

Sexual violence laws enable impunity in Eurasia, report finds

Tuesday 7 March 2023, by [MARTIROSYAN Lucy](#) (Date first published: 30 January 2023).

Equality Now is calling on Eurasian countries to amend sexual violence laws towards consent-based definitions

Sexual violence laws in Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan are outdated and still require survivors of rape and sexual assault to ‘prove’ that physical force was used to commit the offence, according to a [new report](#) by Equality Now, an international women’s rights organisation.

In Ukraine, on the other hand, the government has improved the laws on criminalising and prosecuting rape but is struggling to administer them.

“Strengthening sexual violence laws is key for survivors to get justice and for perpetrators to be held to account, which is extremely difficult with the current legislation [in Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan],” Tamar Dekanosidze, Eurasia representative for Equality Now and a co-author of the report, told openDemocracy.

The report calls for these Eurasian countries to revise their sexual violence legislation towards consent-based definitions of rape and sexual assault, and remove the requirement to prove physical violence.

“These provisions allow impunity for perpetrators and deny justice to victims,” said Dekanosidze.

Ukraine: problems with application

As a former member of the Soviet Union, Ukraine used to share similar definitions of rape with Georgia, Kazakhstan and Kyrgyzstan. Now it’s the only country in Eurasia that has amended its definition of rape based on international human rights standards.

In 2019, Ukraine changed its criminal code to define rape as sexual penetration “without the voluntary consent of the victim”. Consent is deemed voluntary if it is “the result of a person’s free act and deed”. But local experts have said Ukrainian law enforcement isn’t adequately applying the new consent-based definition, the report said.

It explained that lower courts continue to struggle with the concept of consent, focusing instead on “stereotyped expectations of victims’ behaviour”.

This makes it difficult to report rape. If a survivor files a police statement after the crime, conducting a forensic medical examination is impossible. Without physical evidence of sexual intercourse, the odds of the survivor’s case reaching the courts are slim. And even if it does, the lower courts often resort to victim-blaming by commenting on the survivor’s appearance and actions prior to the sexual assault.

“Changing laws isn’t sufficient if this is not accompanied by strong implementation measures and procedures that aren’t influenced by gender stereotypes,” Dekanosidze said, adding that reform is not effective if the evidence required to prove rape is extremely burdensome and the survivors’ dignity is not respected during the proceedings.

In July 2022, Ukraine joined 36 other countries in ratifying the Istanbul Convention on preventing and combating violence against women. The convention requires members to implement sexual assault legislation or other measures that enshrine the concept that consent must be given voluntarily in circumstances that reinforce a person’s free will.

Gendered stereotypes and myths

Georgia [ratified](#) the Istanbul Convention in 2017. Nevertheless, unlike Ukraine, its sexual violence laws still narrowly define rape through the use of physical force, rather than acknowledging the possibility of other forms of coercion, such as psychological or economic harm.

Without the use of violence to force a woman into a sexual act, the offence is not considered ‘rape’ in Georgia, but “coercion to intercourse”, which is treated as a less serious crime.

The Council of Europe’s Group of Independent Experts on Action Against Violence against Women and Domestic Violence ([GREVIO](#)) has advised Georgia to amend its laws to reflect that “any sexual act performed on another person without his or her freely given consent is a form of criminal behaviour” – as stated in the Istanbul Convention. Nevertheless, the law remains unchanged.

“Rape is inherently a violent act,” Dekanosidze said. “There should be no requirement in law to demonstrate that a perpetrator used additional violence or force.”

Meanwhile, in addition to the need to prove physical force, Kazakhstan, Kyrgyzstan and Uzbekistan continue to define the crime of rape only as penile-vaginal penetration, rather than including penetration of other orifices of another person’s body with any body part or object without the victim’s consent. Georgia and Ukraine, on the other hand, don’t make any distinction between the means of assault.

All five countries reviewed in the report have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which requires states to “repeal all national penal provisions which constitute discrimination against women”.

“Prosecutors and judges should not be influenced by gender stereotypes and rape myths and should recognise that there is no ‘typical behaviour’ when responding to sexual violence,” Equality Now said in the report.

‘Yes means yes’: a consent-based model

According to GREVIO and Equality Now, Belgium, Malta and Sweden have the most “promising” practices against sexual violence, most closely in line with international human rights standards.

Each of the three countries uses a ‘yes means yes’ model where consent should be enthusiastically expressed through actions or words.

For GREVIO, this is an improvement to the ‘no means no’ veto model that assumes sex is consensual until someone expresses ‘no’, leading to an over-reliance on evidence of resistance by the survivor, which contradicts international standards.

Notably, in Sweden, the law amended in 2018 criminalises a range of situations that were not previously punished, such as situations where there is no use of violence or threat, and cases of 'surprise rape', where sexual penetration is committed unexpectedly.

"The criminal justice system can send a strong message to the society that sexual violence is a grave human rights violation and that it is not justified," Dekanosidze told openDemocracy.

If you or someone you know is affected by the issues raised in this article, the following organisations can help:

Rape Crisis England & Wales

Confidential support and information to women who have survived any form of sexual violence, no matter how long ago. Also provides immediate support to friends and family on how to support female survivors of sexual violence.

Phone: 0808 802 9999 (12-2:30pm & 7-9:30pm daily). Website: [Rape Crisis](#)

Rape Crisis Scotland

Confidential support for anyone affected by sexual violence, no matter when or how it happened. They can also put you in touch with local rape crisis centres.

Phone: 0808 801 03 02. Website: [Rape Crisis Scotland](#)

Domestic and Sexual Abuse Helpline - Northern Ireland

Free support, advice and referral for any victim or domestic and sexual abuse in Northern Ireland.

Phone: 0808 802 1414 (24/7). Website: [Domestic and Sexual Abuse Helpline](#)

NHS Sexual Assault Referral Centres

England & Wales: [Visit the NHS website](#)

Scotland: [Visit the NHS inform website](#)

The Survivors Trust

Support and signposting for women, men and children who are survivors of rape, sexual violence or childhood sexual abuse.

Phone: 0808 801 0818. Website: [The Survivors Trust](#)

Survivors UK

Support for men and non-binary survivors of sexual abuse via an online helpline, counselling, Independent Sexual Violence Advisers, plus group and peer support services.

Website: [Survivors UK](#)

Samaritans

For anyone struggling to cope and provide a safe place to talk 24 hours a day.

Phone: 116 123. Email: jo@samaritans.org. Website: [Samaritans](https://www.samaritans.org)

Victim Support

Emotional and practical help to victims or witnesses of any crime, whether or not it has been reported to the police.

Phone: 0808 16 89 111 (24/7). Website: [Victim Support](https://www.victimsupport.org.uk)

Victim Support Scotland

Emotional and practical support to all victims and witnesses of crime across Scotland.

Phone: 0800 160 1985 (Mon-Fri 8am-8pm). Website: [Victim Support Scotland](https://www.victimsupportscotland.org.uk)

Victim Support NI

Emotional and practical support to all victims and witnesses of crime across Northern Ireland.

Phone: 028 9024 3133. Website: [Victim Support NI](https://www.victimsupportni.org.uk)

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