

Struggle over LGBTQ+ Rights in Georgia

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Family Values, Tradition, and Human Rights

European institutions across the line have in recent weeks and months voiced their concern over democratic backsliding of Georgia. The government of Georgia has in short succession passed number of laws that have raised alarm over the country's commitment to democratic values. The trajectory of Georgia is however not without precedents. Many of the recent laws have both in their justification and content a precedent in laws that were passed, most notably, in the Russian Federation already a decade ago. These similarities led the Georgian opposition to label these laws and the ruling party, Georgian Dream, as nothing short of Russian proxies in Georgia. Domestically, the recent constitutional amendment and constitutional law on family values targeting sexual minorities has not been seen as part of country's Russification, even though the constitutional law itself uses the most long-standing tool of the Russian Federation to relativise human rights: traditional values.

The path to Europe has been thorny for the Georgian people, despite a 2018 amendment to the country's constitution instructing all state bodies to take all measures within their power to ensure full integration of Georgia in the European Union. For relatively long, Georgia was primus inter pares among the EU's eastern partners and scored a number of early victories in its integration process: visa liberalisation, an association agreement, and recently candidate status jointly with Ukraine and Moldova. While the country still fares well among its peers in technical alignment of its legislation, recent political headwinds have transformed Georgia from being the straight A student to the *enfant terrible* of the troika. As Ukraine and Moldova have officially started their membership negotiations, Georgia's negotiations are on hold. The reason for the disruption is, according to EU officials, to be found in recent and prospective legislation that is seen to run counter to the EU's foundational values of human rights and democracy. The most recent addition to the mix is new legislation aiming to ban all public display of sexual minorities.

Constitutional Law on Family Values

What has been titled an Anti-LGBTQ+ law in European media is two sets of legislative changes that seek to amend the country's constitution as well as many other laws in order to exclude sexual minorities from the scope of legal regulation. The Parliament will vote on the law in the autumn, but the law has already passed the first reading. The amendment to Article 30 of the Constitution introduces family values and protection of minors as integral principles of the Georgian constitution. Georgian Dream, the ruling party, lacks the numbers to single-handedly amend the constitution, but the innocuous language of the amendment might make it politically costly for other parties to withhold their support. The meaning and purpose of this constitutional change can only be understood through a package of legislative changes on 'Family Values and Protection of Minors' that seeks to prevent all gatherings showing support for sexual minorities as well as what has been increasingly referred to by the supporters of the government as 'gay propaganda'. The legislative

changes will also make same-sex marriage illegal, prevent adoption of children by same-sex couples, and bar access to gender transition. In short, family values and protection of minors push the LGBTQ+ minority outside the remit of legal regulation.

The Georgian government has relied on traditional family values, the opinions of the majority of the population and the protection of minors from promotion of homosexuality as reasons to justify passing the law on family values. The Grand Chamber of the European Court of Human Rights found just last year in Fedotova and others v Russia that none of these public interests can overcome the rights of individuals to have their relationships adequately recognised and protected by law. And as the Strasbourg Court has consistently held, rights of minorities would be illusory if they were conditional upon the acceptance of the majority. The proposed constitutional law on family values and protection of minors joins the slew of recent legislation that has been harshly criticised by the Venice Commission due to their rampant disregard of international human rights standards. It is yet another law that is eerily reminiscent of legislation passed by the Russian Federation when it ramped up its democratic backsliding. The relative silence of civil society concerning the law reveals the deep embedded stigma that sexual minorities endure even among the human rights promoting part of the Georgian society.

Georgian Values, Conservative Values

These sought-after changes are part of a wider drift in Georgian politics and law. Leading figures of Georgian Dream have underlined the importance of the country's traditional values for any future Euro-Atlantic aspirations, referring to them variably as matters of dignity, tradition, and sovereignty. Where representatives of the EU and the US refer to the government's measures as attacks against rights and liberties and curtailment of the civil society, the Georgian government has invariably argued for the necessity of legislation to protect Georgia and Georgians from foreign interference. There is a wide support in Georgian society for conservative values, and nothing in and of itself in traditional values is against the values the EU wants the candidate countries to respect or what European Court of Human Rights requires. A majority of Georgians support protection for sexual minorities, while they do not want to extend marriage to same-sex couples. But as the European Court of Human Rights has maintained, states are 'free to restrict access to marriage to different-sex couples only.' To understand the reason for concern and the context of the present attempts to exclude sexual minorities from the remit of legal regulation, a closer look on the origin and content of Georgia's drift toward traditional values is warranted.

Traditional values: the Church and the State

On 17 May, the streets of Georgian capital were teeming with people, but unlike the weeks preceding or following, they were not on the streets to oppose the Government but to celebrate the Day of Family Purity organised since 2014. The Day of Family Purity called for

by the Georgian Orthodox Church has been promoting family values since its inception, but this year the day was for the first time a public holiday, with leading politicians from Georgian Dream participating in the event. Georgian Dream, in power since 2012, has gradually consolidated power over the whole society from economy to judiciary. Since the outbreak of war in Ukraine in 2022, Georgian Dream has sought to maintain a delicate balance between alignment with the European Union's foreign policy and the country's strong economic dependency from Russia. In recent years, this balance has, according to the EU officials and Georgia's civil society, tilted strongly towards Russia. Domestically, this has meant an increasing reliance on conservative values paired with neoliberal economic policies that many have described as an authoritarian turn with weakening democratic and legal checks and balances over the executive.

The support for traditional family values in the Georgian society is strong as 84% of Georgians oppose sexual relations between two adults of the same sex. Also, confidence in the Orthodox Church is significantly higher than in any politician in the country, which makes close alignment with the Church an effective political strategy. The difference between the most recent legislation and previous laws is the use of religion as a tool to stir social division. As with the Family Purity Day, political actors close to the Georgian Dream government have drawn parallels between opposition to the government policies and opposition to the Church. Thus, Georgian Dream and its supporters sought to equate demonstrators against the foreign influence law with non-Georgian values both in religious and in sexual terms. The message is simple: if you don't support Georgian Dream, you don't support the Orthodox Church, and the Georgian nation. This conflation of the two has been intentional and efficient; there was wide-spread confusion on the purpose of Foreign Influence Law as there is a wide-spread confusion over what civil society organisations working with LGBTQ+ issues are doing.

This message of anti-LGBTQ+ legislation as a crucial measure to preserve Georgian identity and traditional values has been especially potent in rural areas. For instance, on a Facebook group called "Daitove", activist Mariam Osiashvili shared her observations from a village in Kakheti. She noted how many fear that European values – an umbrella term for rights of minorities, especially those belonging to sexual minorities – could turn their children homosexual. It is this caricature of European, or more widely Western, values that Georgian Dream is using to stoke support for traditional family values against foreign influence. This wider narrative over tradition is the underlying rationale for much of the recent legislation, the most recent anti-LGBTQ+ measures therein included.

Traditional values: the State and Russia

Georgia is not alone in its push to curtail funding of civil society and rights of sexual minorities. Similar laws have been proposed or have already been enacted in a number of European and Central Asian countries the past years. Laws in Georgia as in Hungary,

Serbia, or Kazakhstan are all said to promote traditional values of the society against foreboding influence of foreign, Western values. And all the laws have a close affinity with legislation passed in Russia – hence the epithet “Russian law” given by opponents to the Foreign Influence Law in Georgia. Albeit the countries that have enacted such legislation differ greatly in their traditions, there seems to be a consensus over traditional values, which would be somewhat surprising if traditional values stood for existing traditional values and not a very specific set of values forcefully promoted by the Russian state since early 2000s.

Yet, as the Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind noted in 2012: “[t]radition is often invoked to justify maintaining the status quo [...]. [T]hose who benefit most from the status quo are more likely to appeal to tradition to maintain power and privilege, and also to speak on behalf of tradition, while those most marginalized and disenfranchised have the most to lose.” Adoption of relatively widely supported measures targeting small minorities have become then the foremost tools to justify the existing order. This narrative of sexual minorities posing a threat to traditional values has been snowballed into a wider threat to sovereignty, as in the Russian National Security Strategy.

Georgian Dream’s thrust to combine foreign influence, anti-LGBTQ+ legislation, and traditional values is pulled directly from Russian playbook. Accordingly the party claims that the threat is posed from outside the society (i.e. Western funding to NGOs), the threat comes in form of corrupt behaviour, and the very existence of a recognisable Georgian state depends on preventing such affronts to traditional family values. Upholding traditional values as a political mandate is an efficient means to maintain power, but it is one that has been clearly associated with Russia. In a country with highly negative views on Russia, blurring the origin through the widely respected Church has been an effective way to whitewash the ideological origins of recent legislation. The fact that civil society and local human rights organisations largely remain silent over the LGBTQ+ issues is either an indication of the fear of appearing out of touch with society or a genuine silencing of sexual minorities within society. Neither answer is flattering to the otherwise active civil society of Georgia. After all, when a law that directly violates a year-old Grand Chamber decision by the European Court of Human Rights, it would be easy to criticise law on Family Values simply by declaring it a monumental waste of money and resources. Maybe revealing the Russian origins of the law would be a safer way for the civil society to find their voice in a country that is growingly anti-Russian. After all, if it looks like a duck, swims like a duck, and quacks like a duck then it probably is a Russian duck.

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