

Sexual violence laws in Eurasia enable impunity for perpetrators

Comprehensive legal reform of sexual violence laws and policies is urgently needed in Eurasian countries to stop perpetrators from escaping punishment.

TBILISI, GEORGIA, January 25, 2023 /EINPresswire.com/ -- Sexual violence laws in Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan are falling well below international human rights standards in both how their legislation is written and implemented. In Ukraine, the law has recently been strengthened, but problems persist with how provisions are being administered. As a result of failures to adequately criminalize and prosecute rape in all these countries, many perpetrators are escaping punishment, finds a new report by women's rights organization [Equality Now](#).



Failures to adequately criminalize and prosecute rape is enabling perpetrators to avoid punishment

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National laws need to meet international human rights standards, and perpetrators of sexual violence must be held fully to account.”

Tamar Dekanosidze, Equality Now

[Sexual Violence Laws in Eurasia: Towards a Consent-based Definition](#) examines legal provisions relating to sexual violence in five Eurasian countries - Georgia, Kazakhstan, Kyrgyzstan, Ukraine, and Uzbekistan. The research identifies shortfalls in ways that sexual violence crimes are defined under the law and highlights how existing laws are being poorly enacted throughout these criminal justice systems.

Limited Legal Definitions of Rape

Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan have criminal codes that require violence in order to prove rape, and this is narrowly interpreted as involving physical violence. Such a limited definition of rape based on the use of force instead of a lack of consent effectively puts the onus on victims to prove they physically resisted an assault. This fails to recognize that people respond

to rape in various ways, and demanding such an onerous level of proof enables many perpetrators to avoid criminal liability, as often there is no available evidence of physical injury.



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Although criminal codes in these countries do include the 'threat of violence', in practice, the definition is generally limited to threats of murder or inflicting serious bodily harm. Blackmail and some other forms of psychological violence - such as revealing or threatening to disclose sensitive, personal information - are commonly prosecuted as compulsion or coercion into sexual intercourse or other sexual acts. These are classified as a "less serious crime" and are given lower penalties, including just fines.

Another protection gap stems from the failure to explicitly criminalize scenarios in which a perpetrator does not personally perform the sexual act but forces a victim into non-consensual sexual activity with a third person.

Equality Now's Eurasia Regional Representative Tamar Dekanosidze, co-author of the report and a human rights lawyer, explains: "Rape is inherently a violent act, and there should be no requirement in law to demonstrate that a perpetrator used additional violence or force. Instead, the use or threat of violence should be viewed as an aggravating factor that increases the severity of the crime."

Sexual Violence Laws Should be Based on Consent

Equality Now is calling for all countries in Eurasia to amend their legal definition of rape in accordance with international human rights standards so that lack of consent is the essential element of the crime, and it is interpreted as being given voluntarily and genuinely by a person exercising free will.

The law should acknowledge how victims respond to sexual violence in different ways, and in some circumstances, there should be a presumption that it is not possible for a person to freely give their voluntary and genuine consent, as found in coercive situations like those involving psychological or economic harm.

Cases should be assessed on an individual basis taking into account the surrounding context. For instance, a victim may remain passive due to fear of repercussions, domestic violence, intoxication, or because there is no opportunity to obtain help. The exploitation of unequal power dynamics also needs to be considered, such as between wardens and prisoners, teachers and students, and doctors and patients.

Poor Implementation of Sexual violence Law

In a positive advance, Ukraine amended its criminal code in 2019 to strengthen it in line with international human rights standards. Now, the country's rape law allows proof that a sexual act was committed without the voluntary consent of the victim.

This progress is commendable, but problems with implementation need to be swiftly addressed. Local experts have raised concerns regarding insufficient understanding among Ukrainian law enforcement as well as the general public about the law's new consent-based definition and practical applications.

Little has changed in the way crimes are being handled, and in the overwhelming majority of instances, the cases that make it to court are still the ones that involve the use of physical force. As a result, many victims of sexual violence are still being prevented from receiving justice.

In particular, lower courts appear to be struggling with the concept of consent and continue to focus on harmful stereotypes about victims' behavior. Examples include a judgment stating that no sign of bodily injury indicated a woman "did not try to show any resistance," and another saying "she voluntarily came to the house with men unknown to her with the purpose of alcohol consumption."

Whilst recognizing that Russia's war against Ukraine poses extensive wide-ranging challenges, it remains critical that Ukraine properly implements its progressive new legislation by prosecuting and punishing non-consensual sexual acts, and shifting from a focus on the use of physical force or threats when bringing charges.

Investigators, law enforcement, and the judiciary require clear guidelines, resources, and gender-sensitive training on interpreting and implementing a consent-based definition and applying it to all forms of sexual violence.

Comprehensive Legal and Procedural Reforms are Needed

Comprehensive legal and procedural reforms, including the introduction of consent-based definitions of rape, are urgently needed in Eurasian countries to enhance access to justice for victims of sexual violence and to improve liability for perpetrators.

Tamar Dekanosidze concludes: "National laws need to meet international human rights standards, and perpetrators of sexual violence must be held fully to account.

"We call on all Eurasian countries to introduce a consent-based definition of rape instead of requiring the use or threat of force. Governments need to ensure that laws and procedures are well implemented. And while legal reforms are in the pipeline, criminal justice systems should interpret existing laws less rigidly to prosecute a wider range of sexual violence acts so that all

victims can receive comprehensive access to protection and justice.”

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About: Equality Now is an international human rights organization that works to protect and promote the rights of women and girls around the world by combining grassroots activism with international, regional, and national legal advocacy.

With our international network of lawyers, activists, and supporters, we achieve legal and systemic change by holding governments responsible and providing them support for enacting and enforcing laws and policies that end legal inequality, sex trafficking and online sexual exploitation, sexual violence, and harmful practices like female genital mutilation and child marriage.

For more details, go to www.equalitynow.org, Facebook @equalitynoworg, and Twitter @equalitynow.

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