harassment, while 29.7% of respondents were victims of physical violence. “Equality Movement” also states that LGBT are frequently subjected to domestic violence, yet the state never investigates these crimes as hate crimes based on SOGIGE. Despite such high figures, only 16.8% of hate crime victims reported their incidents to the police.<sup>4</sup> Victims share their insecurity and fear when it comes to dealing with the law-enforcement. They do not report their cases to the authorities because they fear forced outing and re-victimisation. This factor contributes to the disparity between the MIA and NGO SOGIGE-based crime statistics. Therefore, the hate crime statistics, especially when it comes to crimes committed on grounds of SOGIGE, which are revealed in the Report, do not represent the actuality of the situation with the actual hate crimes committed, number of victims, and commenced proceedings. The absence of a unified statistical methodology on hate crimes, with clear segregation by each protected attribute independently, concludes an essential barrier to combating hate crimes and planning Georgia’s preventive policies.

8. While ECOM and “Equality Movement” do not discourage Georgia’s steps towards establishing specialised government units that are to deal with hate crimes specifically, it should be pointed out that effort accounts for when it is thought-out and planned. At present, there is no unified strategy that Georgia would follow to establish a national, delegated, and decentralized system of specialised divisions that would not only effectively react to SOGIGE-based crimes but would also invest in preventive activities. The MIA Human Rights Protection and Investigation Quality Monitoring Department, Prosecutor’s Office, and Ombudsperson have their individual statistics on hate crimes, neither of which, unfortunately, represents the realistic picture. In addition, said Human Rights Protection Department is a centralised, coordinating body, giving rise to concerns that it may not be sufficient to address problems at the local level nor, for example, be competent enough to deal with detailed issues arising in the investigative process, also lacking a preventive approach. The Department simply has a much wider remit in terms of increasing the effectiveness of the national law-enforcement of non-discrimination legislation than proposed by the European Commission Against Racism and Intolerance (ECRI)<sup>5</sup> and by UPR recommendations.<sup>6</sup>

9. Conducting educational events to raise the abilities of law-enforcement officers to identify hate crimes, single out the exact motive and then apply the recommendations to investigating it is not enough to claim success in re-training/re-education. The law-enforcement has to be sensitized: it has to be taught on the issues of sexual orientation, gender identity and gender expression, as well as other nuances that concern the routine LGBT life as well the nuances of stigma and discrimination that befall them, serving as the motive for committing a respective hate crime. As reported by “Equality Movement,”

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<sup>4</sup> Submission to the Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, <https://women.ge/en/publications/194/>

<sup>5</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, <https://undocs.org/en/A/HRC/41/45/ADD.1?>, para 68

<sup>6</sup> Sweden (rec. 118.10.)

the existing social stigma of the LGBT persons manifests itself, among other things, in institutional homophobia and transphobia, which results in the commission of respective crimes. Because of low understanding of SOGIGE issues and low education on the matter, the UN independent expert states that the LGBT community-related stigma and the fear of forcible coming out, as well as mistrust towards law-enforcement agencies and displays of phobic behavior and attitudes by the police (which are discriminatory acts in themselves) serve as the barriers, which stop the community-member victims of violence and discrimination from turning to the police for help.<sup>7</sup> The Independent Expert also notes that “violence and discrimination based on sexual orientation and gender identity are pervasive in Georgia: beatings are commonplace, harassment and bullying constant, and exclusion from education, work and health settings appear to be the norm.”<sup>8</sup> Although the Anti-Discrimination Act is in place, its implementation and enforcement are ineffective. This results in further degrading or otherwise phobic treatment of the LGBT on the part of the law-enforcement and the general public. Therefore, a national unified strategy should be swiftly adopted to increase the awareness of the general population and the police about SOGIGE issues, not only in terms of hate crimes but also in terms of the LGBT being no less human and deserving honourable and respectful treatment than heterosexual and/or cisgender people.

10. Another issue that hinders effective enforcement of the Anti-Discrimination Act should be mentioned. In the event of discrimination, the Public Defender develops recommendations and prepares and submits proposals on preventing and fighting discrimination to the relevant individuals/entities. *De facto*, there is no mechanism in place that will allow the Public Defender to force an individual or a legal entity who commits a discriminatory act to carry out and fulfill a recommendation/proposal. The optional recommendation is ineffective and fails to meet the goals set by the law, which ultimately makes the law declarative. The Anti-Discrimination Act does not specify the time frames for submitting a complaint / application to the Public Defender, which can be evaluated positively. A person who considers themselves a victim of discrimination may apply to the PDO at any time after the discriminatory act happened or was identified. The law does not specify the timeframe for the Public Defender to review the case and send recommendations/proposals to the individual who committed a discriminatory act. Considering the victim’s interests, it is important to set a deadline in the law within which the Public Defender should complete the case.

11. If Georgian law-enforcement had indeed been so much better equipped with hate crime knowledge, they would have reacted differently to the following case. On 4 September 2018, T.K., who identifies as a gay man, and I.S., who identifies as a lesbian woman, were verbally insulted in Tbilisi in a ‘Bauhaus’ café. In the bathroom line of the café some unknown persons asked T.K. to be a “gentleman” and let the girl use the bathroom before him. T.K. refused the following, which became the reason for them to start swearing and verbally insulting T.K. The following persons were calling T.K. “pederast”. They also asked I.S. if she was a man or a woman and if she was a woman, “there was no point in talking with her.” T.K. called the police. Equality Movement was engaged in the case. Police didn’t identify the signs of crime and they only gave the verbal warning to the mentioned persons. It should be noted here that the administrative law that regulates misdemeanors does not have lower-degree offenses (not criminal ones) established effectively. This could have been handled as hate speech and verbal abuse based on SOGI-discrimination but as there are no such administrative offenses, the whole issue was just dropped.

12. In another case that showcases homophobia on the law-enforcement’s part and lack of knowledge and desire to act according to protocol was also reported to “Equality Movement.” On 21 June 2018, Z.A., who identifies as a gay man, was walking in the underground passage in Tbilisi, when an unknown individual assaulted them verbally and physically. In particular, this person was saying that Z.A. was transgender, asking them why they were wearing an earring and calling them “faggot”. Afterwards, this individual attacked Z.A., ripped the piercing off and hit them in the face. Z.A. called the police. Police workers were treating them indifferently, in particular, not letting them file

<sup>7</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, <https://undocs.org/en/A/HRC/41/45/ADD.1?>, para 40

<sup>8</sup> Ibid. para 31

a report regarding the incident. After some time an investigator started to file a report. Z.A. repeatedly asked the investigator to indicate homophobic motive but the investigator denied the request. This case was covered by media and became a topic of public interest as Z.A. is an openly gay writer. The offender was found guilty under Article 126 (violence) of the Criminal Code of Georgia and the court imposed a bail of 1000 GEL as a prohibitive measure before the court ruled the final decision. Transphobic hate motive was outlined by the law-enforcement. Additionally, the General Inspection Department investigated abuse of power by law-enforcers and “gave them a strict warning to fulfill their duties attentively and abide by the ethical norms while communicating with citizens.” The victim was lucky to have received positive media attention and a progressive investigation and judiciary panel.

13. With this in mind, Georgia fails to address the discrimination of the LGBT that happens in the high-profile group of the society and on a very public scale at times. As discovered and validated by the Independent Expert, “Ignorance about issues related to [SOGI] and misconceptions create fertile ground for the manipulation of public opinion. An analysis of Georgian media monitoring shows that, in public spaces, homophobic hate speech is most frequently used by political and religious figures. For the former, it is at its height during elections, as the theme of [SOGI] is often used to political ends.”<sup>9</sup> Parliamentarian Emzar Kvitsiani tried to push for the exclusion of SOGI from the list of protected grounds as they “violate moral norms,”<sup>10</sup> but the parliament denied adopting such a setback. People are rarely reprimanded by the authorities for hate speech in Georgia, thus tacitly seeking public support and approval.<sup>11</sup> As validated by the Independent Expert, “a civil society organization reported that 731 homophobic public statements had been made in 2017, 255 by the media, 153 by politicians, 172 by other members of society, 24 by the clergy and 127 by civil organizations. Worryingly, a sharp increase was observed compared with previous years.”<sup>12</sup> The authorities do not react, investigate, and punish people or public figures for homophobic and transphobic hate speech, which often alludes to the mythic “gay propaganda” and equalizing of homosexuality with perversion and pedophilia.<sup>13</sup> Such overt ignorance on the part of central authorities of Georgia is unacceptable. With the above-mentioned statements already, Georgia’s Report stating that the situation with identifying and investigating hate crime having improved seems bleak, to say the least. That being said, while the adoption of the Parliamentary Code of Ethics in February 2019 deserves acknowledgement, SOGIGE is not mentioned there and the liability mechanism outlined in it is ineffective.

14. For HRCtee’s consideration, among multiple other cases, Equality Movement would like to point out with reference to the injustice when it comes to the impunity of hate speech among politicians. On 3 April 2018, the politician B.D insulted the former executive director of Equality Movement Levan Berianidze during an interview and called him “faggot.” The organization filed a complaint to the court because of the violation of the honor and dignity of the person. B.D was ordered to pay GEL 1 in respect of non-pecuniary damage. The decision was appealed to the Tbilisi Court of Appeal. The Appeals Court overturned the decision of the Tbilisi City Court, found Besik Danelia guilty of the offense and ordered him to pay GEL 1 (30 Cents) minimal amount of money in compensation for moral damages for the activist’s homophobic insult on a local TV programme. As a result, the Tbilisi Court of Appeals entrusted B.D to pay GEL 500 in damages to Levan Berianidze. The amount of punishment for the embarrassment, discomfort, and shaming of the victim on a TV programme amounts to a punishment way more than the one symbolically rendered by the court.

15. One of the cases reported by “Equality Movement” happened in May 2018. Information Center ‘Jikha’ (regional media outlet), at different times, in the pre-May 17 period, published homophobic content. Later, on May 20, 2018 they shared the video where Levan Sutidze was giving the speech during the demonstration held on IDAHOT

<sup>9</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, [https://undocs.org/en/A/HRC/41/45/ADD.1?](https://undocs.org/en/A/HRC/41/45/ADD.1?_ga=2.141111111.1511111111.1511111111.1511111111), para 51

<sup>10</sup> <https://1tv.ge/news/emzar-kvicianis-kanonproeqti-diskriminaciis-yvela-formis-aghmofkhvris-shesakheb-parlamentshi-chavarda>

<sup>11</sup> Ibid. para 52

<sup>12</sup> Ibid. para 52; “Hate speech” (2018), Media Development Foundation, [www.mdfgeorgia.ge/eng/view-library/91](http://www.mdfgeorgia.ge/eng/view-library/91)

<sup>13</sup> Ibid. para 54

and where he supported LGBT community and criticized homophobia including the attitudes of the Orthodox Church. The video was shared by 'Jikha' on their Facebook page alongside the comment "Caution! The number of openly antichrist-followers in Georgia is increasing." Equality Movement sued 'Jikha' in the Georgian Charter of Journalistic Ethics. By the decision of 21 July 2018, the Charter of Journalistic Ethics found that the journalist (not identified) of Information Center 'Jikha' violated the 7th principle of the Charter which forbids encouraging discrimination by journalists.

16. Most LGBT victims of hate crimes have little ability to restore their violated rights and receive fair trials. Not only are they routinely subjected to degrading treatment by the general public, family, co-workers, and law-enforcement, the hate speech coming from public figures that goes unpunished further creates the sense that discrimination against the LGBT is state-supported. Although Georgia seems to have the necessary laws in place that prohibit SOGIGE-based discrimination, actualizing these laws and enforcing them proves faulty. Nobody should be above the law and everyone, regardless of their material and social status, should be reprimanded or punished for committing acts of discrimination and/or violence against the LGBT, as prescribed by the law. The Georgian government has to invest more effort in creating unified regulations, clearer instructions to the law-enforcement and judiciary, and raising the awareness about SOGIGE issues for the general public and public servants.

## Article 21 — Freedom of Assembly

17. The Report (para 41) claims that "events on the occasion of the International Day against Homophobia and Transphobia (May 17th) were conducted in a peaceful environment in 2017 and 2018. The Offenders during these events were instantly detained and held accountable." However, the civil society and the media, as corroborated by the Independent Expert, have a different story to tell. Attempts to hold a Pride March in June and July 2019 failed when the authorities were unable to guarantee the safety of participants against threats of a violent counter-demonstration. In 2019, The Ministry of Internal Affairs refused to ensure the safety of the participants during the "Pride March" and, due to their own safety,<sup>14</sup> offered a disproportionate alternative to hold the "parade" indoors,<sup>15</sup> at a nightclub or on a football arena. This was added by the official call of the Georgian Patriarchate on the Georgian government not to allow holding of the "Pride March" organized by "Tbilisi Pride."<sup>16</sup> In response, on June 14<sup>th</sup>, supporters of the Tbilisi Pride held a rally in front of the government chancellery demanding that the government guarantee their right to freedom of peaceful assembly. Things got heated quickly. Some of the rally's organizers and activists were confronted by ultra-conservative political and clerical groups. Leaders and members of these groups openly expressed their violent intentions and disregarded the principles of constitutional order. The participants of the far-right groups threatened and verbally abused the representative of the Public Defender of Georgia.<sup>17</sup> It is also noteworthy that on June 16, a rally was held in the center of Tbilisi, where Levan Vasadze made extremely problematic and anti-state statements,<sup>18</sup> created "People's Legions" and announced patrolling the streets. His statement contained alleged signs of crime, and the Ministry of Internal Affairs launched investigation<sup>19</sup> into this issue. However, the civil society has not yet received any information about the effectiveness and results of the investigation. After the announced pride was disrupted twice, on July 8<sup>th</sup> the organizers managed to gather spontaneously. The half-hour impromptu event, which was attended by 20 activists and supporters, ended after the participants learned that extremist groups were heading to intervene.<sup>20</sup>

<sup>14</sup> Statement available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/12775>

<sup>15</sup> Details available at: <https://netgazeti.ge/news/368709/>

<sup>16</sup> Statement available at: <http://tbl.ge/3rm1>

<sup>17</sup> Details available at: <https://women.ge/ka/news/newsfeed/248/>

<sup>18</sup> See: <http://tbl.ge/3ruf> ; <http://go.on.ge/14kv>

<sup>19</sup> Available at: <https://imednews.ge/ge/dzalovnebi/108905/shssm-lgbtq-praidis-tsinaagmdeglegionisshemgnis-shesakheb-levan-vasadzis-gantskhadebis-shemdeq-gamodzieba-daitsko>

<sup>20</sup> See: <https://www.ilga-europe.org/sites/default/files/2020/georgia.pdf>

18. Another target of homophobic groups was the premiere of the film "And Then We Danced" on 8 November 2019. Far-right groups gathered in front of the cinemas to openly confront both the viewers who came to see the film and the police officers. 27 administrative violations were registered on site, and the investigation<sup>21</sup> was launched into the facts of attacking the police, damage to the police car and violence against the politician Davit Berdzenishvili and physical violence against the civil-activist Ana Subeliani. The negligence of the authorities towards the statements of the leaders of the violent groups before the premiere of the film, who were publicly threatening and calling on the supporters to disrupt the film screening, should be assessed negatively.

19. In 2014, the Patriarchate declared May 17th the Family Unity Day and holds respective mass events and weddings in all central areas of Tbilisi on that day. This is an audacious and obvious anti-movement against the International Day against Homophobia and Transphobia that was proclaimed years before this self-imagined religious celebration day. Subsequently, "Equality Movement" reports that anti-LGBT groups mobilize on this day and verbal as well as physical abuse of the LGBT happens on this day. The government has done nothing to ban this Family Unity Day on May 17th with subsequent rescheduling of it to another day.

20. In another disturbing case, as reported by "Equality Movement," on September 9, 2018, during the Georgia-Latvia game, LGBT community members and activists gathered to support the football player Guram Kashia and to stand up for LGBT rights. LGBT activists had decided to thank Guram Kashia because of his support to the LGBT community by bringing supportive banners and posters at the stadium. However, most of the LGBT activists were deprived of LGBT symbols by force and were not allowed to take them inside the stadium. The law enforcement officers were mobilized on the site, they searched the fans and in case of detecting LGBT symbols and flags, they forced the guests to leave them at the entrance. The fans were only allowed to take those banners inside, in which Guram Kashia did not have the LGBT armband. It should be noted that the activists were acting in full compliance with the Georgian legislation and Dinamo stadium rules. Despite the censorship by the law enforcers, several activists were able to secretly take certain attributes inside the stadium. However, as soon as the LGBT activists decided to publicly wave the rainbow flag, the police took it away forcefully. The employees of the Ministry of Internal Affairs of Georgia used unreasonable force and engaged in discriminatory acts, which resulted in limiting the freedom of expression of LGBT activists. It should also be noted that according to the MIA representatives, they were guided by the instructions of the Football Federation, which had issued a notice about the prohibition of any symbols at the stadium. However, as the football federation officially explained later, they never set such restrictions.

21. One other horrible case happened to "Equality Movement" directly, as an LGBT organization. On the evening of 28 September 2018, an informational meeting was being held in the office of the NGO Equality Movement in Tbilisi, which was attended by approximately 30 persons. People participating in the meeting were smoking in the backyard of the office of the organization. There is another house in the yard where the neighboring family resides. At around 22:00-22:30 the woman living in the neighboring house addressed the guests with a yelling and aggressive attitude. Her irritation was caused by the noise made by the organization's guests. She threatened the guests in front of the office for several minutes using the following phrases: "We will force you to move out," "You will see what will happen to you soon." Due to this incident, by the decision of "Equality Movement", the event was terminated and the organization's staff asked the guests to leave the office. The vast majority of guests left the organization within 20 minutes. At about 23:00, only a few employees and guests were left in the office of the organization. Four of them – M.K., S.J., A.B., and M.K., were in front of the office in the street where they were waiting for a taxi. Another four people – V.K., R.K., T.E., and A.U., – went to the back door of the organization to lock it and then walk through the backyard out towards the street. When the four activists were in the yard, a man from the neighboring house approached them. He was verbally insulting them and then he attacked physically. The attacker was trying to choke one of the activists

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<sup>21</sup> See: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/13120>

for a few seconds. In this process, the attacker was cursing, using swear words and phrases such as “I will kill you, faggots”, “Who gave you the rights” and so on. Suddenly the attacker ran into his house to bring an unidentified item. This situation was witnessed by M. K., who was on the other side of the gate and assisted V.K, R.K, T.E, A.U to open the gate of the backyard while the attacker was in his house. M.K. recorded the video depicting this situation. Soon, the attacker went out on the street as well and went to his car to take something, while continuing threatening the activists. He was referring to the thing he was planning to take from the car in the context of the purpose of killing the activists. His family and neighbors tried to stop him. The activists present had the impression that the attacker was threatening by the use of a firearm which supposedly was in the car. Due to the fear, the activists ran and hid behind other cars.

22. It is noteworthy that the Ministry of Internal Affairs released a statement on 29 September 2018, the day after the incident, which evaluated the incident as a two-sided confrontation. The assessment of the violent incident by the MIA as two-sided confrontation, where the aggressor and the victims are seen as equal sides, misses the accurate evaluation of the legal and social aspects of the nature of such violence and creates room for the suspicion of the bias of the law enforcement authorities. Moreover, the statement was released within the first days of the investigation, without proper examination and study, and such action reduces trust in the ongoing investigation. Equality Movement’s office was closed due to the risks of violence and potential escalation of the situation. The staff of „Equality Movement“ wasn’t able to provide the HIV related and other services for two weeks until Equality Movement made a decision of moving to the different location and renting a new office.

23. All of the above-mentioned actions of the ultra-rightist groups religious fanatics are expressly based on hate towards the LGBT and yet, despite having so many people detained during these manifestations and attacks, their crimes as based on discrimination against the LGBT, are not referenced in the hate crime statistics and the Report has not mentioning of these events or the aftermaths of the launched investigations. This proves that nationwide campaigns to raise the public awareness about sexual orientation, gender identity and gender expression are long overdue. Unless the government adopts steps to educate its population and the law-enforcement about the normality of SOGIGE issues, then the victims of hate will continue to remain in the shadows, will not receive fair protection and trial and prevention will remain a status quo.

## **The Universal and Inalienable Right to Health**

24. The right to health is a fundamental right of all people that should be unequivocally protected by every state, including Georgia. Article 25 section 1 of the Universal Declaration of Human Rights states that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including [...] medical care and necessary social services [...]”<sup>22</sup> In combination with the above-mentioned national and international norms, MSM and trans people are entitled to an adequate, healthy living standard in Georgia that should be ensured by the government without any discrimination. In conformity with the OHCHR Fact Sheet No. 31, among others, the right to health means that “non-discrimination is a key principle in human rights and is crucial to the enjoyment of the right to the highest attainable standard of health. [...] Non-discrimination and equality further imply that States must recognize and provide for the differences and specific needs of groups that generally face particular health challenges, such as higher mortality rates or vulnerability to specific diseases.”<sup>23</sup> Because of stigmatization and discrimination, the LGBT conclude a marginalized group that is vulnerable to increased health risks, including higher HIV-risks. In addition, the constant reality of living in fear of being abused or assaulted by the general public, law-enforcement officers or seldom medical workers already contradicts the Preamble of the Constitution of the World Health Organisation, which outlines that health is “a state of complete physical, mental and social well-being and not merely the absence of disease

<sup>22</sup> Universal Declaration of Human Rights, <https://www.un.org/en/universal-declaration-human-rights/>.

<sup>23</sup> OHCHR Fact Sheet No. 31: Right to Health, <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>, pp. 4, 7

or infirmity.”<sup>24</sup> As the Independent Expert’s report confirms, “He encountered the pervasive notion that the aspects inherent to the sexual orientation or gender identity of lesbian, gay, bisexual, trans and gender diverse persons living in Georgia were sinful, shameful or pathologic. [...] The consequences of this concerted attack [by the church, politicians, and other ultra-rightists] are real. They include the threat for members of the community of exposure to violence and exclusion from health, housing, work and economic opportunities, and indeed all other basic elements fundamental to a person’s quest for happiness, through mechanisms of social exclusion and ostracism.”<sup>25</sup>

25. Georgia has an obligation before its people, and the international community, to ensure the conditions for a healthy fulfilling life for all people who reside within its borders. Article 28 of the Georgian Constitution indicates that “the citizens’ right to accessible and qualitative services in the area of healthcare are ensured by law.”<sup>26</sup> Despite the mentioned universal constitutional guarantees, LGBT in Georgia meet many certain obstacles in successfully realizing their constitutional right to healthcare, which, in turn, infringes their right to health and creates a threat to their right to life. They are reluctant to come for medical and legal aid. In a case that happened on 3 September, 2018, N.G. who identifies as a gay man and serves a prison sentence in Tbilisi, approached Equality Movement asking for the legal aid. N.G. reported that he had some health problems but the medical personnel (2 persons) did not pay enough attention and did not perceive the issue seriously. The medical personnel did not provide medicines. Also, according to N.G., he was being verbally insulted; the doctors/medical workers were expressing doubts about his mental health condition, not in caring but in an insulting and disqualifying way. Not only do such doctors deny the LGBT their special needs when it comes to providing healthcare, they even leave these people stranded without emergency care.

26. The inability to express their sexuality and gender identity forces MSM and trans people into unsafe life and sex practices. They have no means to acquire satisfactory healthcare services because of the danger to the confidentiality of their health, including their HIV/AIDS status. Their medical privacy can be easily infringed or they can be harassed or blackmailed by medical workers or law-enforcement officers without there being a guarantee of them receiving just punishment for the violation. Among other factors contributing to the negative public stereotype was the previous prohibition for gay men and other men who have sex with men (MSM), to be blood donors. This provision was ruled unconstitutional by the Constitutional Court of Georgia in 2018.<sup>27</sup> After that decision, the Ministry of Health, Labor and Social Affairs changed the regulation and limited the right of donation for 10 years, which was ruled unconstitutional by the Constitutional Court of Georgia in December, 2019. “Equality Movement” applied the recommendations to the ministry in order to determine the restriction for 12 months- duration of “Window Period” for HIV.

27. The other healthcare related provision that contributes to the negative stereotype regarding the LGBT, enforces the stigma towards them and impairs their right to health is the criminalization of HIV transmission not within the best international practices. Notably, Article 131 Section 1 reads: “Intentional submission of another individual to a threat of getting infected with HIV is punished with imprisonment for a period three to five years.”<sup>28</sup> The entire article creates inconsistency in approaching the intent, the circumstance of the perpetrator being aware of their status and intentionally infecting the victim; the circumstance of the infection not occurring is also punishable. Georgia should reformulate the mentioned article in conformity with UNAIDS guidelines, i.e., “States [...] should issue guidelines to limit police and prosecutorial discretion in application of criminal law (e.g. by clearly and narrowly defining “intentional” transmission, by stipulating that an accused person’s responsibility for HIV transmission be clearly established beyond a reasonable doubt, and by clearly indicating those

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<sup>24</sup> Constitution of WHO, [https://www.who.int/governance/eb/who\\_constitution\\_en.pdf](https://www.who.int/governance/eb/who_constitution_en.pdf).

<sup>25</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, <https://undocs.org/en/A/HRC/41/45/ADD.1?>, para 27-28

<sup>26</sup> Constitution of Georgia, <https://matsne.gov.ge/ru/document/view/30346?publication=35>

<sup>27</sup> Comparative Legislative Analysis 2017-2019 Related to LGBTQ Rights, ECOM.

<sup>28</sup> Criminal Code of Georgia, <https://matsne.gov.ge/ru/document/view/16426?publication=212>

considerations and circumstances that should mitigate against criminal prosecution).<sup>29</sup> In other words, only direct intent or negligence of the perpetrator who knew about their HIV-positive status (including the victim's informed consent when necessary) that resulted in the victim getting the virus should be punished (while observing mitigating circumstances and other UNAIDS recommendations). The existence of such faulty provisions enforces the stigma around HIV and MSM and trans people by extension. The law regulating Georgia's HIV-prevention policies has also been widely criticized by civil society. The law on HIV infection/AIDS adopted in 2009 is still in a place. This Law defines the basic principles for taking response measures against HIV infection/AIDS, and matters related to the testing of physical persons for HIV infection, and the care and treatment of persons infected with HIV/ill with AIDS, as well as the rights and obligations of persons infected with HIV/ill with AIDS, and of medical workers. It should be noted that there are no separate laws/regulations for other sexually transmitted infections or viruses. HIV is standing out, being regulated with the separate law of Georgia. In other words, it is a redundant law that, instead of establishing effective preventive guarantees and mechanisms, simply copies the provisions of another law on generalized patient rights and obligations but adds HIV to them, exacerbating the stigma around PLHIV and LGBT. In June, 2020, "Equality Movement" submitted a draft law of article 131 of the criminal code to the Parliament of Georgia. The draft law proposes amendments to the current article in order to eradicate discriminatory regulation.

28. In terms of discriminating against the right to health, confidentiality of their health status, and privacy, one 2018 case stands out. In April, G.K. approached "Equality Movement" for legal consultation. According to G.K., the AIDS Center revealed the information about G.K.'s HIV-positive status to another person, X.X., who was asking for Post-Exposure Prophylaxis (PEP) in the AIDS Center. As stated by G.K., the doctor of the AIDS Center told X.X. that they would only provide PEP if he told the doctor the name of his sexual partner whom he had unprotected sex with and if this person would happen to be in the data base of HIV-positive persons – involved in the treatment program at the AIDS Center. The AIDS Center confirmed that they asked X.X. the name of his sexual partner that he had unprotected sexual contact with, and they checked the name of G.K. in the following data base. According to the AIDS Center, this is the practice that is established while providing PEP for the clients. Also, according to the AIDS Center and other relevant stakeholders, there is no protocol for delivering PEP unlike PrEP (Pre-Exposure Prophylaxis), where the Ministry of Health has adopted the protocol. This is unheard of. Every patient, especially a HIV-positive person, is entitled to full confidentiality of their health and other statuses, unless otherwise stipulated by the law when it comes to specific cases. In this regard, explicit violation took place. Based on the statements of the AIDS Center workers, this is normal practice that routinely befalls numerous PLHIV. This also reveals the extortion of information regarding the person's sexuality and manipulating them into outing with the threat of not providing HIV-services otherwise.

29. The right to health includes protection from disclosing one's health status. Confidentiality is a key factor for many persons in terms of turning to receive care, and its critical when it comes to LGBT. As the General Comment No.14 indicates, "accessibility [as an element of the right to health] has four overlapping dimensions, [...one of them being] information accessibility [which includes] the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality."<sup>30</sup> Confidentiality for Georgian LGBT is paramount when HIV is considered. In another 2018 case reported to "Equality Movement," B.K., a gay man, disclosed his HIV-positive status to a doctor while receiving dental services at the clinic located near his house. Several minutes after finishing the procedures, B.K. had to return to the clinic to ask questions regarding the prescription, when he overheard the dentist's phone call. The dentist was talking on the phone with an unknown person and disclosing the patient's HIV-status to them. "Equality Movement" contacted the Office of the Personal Data Protection Inspector. An incident was not identified as declassification of personal data, although the medical clinic was given the recommendation to not process

<sup>29</sup> "Criminalization of HIV Transmission," [http://data.unaids.org/pub/manual/2008/jc1601\\_policy\\_brief\\_criminalization\\_long\\_en.pdf](http://data.unaids.org/pub/manual/2008/jc1601_policy_brief_criminalization_long_en.pdf)

<sup>30</sup> General Comment No.14: The Right to the Highest Attainable Standard of Health, <https://www.refworld.org/pdfid/4538838d0.pdf>

personal data without appropriate reason. Later, B.K. informed "Equality Movement" that the dentist most probably spread the information about his HIV-positive status to the neighbors and, due to the consequential hostile environment, he had to change his living address and move to another neighborhood. While this particular person mustered courage to appeal to an LGBT NGO, it became apparent that the government office denied him protection from discrimination. He could have pursued the issue with the police and in court but ultimately decided to drop and rearrange his life because he does not believe in justice for gay HIV-positive men in Georgia. In one other 2019 case, a gay man was undergoing an interview for a job at a local supermarket chain unit, where he was to submit a health certificate (Form No.100), which revealed his HIV-positive status. He was immediately denied any further communication or hiring. The man did not pursue any legal action, feeling that it is simply futile. Notably, the predominant majority do not because they are scared of wide disclosure of their status, public stigma and discrimination in court, for them being non-heterosexual and HIV-positive. Thus, breaches of confidentiality occur without effective justice being served.

30. When it comes to trans health, Georgian advances on LGBT rights stop quite abruptly. On top of breach of confidentiality, trans people are often denied medical care when they turn to healthcare facilities. In October 2018, Equality Movement was contacted by a transgender woman K.K., a citizen of Azerbaijan, who had a severe form of tuberculosis. At the same time they turned out to have pneumonia. With the help of Equality Movement, a beneficiary called an ambulance on October 22. According to the medical personnel, they had the right to take the patient only to the Tuberculosis Center — the ambulance would not transfer them to any other facilities. K.K., accompanied by the social worker of "Equality Movement," was transferred to the Tuberculosis Center. Disdainful attitude towards the patient from the doctors on duty has to be noted. They were using phrases like "Is it a girl or a boy?," "Are they wearing nail polish?," "Seems like you were at a gay club and that's why you're sick." The facility finally refused to hospitalize K.K. because they were a citizen of a foreign country. In addition, they refused to provide any paid services. Despite the fact that the social worker mentioned the severity of the beneficiary's health issues, they denied all kinds of services, including tests or hospitalization of the patient in the clinic. Litigation is ongoing.

31. Trans people also have no legislation regulating the issues of changing their gender. There are no laws or regulations that would establish a procedure for changing the gender marker in their identification documentation and the tax code to coincide with the changes. On practice, civil registrar bodies deny trans people changing the gender marker unless they bring a certificate that proves they have undergone a sex reassignment surgery. Even then, not all would accept the application and issue new documentation. Georgia should establish a dedicated commission to adopt the necessary laws and regulations in order to eliminate this discriminatory gap that leaves trans people virtually ignored by the law and degraded by the public that is denying them freedom of self-determination, gender identity, gender expression, and privacy. The state has no factual or alleged right to regulate an individual's sexuality and gender expression, as per Georgia's international and national laws. Laws that would govern an internationally acclaimed procedure of helping people receive state healthcare whenever any trans issues and needs are involved should be adopted. Trans people should be legally given the right to gender recognition regardless of whether they have undergone sex reassignment surgery or not, and the state should provide healthcare that the person needs during their transition. With this in mind, In addition, three cases against Georgia on Legal Gender Recognition have been communicated by European Court of Human Rights.

32. The absence of the ability to change one's gender legally, regardless of them undergoing the sex reassignment surgery or not, also facilitates the inadequate representation of trans people as victims of hate crimes. The Independent Expert also concluded that "transphobic crimes are at times rendered invisible by a lack of proper identification of the victim. The fact that trans women are as a rule registered with sole reference to the gender marker in their official identity documents leads to most of them

being registered as men, literally erasing the problematic that they face.”<sup>31</sup> Regardless of any discriminating thought, science has long debunked all the phobic statements and biased claims regarding transgender people being inherently psychiatrically ill and having the need to be diagnosed as such and only then be allowed (if allowed) to change their gender marker and other identifying documentation in order to suite their chosen gender identity.

33. It should be noted that the WHO excluded gender dysphoria from the list of its mental and behavioural disorders; the Global Manual of Diagnoses does not include such a term anymore.<sup>32</sup> Cultural or other “traditional values” had no axiomatic meaning for anyone: not in Georgia, not anywhere else. Religious or other beliefs is a freedom, meaning that a person can choose the system of beliefs they would like to follow. There is not one that is for any argumentative reason that can be imposed on others. Therefore, any comments regarding morals, traditional or family values, and such have no legal or scientific value for denying trans people their right to privacy, dignity, right to health, and to choose their identity freely.

34. Because trans people are denied legal confirmation of their desired gender, they are discriminated against both by the authorities and by the general public. For instance, on 20 June 2019, transgender woman K.K. approached Equality Movement for legal aid. According to the information provided by her, she was verbally and physically assaulted on Tsereteli Avenue in Tbilisi because she was dressed in a feminine manner and was wearing heavy make-up. The investigation was launched under Article 126 Section 1 of the Criminal Code of Georgia and is still ongoing. In another case, on 14 August 2019, Z.Kh, a transgender woman, approached Equality Movement for legal aid. As she said, she and her friend were verbally assaulted and threatened with homophobic motives. Z.Kh also mentioned some misconduct from the police officers. Equality Movement has planned to file a complaint with the General Inspection of the Ministry of Internal Affairs, but for unknown reasons, Z.Kh refused to complain.

35. Unfortunately, the predominant majority of transphobic cases remain undocumented. Creating an effective, comprehensive, and enforceable legislative framework that would govern proper and non-discriminatory issues of gender recognition are long overdue. Because of the inability to express themselves freely, trans people live in stress, depression, and anxiety that distort their lives because of their fragile mental health which is then translated into their declining physiological state. Also, they are broadly subjected to degrading treatment and blackmail by strangers and sometimes even public servants. They are perceived as psychiatrically ill. Trans people are victims of intersectional stigmatization since not only are they at higher risks of getting infected with HIV due to the reasons gay men or MSM have, but they are also discredited by the medical workers as non-cisgender, creating higher risks of being abused or denied even the common healthcare services. Currently, trans people are far from being equal compared to the heterosexual Georgian population and even from gay, other MSM, and lesbian counterparts.

36. Despite the prohibition of discrimination based on SOGIGE in place, many other issues are unregulated and their enforcement is ineffective or distorted. As the Independent Expert fairly notes, “The societal goal appears to perpetuate a vision of Georgia as a country composed exclusively of heterosexual, cisgender persons. As a result, the majority view is that lesbian, gay, bisexual, trans and gender diverse persons must conceal their identity if they want to be recognized as citizens respectful of morals and values qualified as ‘good’. Those convictions are fueled and reinforced by agents of the church, tolerated and at times sponsored by politicians, governmental and law enforcement agents, and replicated by mass and social media.”<sup>33</sup> Most cases go unreported even to LGBT NGOs. Both MSM and trans people are frequently denied fair general medical and HIV-specific services, in addition to cases of breach of patient health

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<sup>31</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, [https://undocs.org/en/A/HRC/41/45/ADD.1?](https://undocs.org/en/A/HRC/41/45/ADD.1?_ga=2.141111111.1588888888.1588888888.1588888888), para 44

<sup>32</sup> “Transgender No Longer Recognised as ‘Disorder’ by WHO”, BBC, <https://www.bbc.com/news/health-48448804>; ICD-11, WHO, <https://icd.who.int/browse11/l-m/en#/http://id.who.int/icd/entity/411470068>

<sup>33</sup> ECRI Report on Georgia (Fifth Monitoring Cycle) A/HRC/41/45/Add.1, [https://undocs.org/en/A/HRC/41/45/ADD.1?](https://undocs.org/en/A/HRC/41/45/ADD.1?_ga=2.141111111.1588888888.1588888888.1588888888), para 27

confidentiality, forced outing, extortion, blackmail, sexual assault, denial of emergency care, and such.

## LGBT Families and Privacy

37. Another issue that requires an open and respectful dialog between the Georgian state, its general public, and the LGBT community is the right to have a family. Unfortunately, at present, the LGBT are denied the legal benefits that heterosexual families enjoy. This alternative report at no point makes claims to any religious canon or religious communities and their rights. The dimension of discussion is purely related to the constitutional rights of the LGBT and the international human rights and freedoms they are allowed as per Georgia's international laws that have been ratified. HRCtee's attention should be brought to the recent legal shifts that have occurred in Georgia. Notably, as a result of the constitutional reform in 2017, a new record on marriage has been established in the Georgian constitution. Before, the constitution from the date of its adoption defined marriage as the union of spouses based on legal equality and will. The constitutional law of March 23, 2018 rejected the constitution's neutral, general record, and established the right to marriage in a new way as a union of women and men for the purpose of forming a family. This change was adopted as a result of the pre-election promises of the ruling political party "Georgian Dream" which promised its electorate it would change the gender neutral marriage definition to one bound on biological sex. Previously, President Giorgi Margvelashvili denied the ultra-rightist groups calling a referendum to adopt such a change. Considering the international agreement and development of what a family actually means, this step is a huge setback as far as human rights are concerned. Now, Article 30 of the Georgian Constitution goes as follows: "Marriage, as a union into which the woman and the man step into with the aim of forming a family, is based on equality of the spouses and their freedom of will."<sup>34</sup> During the working process of the constitutional commission on this article, local NGOs suggested another wording — Marriage, as a union into which woman and man step into with the aim of forming a family, is based on equality of the spouses and their freedom of will. Other forms of the registered union are defined by law — but it was denied. Article 23 of the Covenant states that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State." Therefore, family is a natural unit that is formed between its members, the connection that they have and their will to lead their lives together and support each other. The state has no agency over people's love and freedom to choose the partner that they want to start a family with, so such an outdated and authoritarian approach to policing private lives of people who are outside the heteronormative part of the society is simply discriminatory and, also, goes against the mentioned Equality Act, too, as far as law is concerned.

38. The Annual UNHCHR Report A/HRC/29/23 indicates that while the international law does not oblige States to recognize same-sex marriage, UN Treaty Bodies call upon the recognition of same-sex couples: "Whenever States provide benefits such as pension and inheritance entitlements for unmarried heterosexual couples, the same benefits should be available to unmarried homosexual couples" (para 67). If the word "marriage" is of painful topic of discussion and has cultural coding that is intrinsic to a local culture (often times it is the wording that, for some reason, raises prejudice and aggression), states grant the LGBT the right to form civil unions, which provide legal recognition of their relationship and provide them with the civil, social, and other entitlements that marriage usually entails. The Annual UNHCHR Report A/HRC/29/23 also states that the "lack of official recognition of same-sex relationships and absence of legal prohibition on discrimination can result in same-sex partners being treated unfairly by private actors, including health-care providers and insurance companies. The United Nations Children's Fund (UNICEF), the Committee on the Rights of the Child and the Inter-American Court of Human Rights have expressed concern at discrimination against, and the lack of legal protection of, children of same-sex couples" (para 68). The LGBT have the same fundamental human rights and freedoms as any other person, so denying them the right of legal recognition of their relationship is discriminatory. Not only that, the state, in fact, loses a great portion of potential, cultural, economic, social, civic, and

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<sup>34</sup> Constitution of Georgia, <https://matsne.gov.ge/ru/document/view/30346?publication=35>

other benefits that LGBT families could provide as integral parts of their local communities and the Georgian society at large. Therefore, ECOM and Equality Movement consider that the Georgian government should look in the right direction, as it already has with the Equality Act, and award the LGBT their right to civil union.

## **The Way Out — Sex Education**

39. In light of the above, it becomes apparent that the core reason for stigma and discrimination of the LGBT in Georgia is absence of modern sex education and low awareness on the matters of sexual and reproductive health. The Georgian government needs to adopt tailored national programmes that will focus on educating the medical staff and law-enforcement officers about gender and LGBT issues, and about working with LGBT PLHIV. It also needs to invest in supporting LGBT NGOs financially to raise the awareness about HIV for LGBT and decrease the stigma. Members of this marginalized community are simply afraid of getting degraded and ostracised and, instead, chooses a path that has dangerous repercussions. Not only are they undereducated and scared to undergo regular HIV screening and/or treatment and exercise safe sex practices, they are afraid to turn for regular medical or legal aid, fearing forced outing, abuse and violence; and, as the cases prove, they have more than enough reasons to believe that. While the necessary baseline legal provisions that prohibit all forms of discrimination, including based on SOGIGE, are in place, as the given alternative report shows, it does not mean effective enforcement. The Georgian government should develop not just inside hate crime programmes or other education events but approach the issue strategically. Statewide sensitization of law-enforcement officers and medical workers is direly needed. Georgia should include LGBT NGOs in developing a comprehensive sensitization programme for these categories and conduct them jointly, so as to dispel the bias and unscientific prejudice that they hold, which inhibits the successful enforcement of the good provisions enshrined in the Anti-Discrimination Act. Otherwise, the law will remain declamatory.

40. The other issue is that, like in many CEECA countries, the topics of sex, sexual orientation, sexual identity, and gender have an inadequate perception among the general Georgian public. Whenever raised publicly or at home, they entail shame, hostility, and prejudice. Georgia needs to develop contemporary educational programmes for secondary and higher education students, as well as for the general public, on the matters of sex and reproductive health, including SOGIGE issues. Children are often ashamed to ask their parents questions related to that area; the school staff is undereducated in that regard, also. Therefore, the discriminatory stereotypes that are voiced by the family, media, peers, or other public figures are taken at face value and critical thought is met with hostility. The government needs to adopt a contemporary, scientifically driven educational curriculum regarding sexual and reproductive health for children at schools, which will not be simply focused on girls not getting pregnant as teenagers. This has to be an awareness-raising and positively educational curriculum that will encompass issues of sexual identity, hygiene, gender, gender identity and expression, sexual orientation, friendliness and non-hostility towards people who have different sexual needs, and, of course, sexual health and reproductive health and safety during sex, and other sex-health related issues. The Georgian government should also introduce, on a national scale, issues of sexual orientation and gender identity, as well as PLHIV issues, into the mandatory curriculum of medical students of all specializations. It is on these levels, during secondary and higher education, that roots of stigma and discrimination towards LGBT and PLHIV take place. By providing not only the currently working medical and law-enforcement staff with contemporary education and awareness-raising regarding those topics but also educating the future generations based on actual scientific data and not discriminatory stereotypes will result in a broad positive impact across the general public and the LGBT community.

## **Concluding Note**

41. The Preamble to Georgian Constitution proclaims, "We, the citizens of Georgia, whose unshaken will is the assertion of democratic public formation, economic freedom, social and legal state, observation of the fundamental human rights and freedoms [...]"

proclaim the present Constitution”<sup>35</sup> Articles 4-6 of the Georgian Constitution proclaim it as a democratic and social state that observes social justice, social equality, and social solidarity. Such a state then has self-imposed limitations, which are the fundamental human rights and freedoms; and further laws should be adopted to realize their potential and not discriminate against them. Unfortunately, despite the Anti-Discrimination Act, on practice, the LGBT do not enjoy the same entitlements in terms of their fundamental rights and freedoms like the heteronormative Georgian majority does. They currently lack understanding from the political elite, law-enforcement officers, medical workers, and the general public. Although adopting prohibition based on SOGIGE on a national level was a huge step forward, additional sensitization, education, and awareness-raising of the said categories of people together with the LGBT civil society is needed as soon as possible. Considering Georgia’s momentous developments since the last CO of the Committee, ECOM and Equality Movement file this Alternative Report in hopes that the Georgian government will direct more attention at and invest more effort in gay, lesbian, bisexual, and trans\* persons as a diverse range of key population groups that have distinct civil, social, and political needs that require specialized regulations to decrease discrimination and stigma that currently impale their ability to lead healthy and fulfilling lives.

## Recommendations

All things considered,  
to uphold the highest attainable standard of health for LGBT,  
to ensure that the fundamental human rights and freedoms are observed equally for all,  
and  
in conformity with the International Covenant on Civil and Political Rights, recognized by Georgia,

ECOM and Equality Movement recommend that the Committee uses its authority over Georgia and inquires it to continue to follow its international obligations under the Covenant, as well as its national obligations, before its people in a multi-dimensional fashion, and that Georgia undertakes respective activities and steps to secure the rule of law and equality of all people, LGBT persons included, before the law on all its territory. With this consideration in mind, ECOM and Equality Movement ask the Human Rights Committee, during its 130<sup>th</sup> Session, to consider inquire Georgia to provide information on the following issues:

- What institutional and legal measures have been taken by the state to eliminate discrimination and to fight hate motivated crimes/hate speech against LGBT individuals?
- What measures have been taken to advance the right of freedom of assembly and manifestation for LGBT individuals?
- What concrete and proactive measures/policies is the state taking to make sure that MSM, trans and other LGBT individuals receive equal access to medical services, including HIV-related services?

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<sup>35</sup> Constitution of Georgia, <https://matsne.gov.ge/ru/document/view/30346?publication=35>