



Situation of Human Rights Defenders in Georgia January 2011-October 2012



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The South Caucasus Network of Human Rights Defenders unites 30 human rights NGOs in Armenia, Azerbaijan and Georgia. The Network seeks to facilitate the creation of a safer and enabling environment for human rights defenders in the South Caucasus and to strengthen their voices in the region and internationally. The establishment of the Network was supported by the EIDHR program.



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I. OVERVIEW OF THE SITUATION OF HUMAN RIGHTS DEFENDERS IN GEORGIA

January 2011 – October 2012

Georgian human rights defenders (HRDs) are by large free to carry out their work. While attacks and threats against HRDs occurred in the period this report covers, from January 2011 to October 2012, they somewhat decreased in the run up to the October 2012 parliamentary election. This was primarily due to the government's increased concern about its international image in the pre-election period, as opposed to the government's desire to increase its commitment to protecting human rights in the country. Generally, high-profile defenders working in the capital (Tbilisi) enjoy more protection because they have access to a diverse media climate and international networks. In regions outside of Tbilisi, HRDs continue to experience harassment and violations of their human rights. These violations remain underreported. In addition, the authorities' responses to human rights violations are often inadequate. The absence of proper investigations speaks to the government's disinterest in upholding the rule of law, particularly when it perceives that it might stand to lose from it.

Human rights lawyers, investigative reporters and defenders of minority rights have identified specific constraints that limited their advocacy during 2011-2012. Human rights lawyers continue to face serious problems working in a court system controlled by an executive branch that is generally uninterested in responding to human rights violations. Investigative reporters, primarily those who work in the regions outside the capital, have been harassed and threatened. Defenders of minority rights continue to fight an uphill battle. In certain regions of Georgia, ethnic minorities make up the majority of the population, and the Georgian government historically has treated the issue of minority rights as a threat to Georgia's territorial integrity.

Discontent with the policies of the ruling government grew during 2011 and 2012. On May 26, 2011, the police violently dispersed a political protest calling for the resignation of President Mikheil Saakashvili, an incident that resonated throughout the year in HRDs' advocacy. In 2012, an organized coalition of opposition parties formed that challenged the ruling party in the October parliamentary election. The government appeared to feel threatened by the challenge. During the pre-election period, the government actively sought to limit the rights to freedom of expression and to participate in the political process, which created challenges for defenders.

Complicating matters further, the line between political activism and human rights work is at times blurred. Both politicians and civil society representatives act in ways that exacerbate this situation. Similarly, the responsibility for civil society's difficulties in influencing policy decisions is shared. In 2012, several NGOs made a successful attempt to counter this trend, gathering under the banner "This Affects You Too" and using organized, constructive advocacy to pressure lawmakers on election-related issues.

The future for human rights advocacy remains uncertain. In the October 2012 parliamentary election, President Saakashvili's "United National Movement" party was defeated by the "Georgian Dream" coalition of opposition parties. Many HRDs welcomed the change in the ruling government. They are hopeful that the new leadership will offer greater support for human rights issues, particularly because some former human rights lawyers are members of the new Parliament. However, President Saakashvili will remain a political force and the next presidential election will not be held until October 2013. In addition, it is not clear how the new government leadership will treat human rights issues or whether a truly independent judiciary will emerge that is able to protect human rights and punish all violators.

Georgia faces new challenges at the end of 2012. A new leadership has come to power, and as a result non-governmental human rights organizations have the opportunity to play a key role in setting the political agenda. NGOs have an unprecedented opportunity to monitor and participate in the political process and increase protection for democracy and human rights. The new government has expressed its willingness to adopt policy reforms with the cooperation of civil society organizations. The South Caucasus Network of Human Rights Defenders hopes that the new government leaders will closely collaborate with human rights NGOs and take into consideration their recommendations, including the recommendations in this report.

II. PROBLEMS THAT HUMAN RIGHTS DEFENDERS FACED DURING JANUARY 2011 – OCTOBER 2012

A. Attacks on and Threats against Human Rights Defenders

There were attacks and threats against human rights defenders during the reporting period. Several incidents also occurred during the pre-election period, targeting defenders active in public demonstrations and protests in particular.¹ When violations took place, the offenders, sometimes representatives of the state, operated with impunity. Law enforcement bodies disregarded their duties, investigations were perfunctory at best, and the punishment ostensibly meted out appeared to be designed to “save face” for authorities, who were generally unwilling to admit to any wrongdoing.

Human Rights Organizations

During the reporting period, human rights defenders faced problems when exercising their right to freedom of assembly. Authorities failed to protect the safety of the protestors and, in some cases, also intimidated HRDs who participated in or supported protests.

On May 17, 2012, the police failed to protect a march by Georgian LGBT and human rights NGOs through central Tbilisi in observance of the international day against homophobia. Following the start of the march, the designated police escort mysteriously drove off. Not long after, the march encountered a human chain formed by members of a loose-knit organization known as Union of Orthodox Parents, who blocked the road ahead. The participants in this counter demonstration hurled verbal insults at the marchers who, in turn, argued back. The verbal attacks escalated into physical violence, and the police arrived only 30 minutes after the marchers, fearing for their safety, had placed the first call to the police. One marcher, who suffered a concussion from the clash, was arrested and brought to a police station only to be released soon after without any explanation. About 15 participants in the march filed charges with the police. They all received the same reply: a letter stating that two counter demonstrators had been found guilty of administrative offenses, fined 100 lari (approximately 65 USD) each, and the case was now closed. The march organizers did not know how the counter-demonstrators or media representatives present at the scene had found out about the march, having notified only the authorities of their intentions.²

There have been allegations that authorities have engaged in surveillance of human rights defenders. In June 2011, Human Rights Center (a member of the South Caucasus Network of Human Rights Defenders) reported that different cars bearing the same license plate number were tailing their employees. The same organization also reported on an unannounced visit to their offices by a law enforcement agency. After Human Rights Center made public statements about the incidents, the cars disappeared and there have been no more visits from law enforcement agencies.³

1 “Statement of Human Rights Center about the Recent Detention of Human Rights Defenders and Activists,” Human Rights Center, September 24, 2012, <http://www.humanrights.ge/index.php?a=main&pid=15620&lang=eng>

2 Interview with representatives of LGBT NGO Identoba, September 2012

3 “Special Statement,” Human Rights Center, July 20, 2011, <http://www.humanrights.ge/index.php?a=main&pid=13688&lang=eng7> and “Spying on Human Rights Center”, Human Rights Center, 20 July 2011, <http://humanrights.ge/index.php?a=main&pid=13694&lang=eng>

Journalists

Media can be, and frequently are, openly critical of the government. However, some journalists who engage in investigative reporting, such as uncovering corruption or disclosing government wrongdoing, have faced difficulties in carrying out their professional duties.

The office of Studio Monitor, an organization known for its investigative documentary films focusing on government corruption, was burglarized in July 2012. The incident resulted in the loss of several months' of research, interviews and footage and paralyzed the studio's work. Part of the stolen material was to be used in a story on the business associates of then Prime Minister Vano Merabishvili. The story was scheduled to air before the October parliamentary election. The police failed to interview the neighbors, made no progress in investigating the matter and refused to comment on material recorded by security cameras in the area.⁴

Reporters outside the capital face greater risks. There have been instances when local officials or their associates, dissatisfied with journalists' reporting, have threatened and harassed journalists in person or by phone.

Investigative reporter Mari Otarashvili, who covers the Akhalkalaki region bordering South Ossetia, has repeatedly been threatened by various local officials and by people in their circle. In November 2011, Otarashvili wrote an article on the South Ossetia presidential election, referencing reports that a Georgian businessman was campaigning for the opposition candidate in an IDP settlement. Following publication, the businessman threatened Otarashvili, calling and saying that he would now have problems going into and out of South Ossetia. Worried that she had created problems for the man, Otarashvili looked into the claims and found that the man was well-connected and would not have problems returning. In March 2012, the man called Otarashvili again, out of the blue, cursing her out and threatening to shoot and kill her. Otarashvili believes that Georgian authorities, to whom the journalist's reporting does not fit into the desired narrative on South Ossetia, must have contacted the man. Fearing for her safety, Otarashvili opened a case against the man, in order to ensure protection.⁵

On May 20, 2012, officers from the Tianeti district police station arbitrarily detained and physically assaulted journalist Gela Mtvlishvili. Mtvlishvili was taking pictures of the police station for a report when a man in civilian clothes asked Mtvlishvili to identify himself. Mtvlishvili complied, even though the man refused to show any ID. Two police officers in uniform joined the pair and dragged Mtvlishvili into the police station, where he was physically assaulted, denied access to a lawyer, and received no medical attention. After 40 minutes in detention, Mtvlishvili was thrown out of the police station; his camera had been returned to his car, and the pictures of the police station as well as video recordings of the quarrel before his arrest had been erased. The Georgian Ministry of Internal Affairs (MIA) later released a statement blaming the incident on Mtvlishvili, stating that he had failed to identify himself and claiming that he had been released promptly but refused to leave the police station.⁶

4 Human Rights Center, "Studio Monitor Burglarized," July 24 2012, <http://www.humanrights.ge/index.php?a=main&pid=15215&lang=eng>

5 Interview with Mari Otarashvili, October 2012

6 FIDH, "Arbitrary Detention and Assault of Journalist and Human Rights Defender Gela Mtvlishvili", June 12, 2012, <http://www.fidh.org/Arbitrary-detention-and-assault-of.html>

Journalists covering political protests were subjected to violations as well. As Georgian media are split along political lines, the authorities treat journalists from opposition-friendly media outlets as representatives of the opposition. In 2011, opposition activities throughout the spring culminated in a large demonstration in central Tbilisi on May 26, 2011, during which participants called on President Mikheil Saakashvili to resign. The protest was violently dispersed and 18 journalists suffered injuries at the hands of the police. Several journalists had their equipment broken and some were attacked even after having shown their credentials, which indicates that the police deliberately targeted them.⁷ In the run-up to the 2012 elections, journalists encountered similar problems.⁸

On July 12, 2012, several journalists, representing among others the opposition news agency Info 9 and TV Channel 9, covered a visit by Georgian Dream (GD) representatives to Karaleti village near Gori. The GD delegation was soon accosted by supporters of the ruling United National Movement (UNM), who verbally abused GD supporters and told them to leave the site. The journalists were recording the altercation and came under attack as the verbal confrontation escalated into physical violence. Although the police ultimately arrested two of the attackers, the journalists' footage identified other offenders, some allegedly with ties to local government, who were never apprehended.⁹

Lawyers

Harassment and threats against lawyers who defend human rights continued during the reporting period. The primary targets were lawyers who served as defense attorneys in criminal cases, defended the human rights of prisoners, and submitted cases on behalf of prisoners to the European Court of Human Rights.

Prison guards in particular have harassed lawyers. Lawyers have alleged that prison guards have confiscated, by force or threat of force, sensitive case documents that include evidence of human rights violations in prisons. The Georgian Bar Association made numerous complaints about such harassment to the Ministry of Justice, but there was no meaningful progress in the investigation of the complaints. Lawyers also state that prison authorities have made false statements about prisoners' whereabouts to prevent defense attorneys from meeting with their clients in sensitive cases, such as cases involving human rights violations. The continuing impunity for such acts suggested that the practice was institutionalized and was sanctioned by high-ranking government officials.

In 2011 and 2012, lawyer Irina Saghinadze filed multiple complaints with the Georgian Bar Association about prison guards forcibly confiscating case documents that contained evidence of abuse of prison inmates. On several occasions, Saghinadze collected evidence of torture and other abuse from one of her clients in Ksani prison No. 15. Upon exiting the prison, authorities detained Saghinadze, demanding that she turn over the documents. When Saghinadze refused, citing the privileged nature of attorney-client communications, authorities forcibly removed the documents from her possession, causing injury on at least one occasion.

7 Human Rights Watch, "World Report 2012: Georgia", 22 January 2012, <http://www.hrw.org/world-report-2012/world-report-2012-georgia> and Human Rights House Network, "International HR Organisations Condemn Police Violence Against Demonstrators", June 7, 2011, <http://humanrightshouse.org/Articles/16542.html>

8 These problems prompted a reaction from the OSCE Representative on Freedom of the Media. See OSCE, "OSCE media freedom representative concerned by repeated violence, intimidation against journalists in Georgia", July 16, 2012, <http://www.osce.org/fom/92206>

9 GYLA, "GYLA Condemns the Incident in Karaleti," July 13, 2012, http://gyla.ge/index.php?option=com_content&view=article&id=1386%3Agyla-condemns-the-incident-in-karaleti-&catid=45%3Anews-eng&Itemid=1&lang=en

The Georgian prison system received significant public attention in September 2012 after the release of multiple videos showing torture and abuse of prisoners by prison guards in a Tbilisi prison.¹⁰ President Saakashvili fired several top government officials and promised to reform the system. At the time of writing, at least 18 prison guards are now facing criminal charges. However, harassment of lawyers was not discussed and few reforms to the prison system were implemented.

B. Smear Campaigns against Human Rights Defenders

Human Rights Organizations

Human rights defenders continue to face distress due to government officials' attempts to discredit their work. Authorities also allegedly have made attempts to block the participation of certain NGOs in joint projects with the government.

In June 2012, a member of Parliament accused "Article 42 of the Constitution" (a human rights NGO and member of the South Caucasus Network) of homophobia in a meeting with the U.S. Ambassador. The MP cited a statement made by a former executive director of the organization in her personal capacity as support for his position. Article 42 vigorously disputed the assertion, and in fact in 2011 Article 42's lawyers filed the first case from Georgia alleging discrimination based on sexual orientation with the ECHR. Article 42 has reason to believe that other prominent members of government may have made similar statements slandering the organization in private meetings with donor organizations.¹¹

Following the protest dispersal on May 26, 2011, the Georgian Young Lawyers' Association (GYLA) launched its own investigation into the death of one of the protesters, Nika Kvintradze. According to official statements, Kvintradze's body was found on a roof near the site of the protests, and the autopsy showed that he had been electrocuted. A friend of Kvintradze implicated the police in Kvintradze's death, claiming that he had seen Kvintradze in police custody after the demonstration was dispersed and in subsequent images broadcast on Georgian television. This testimony suggested that after the dispersal of the demonstration, Kvintradze may have died in police custody.¹² GYLA enlisted forensic expertise from abroad to analyze the images. After GYLA presented the results¹³ of the analysis and suggested that police brutality was behind the protester's death, one MP from the ruling party publicly accused the organization of political bias, called GYLA's information "fabrications" and "slander", and demanded that the organization apologize.¹⁴ A Ministry of Internal Affairs (MIA) official claimed that the images showed another person, Giorgi Bakradze, and soon released a recent interview wherein Bakradze confirmed that he was indeed the man in the picture. Government-friendly television channels aired this information without allowing any rebuttal from GYLA.¹⁵

10 See, for example, Human Rights House Network, "Concern about torture and ill treatment in Georgian prisons," September 26, 2012, <http://humanrightshouse.org/Articles/18662.html>

11 Article 42 of the Constitution, "Special Announcement," June 6, 2012,

http://article42.ge/index.php?action=news_item&news_id=129&lang=eng

12 Statement Of The Ministry Of Internal Affairs on September 6, 2011, <http://police.ge/index.php?m=8&newsid=2769&lng=eng>

13 Report available at: http://www.gyla.ge/attachments/1041_Report%20ENG.pdf

14 Messenger.com.ge, "Ruling Authorities React Angrily to Revelations about May 26 Events," September 8, 2011,

http://www.messenger.com.ge/issues/2438_september_8_2011/2438_qvanca.html

15 Rustavi2.com, "MP Gabashvili Demands Apology from GYLA," September 6, 2011,

http://www.rustavi2.com/news/news_text.php?rec_start=88&rec_start_nav=11&id_news=43037&pg=1&srch_w=&im=main&srch=1&ct=0&wth=&l=0&ddd=

The media also has stigmatized defenders and human rights organizations.

In July 2012, Transparency International Georgia (TI) dismissed one of its employees, Nina Khatiskatsi, citing differences between Khatiskatsi and TI's management. Media outlets friendly to the opposition presented the story of a politically motivated dismissal, suggesting that TI favored the ruling party. An opposition TV channel also aired an investigative report targeting the chair of TI's board. The half-hour production insinuated that the chair had ties to the Saakashvili government and that such ties affected TI's advocacy. That TI was in fact highly critical of the government was ignored throughout the reporting.

Lawyers

The government actively promoted the view that political opinions motivate human rights advocacy, particularly for human rights lawyers. Government officials and lawyers stated openly that human rights lawyers represent their clients because the lawyers are members of opposition political parties who seek to discredit the government. These accusations have been levied against lawyers who represent: defendants in criminal cases; members of opposition political parties; and individuals with legal interests adverse to the interests of the government. In addition, accusations of opposition party membership have been levied against lawyers who refer to international human rights standards in their arguments before domestic courts. This narrative that human rights advocacy is a mere cover for political opposition makes mobilizing broad public support for human rights issues more difficult.

C. Legal Actions against Human Rights Defenders

Human rights defenders, in particular lawyers, face continued suffering at the hands of a judicial system that is marred by problems. In Georgian courts, prosecutors have a strong influence on judicial rulings and police testimony is often the only evidence taken into consideration in criminal cases. According to a 2010 Transparency International report, the acquittal rate in criminal cases stands at 0.1%.¹⁶ Moreover, the use of plea bargains to settle cases has, since the introduction of plea bargaining shortly after the Rose Revolution, steadily increased.¹⁷ In 2011, 87.5% of criminal cases ended in plea bargains.¹⁸ In practice, defendants accept a plea bargain by paying a sum of money to the State budget in exchange for a reduced prison sentence or no prison time at all.

Criminal Trials

A few HRDs were charged with crimes during the reporting period, but authorities generally rely on less transparent administrative proceedings to detain and fine HRDs.

16 The report was based on data from the Supreme Court of Georgia. Transparency International Georgia, "Zero Tolerance and (near) Zero Acquittal," November 30, 2010, <http://transparency.ge/en/blog/pzero-tolerance-and-near-zero-acquittalp>

17 Transparency International Georgia, "Plea-Bargaining in Georgia: Negotiated Justice," pp.10-12, December 15, 2010, http://transparency.ge/sites/default/files/post_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf

18 Supreme Court of Georgia, "Saqartvelos I instanciis sasamartloebis saproceso setanxmebit ganxiluli saqmeebi (procenti sul ganxilul saqmeebsi)," <http://www.supremecourt.ge/files/upload-file/pdf/6-saproc11.pdf>

In early 2011, Suleyman Barbakadze, the president of Vatan, an organization working on the repatriation¹⁹ of Meskhetians to Georgia, was sentenced to prison and fined for alleged fraud and forgery. Through Vatan, Barbakadze had been buying up property in Akhaltsikhe in an effort to help Meskhetians returning to Georgia. According to human rights defender Emil Adelkhanov, who observed the trial, Barbakadze was convicted of fraud based on insufficient evidence. His conviction for forgery was due to attempts to evade the equivalent of a few hundred dollars in taxes on the property transaction, which is reportedly common in Georgia. Barbakadze was found guilty of fraud and three counts of forgery, and handed an 11-year prison sentence in addition to a 26,000 USD (equivalent of 43,000 GEL) fine. The harsh sentence raised suspicions that the case against Barbakadze was politically motivated. Civil society representatives placed it in the context of similar cases whereby the government aimed to discourage Meskhetians from buying property in Georgia.²⁰

In July 2011, four photographers were arrested and charged with espionage in another suspected instance of criminal charges brought against HRDs.²¹ The photographers were accused of having leaked sensitive information to Russian intelligence services. Two of the photographers, Irakli and Natia Gedenidze, confessed soon after their arrest. The other two photographers, Giorgi Abdaladze and Zurab Kurtsikidze, maintained their innocence. Abdaladze claimed that the charges had been brought against him in retribution for taking pictures during the May 26 protest dispersal. Two weeks after their arrest, however, both photographers entered plea bargain deals and were released on three-year conditional sentences. They also were barred from speaking about the details of the case. As the case never went to trial, no evidence was made public. In September 2012, Abdaladze told an interviewer that he confessed the crime due to coercion. Abdaladze reiterated that he was arrested because the photographers had taken pictures of May 2011 protests, pictures that were seen abroad and embarrassed the government.²²

Administrative Offenses and Detention

Authorities have continued to use the Code of Administrative Offenses to prevent human rights advocacy. Defenders frequently are charged with minor infractions of the Code, such as disobeying police orders, and are subject to imprisonment for up to 90 days at judicial discretion. NGOs have alleged that the Code allows arbitrary detention of activists and political dissidents. Further, NGOs state that administrative proceedings do not respect the rights to due process and a fair trial.²³

In September 2011, police broke up a lawful strike in Kutaisi, the second-largest city in Georgia. The demonstrators were protesting against poor work conditions and showing

19 Following accession to the Council of Europe, Georgia committed to allowing for repatriation of any person deported from Georgia by Soviet authorities in the 1940s, some 100,000 people, of which a majority were Meskhetians. In 2007, the Parliament adopted a law that codified Georgia's obligations, adding that descendants of those deported in the 1940s were also eligible for return. An application process was created and by its close on January 1, 2010, 5,841 applications had been received for a total of 9,350 individuals interested in repatriation; <http://www.repatriation.ge/index.php?m=30&lng=eng>

20 Interview with Emil Adelkhanov, September 2012

21 Human Rights House Network, "Photo-reporters detained in Georgia", July 7, 2011, <http://humanrightshouse.org/Articles/16660.html>

22 Media.ge, "Giorgi Abdaladze Says He was Forced to Write Plea of Guilty", September 24, 2012, <http://www.media.ge/en/stories/giorgiabdaladzesaysshewas>

23 For example, the U.N. Working Group on Arbitrary Detention discussed concerns about the use of administrative proceedings in Georgia. See Report of the Working Group on Arbitrary Detention: Mission to Georgia, January 27, 2012, pp. 63-68; or Human Rights Watch's report "Administrative Error: Georgia's Flawed System for Administrative Detention", January 4, 2012, <http://www.hrw.org/news/2012/01/04/georgia-flawed-misdemeanor-system>

support for employees who had been dismissed for organizing a local union at a steel mill. Police officers, led by the local governor, detained several workers. Subsequently, officers were stationed at the factory to supervise workers' compliance with a non-strike policy.²⁴ Following this police intervention, on September 17, three union leaders engaged in raising awareness about the plight of unionized workers at the plant, Emile Gumberidze, Irakli Iobidze, and Malkhaz Gogiava, were arrested on drug charges and taken to a police station to undergo a drug test. Upon passing the test, the three were held on charges of "disrespecting the police" and on September 19 were sentenced to administrative imprisonment for ten days.²⁵

In September 2012, a series of large protests were held in Tbilisi after videos of prison guards abusing prisoners surfaced on the Internet and Georgian TV. Several activists who protested against prison torture were detained for violations of the Code of Administrative Offenses. Dachi Tsaguria, a protest organizer, was sentenced to 10 days of administrative detention for insulting a police officer and disobeying a police order. Tsaguria, who also was active in supporting the opposition party "Georgian Dream," alleged that the detention was politically motivated. Another protester, Bekar Aladoshvili, was detained and sentenced with Tsaguria. According to the Georgian Young Lawyers' Association, "analysis of the cases creates a reasonable doubt that the individuals concerned were arrested due to their political and civil activities, as opposed to a violation of law."²⁶ The detention of protesters occurred amidst a series of administrative detentions of opposition activists, who were accused of similar public order offenses.

Risk of Legal Sanctions

Late in 2011, Parliament passed a Law on Political Unions of Citizens, which regulates political party financing. The law gave unprecedented authority to the State Audit Office (SAO; formerly Chamber of Control) to monitor compliance with the new regulations. The SAO froze bank accounts and fined mainly opposition parties and individuals as well as organizations connected to them, in a few instances in blatant violation of its own regulations. This caused some NGOs to voice concerns that they could be targeted as well if, for instance, they supported opposition activists whose rights had been violated.²⁷

D. Other Restrictions on Human Rights Defenders' Activities

Certain systemic issues also hamper HRDs' work in prisons, the court system, and minority regions, as well as their participation in the political process.

24 The International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), "ICEM Scorns Blatant Police Repression in Putting Down Georgian Metal Strike", September 18, 2011, <http://www.icem.org/en/4-Chemicals-Pharmaceuticals/4667-ICEM-Scorns-Blatant-Police-Repression-in-Putting-Down-Georgian-Metal-Strike>

25 ICEM, "Georgian Trade Union Leaders Jailed for Passing Drug Test", September 26, 2011, <http://www.icem.org/en/78-ICEM-InBrief/4673-Georgian-Trade-Union-Leaders-Jailed-for-Passing-Drug-Test> (http://groups.yahoo.com/group/HR-Georgia-rus/message/11127#newsletter_4169)

26 GYLA, "GYLA Protesting Against Administrative Detention of Davit Patsatsia, Dachi Tsaguria and Beka Aladoshvili," September 24, 2012, http://gyla.ge/index.php?option=com_content&view=article&id=1478%3Agyla-protesting-against-administrative-detention-of-davit-patsatsia-dachi-tsaguria-and-beka-aladoshvili&catid=45%3Anews-eng&Itemid=1&lang=en

27 Transparency International Georgia, "Chamber of Control's Investigation of NGOs", February 9, 2012, <http://transparency.ge/en/node/1753>

Prison Regulations

Prison regulations continue to limit the ability of HRDs to gain access to prisons and advocate on behalf of prisoners.

Independent monitoring of prisons was abolished in 2007, and the Public Defender of Georgia has the primary responsibility to monitor prison conditions. Although the Public Defender wrote numerous reports detailing prison abuse, the government has ignored the reports and their recommendations. In 2012, a coalition of 13 human rights NGOs, including Article 42 of the Constitution and the Human Rights Center (South Caucasus Network members), sought to initiate independent monitoring of Georgian prisons. These NGOs believe that independent and alternative monitoring is necessary to eradicate abuse in the prison system. The coalition requested permission to enter the prisons from President Saakashvili on September 3, 2012, but received no response. Following the September 2012 prison video scandal,²⁸ there was increased public attention on prisons and increased political will to institute reforms, and the Minister of Corrections and Legal Assistance set up a new prison monitoring group under his authority. At the time of writing, NGOs continued to advocate for the creation of a permanent monitoring group that would be independent from government ministries.

Human rights organizations also have difficulty receiving complaints from prisoners. Article 82 of the Code of Imprisonment restricts inmates' communication when they are in administrative detention. While the Code permits inmates to communicate with their lawyers and with international organizations, it does not permit inmates to contact local NGOs. In practice, this regulation restricts inmates' ability to communicate about human rights violations in prisons. Inmates often lack the knowledge necessary to communicate with international organizations. In addition, NGOs question whether inmates' lawyers, who frequently are staff members from the State-controlled legal aid service, are fully independent from government influence.

Georgian Procedural Codes (Criminal Procedure Code and Civil Procedure Code)

Prison administrators also have attempted to prevent HRDs from advocating on behalf of prisoners. Although Article 43 of the Criminal Procedure Code recognizes the existence of a confidential relationship between attorneys and clients, prison officials read all documents that defense lawyers bring into and out of prisons. Consequently, prisoners alleging abuse and their lawyers are vulnerable to pressure and harassment from prison administrators and government authorities.

HRDs also have experienced problems due to the lack of transparency of court proceedings. Although court facilities are equipped to record judicial proceedings, the available equipment is not always used, particularly in criminal cases. In addition, human rights lawyers question the accuracy of records of court proceedings in domestic courts. There are reports that in cases relating to human rights, transcripts of court proceedings have omitted statements of judges and lawyers that indicate bias against HRDs. The court rules of procedure may exacerbate this problem. According to those rules, court staff are not obligated to release video recordings and transcripts of court proceedings until 5 days after proceedings end. A lack of accurate records of court proceedings creates problems for human rights lawyers who attempt to file complaints with domestic or international courts, since arguments must be based on the record of lower court proceedings.

Minority Regions

Some HRDs allege that work in regions with large populations of ethnic Armenians and Azerbaijanis is limited due to fear of reprisals from the authorities. The Georgian government has made significant investments in

²⁸ Human Rights House Tbilisi, "Special Statement of NGOs on Torture and Inhuman Treatment of Prisoners in Georgia," September 19, 2012, <http://humanrightshouse.org/Articles/18619.html>

these regions; it has provided new infrastructure, made commitments to improve education, and created a special admissions process to universities. Thus, the situation has improved, tensions have gone down, and the government continues implementing its national strategy and action plan for minority rights. However, in the process of consolidating government power following the Rose Revolution, the authorities cracked down on people who they thought had a separatist agenda or otherwise disturbed the control that the government sought to establish. In the wake of the 2008 war with Russia, secessionist fears were renewed and generated more tension. In 2010, for instance, Arnold Stepanian, the leader of Public Movement Multinational Georgia (PMMG; a South Caucasus Network member), was the target of a smear campaign that labeled him as a Russian spy.²⁹

Although much tension has subsided, past targeting of political activists and human rights defenders still resonates in the regions. An International Crisis Group report on the Javakheti region (dominated by ethnic Armenians) showed that crackdowns have intimidated activists, who are now hesitant to stage protests out of the concern that their activism will be interpreted as “anti-Georgian,” which could create tension between ethnic groups.³⁰ Interviewees believe that similar dynamics hinder human rights defenders in other minority regions. Defenders remain intimidated by incidents of harassment that occurred prior to the reporting period and consequently are reluctant to complain about new violations. This is especially true for those defenders whose names are not known in international circles, whom the government could potentially retaliate against without much unfavorable effect on its international reputation.

Media Environment

Human rights organizations have faced some difficulties in communicating their message to the public, due to the media environment. Most media outlets are viewed either as pro-government or pro-opposition,³¹ and media outlets loyal to the government failed to report about HRDs’ advocacy on behalf of victims of human rights violations. These media outlets exclusively invited government ministers or organizations closely tied to the government to provide commentary on important national issues affecting human rights during the reporting period. For example, Article 42 of the Constitution would see pro-government media attend press conferences that the organization held on business law, only to notice the media’s absence when the topic of the press conference was human rights violations.

Politics and the Democratic Process

Politics and human rights continue to influence each other in ways that compromise the work of HRDs. On the one hand, the government was quick to treat even balanced criticism of its human rights record as politically motivated and to accuse defenders of supporting opposition parties. On the other hand, some members of the human rights community did not necessarily distance themselves from opposition representatives eager to use human rights violations as political ammunition. Sometimes these HRDs employed inflammatory language in their advocacy, making it far too easy for the government to dismiss their work as politically motivated.

29 U.S. Department of State, “2010 Human Rights Report: Georgia,” April 8, 2011, <http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154425.htm>

30 International Crisis Group, “Georgia: The Javakheti Region’s Integration Challenges,” p.4, May 23, 2011, [http://www.crisisgroup.org/~media/Files/europe/caucasus/georgia/B63%20Georgia%20-%20The%20Javakheti%20Regions%20Integration%20Challenges.pdf](http://www.crisisgroup.org/~/media/Files/europe/caucasus/georgia/B63%20Georgia%20-%20The%20Javakheti%20Regions%20Integration%20Challenges.pdf)

31 On this issue, a 2012 preliminary report of OSCE-ODIHR discussed the pre-election and election media coverage, stating that “The media environment was diverse, yet some private television (TV) channels had limited coverage within the country thus preventing full access to the wide variety of information available to citizens. The OSCE/ODIHR EOM’s media monitoring indicated that only the Georgian Public Broadcaster (GPB) provided politically balanced news coverage of the campaign. No other monitored TV channels provided balanced news coverage, contrary to their legal obligations.” Statement available at: <http://www.osce.org/odihr/94593>

According to HRDs, the government was reluctant to listen to recommendations from civil society, instead treating input from the public and civil society as a mere formality prior to finalizing policy decisions. While this practice made it difficult to affect change, some civil society representatives also believe that HRDs could have improved their advocacy in order to overcome this obstacle. For instance, the reporting period saw a positive example of civil society affecting change by coming together under one banner in a concerted effort to bring constructive criticism to the government's attention. Several NGOs formed the campaign "This Affects You Too" in response to the controversial Law on Political Unions of Citizens that was passed in December 2011. The campaign managed to raise public awareness about the implications of the law and force the government to reconsider it. When the law was finally revised, many of the campaign's demands were met.

"This Affects You Too" went on to play a significant role in advocating for free and fair elections. Among other things, it pushed for "must-carry" rules ensuring that cable TV providers offered viewers access to varied media during the campaign before elections on October 1, 2012. Prior to adoption of the rules, many television providers operating outside the capital only offered access to pro-government media outlets. These rules were passed by the Georgian government in July 2012 and were set to expire on Election Day. Following the election, cable providers continued carrying a variety of news channels, even though they had no legal obligation to do so.³²

32 To read more on "This Affects You Too" in Georgian, see the campaigns website at <http://www.esshengexeba.ge/>. In English, see for example: Campaign report for first month, http://transparency.ge/sites/default/files/post_attachments/Report%20ENG.pdf; <http://www.civil.ge/eng/article.php?id=25119>; and <http://www.civil.ge/eng/article.php?id=24522>.

III. RECOMMENDATIONS

The South Caucasus Network of Human Rights Defenders asks the international community to call upon the Governments of Armenia, Azerbaijan and Georgia to:

- Conduct prompt, impartial and transparent investigations into cases of attacks and pressure against human rights defenders, including journalists, and end the climate of impunity for intimidation and harassment of defenders;
- Issue standing invitations to United Nations and Council of Europe Special Rapporteurs and implement their recommendations;
- Implement those recommendations of the Universal Periodic Review that the respective countries have accepted;
- Ensure access and effective participation of human rights defenders and lawyers in the reform work of governmental bodies, including judicial reforms.

We call upon the European Union to:

- Promote awareness and ensure implementation of the EU Guidelines on protection of human rights defenders among EU Delegations and Member States' embassies in the South Caucasus. Representatives of the Delegations and embassies should: attend the events organized by civil society, especially in the regions outside the capitals of the respective countries; observe court trials concerning human rights violations and human rights defenders; and communicate regularly with a variety of non-governmental organizations working on different human rights issues;
- Encourage the embassies of EU Member States in the South Caucasus to adhere to EU Guidelines and issue free, multiple-entry visas to human rights defenders to facilitate their participation in international advocacy and networking events and to improve protection for defenders;
- Ensure that independent human rights organizations take part in the human rights dialogue between the EU and the respective South Caucasus countries;
- Translate relevant European Parliament resolutions related to human rights issues in Azerbaijan, Georgia and Armenia into national languages and Russian to increase public awareness;
- Follow-up with the relevant government ministries in each country about progress in implementing the recommendations in this report.

Recommendations to the Government of Georgia:

- Seize the momentum of the current post-election political climate and ensure access and effective participation of human rights defenders and lawyers in the work of governmental bodies on reforms, including legal reforms;
- Strengthen civil monitoring of the penitentiary system by amending the Code of Imprisonment to permit an independent monitoring mechanism for prisons and allow prisoners in administrative detention to communicate with local NGOs;
- Guarantee the right to a fair trial for all defendants by:
 - Ensuring confidentiality between lawyers, human rights defenders and their clients in prison;
 - Ensuring transparency of court proceedings by increasing public oversight of legal processes; in particular, ensure proper audio-video recording of all trials, including criminal cases, with the appropriate safeguards for protecting victims and witnesses;
- Review the use of administrative detention (currently as long as 90 days) as a penalty for violations of the Code of Administrative Offenses to ensure that it does not directly or indirectly cause human rights violations;
- Publicly and unequivocally recognize that defenders of minority rights are not anti-Georgian;

- Send a clear message to police that they must not hinder the work of journalists. Law enforcement's duty is to protect freedom of expression, not limit it.

Recommendations to Georgian Journalists and Media:

- Increase the public's knowledge about human rights issues by providing fair and balanced coverage of human rights defenders;
- Avoid portraying human rights advocacy as motivated by political concerns;
- Encourage high ethical standards in the journalism profession by signing on to the Georgian Charter of Media Ethics.