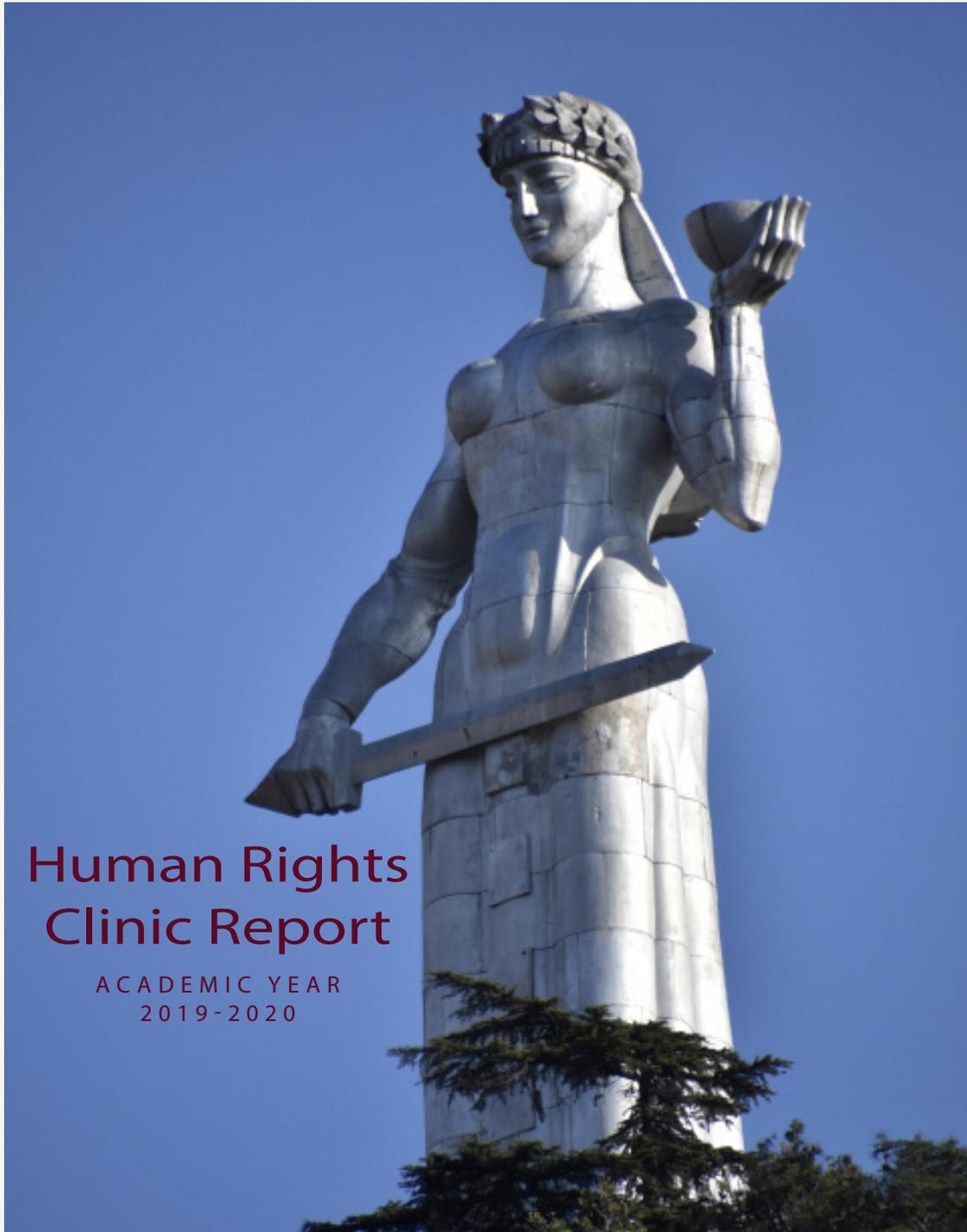


Rights in Progress: How Georgia is Implementing International Human Rights Law



Human Rights Clinic Report

ACADEMIC YEAR
2019-2020

CONTRIBUTORS

Steven Schneebaum
Brittin Alfred
Sebastian Bernal
Elena Botts
Dafne Carletti
Samuel Davidoff-Gore
Zhi Li
Anna-Marie Kroos
Helia Peng
Olivia Magnanini
Gabriela Saenz
Zi Xue

This report is a project of the International Human Rights Clinic, an experiential learning course in the International Law and Organizations Program at Johns Hopkins University – The Paul H. Nitze School of International Studies (SAIS). The views expressed herein are those of the authors and do not reflect the official position of Johns Hopkins University – The Paul H. Nitze School of Advanced International Studies (SAIS) or Johns Hopkins University.

Table of Contents

4

Acronyms

6

Acknowledgements

7

Executive Summary

10

Introduction

34

Police Accountability

76

Discrimination in the Private Sector

102

Freedom of the Media

151

Conclusion

153

Bibliography

174

About the Authors

Acronyms

AOC	Administrative Offenses Code
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CoE	Council of Europe
CPI	Corruption Perceptions Index
CSO	Civil Society Organization
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EMC	Human Rights Education and Monitoring Center
EU	European Union
FOI	Freedom of Information Law
GA	General Assembly
GD-DG	Georgia Dream-Democratic Georgia
GDI	Georgian Democracy Initiative
GDPR	General Data Protection Regulation
GEL	Georgian Lari
GEOSTAT	National Statistic Office of Georgia
GI	General Inspection
GMPP	Georgian Media Partnership Program
GNCC	Georgia National Communications Commission
GPB	Georgia Public Broadcaster
GYLA	Georgian Young Lawyers' Association
HCNM	High Commissioner on National Minorities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IHRL	International Human Rights Law
ILO	International Labor Organization
MDF	Media Development Foundation
MIA	Ministry of Internal Affairs

MP	Member of Parliament
NATO	North Atlantic Treaty Organization
NDI	National Democratic Institute
NGO	Non-governmental Organization
OHCHR	Office of the High Commission for Human Rights
OSCE	Organization for Security and Cooperation in Europe
OSGF	Open Society Georgia Foundation
PDPI	Personal Data Protection Inspector
PHR	Partnership for Human Rights
POG	Prosecutor's Office of Georgia
SDG	Sustainable Development Goal
SIS	State Inspector's Service
TDI	Tolerance and Diversity Institute
TI	Transparency International
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	United Nations convention against Torture
UNHRC	UN Human Rights Council
UNM	United National Movement
USAID	United States Agency for International Development
USSR	Soviet Union
VLAP	Visa Liberalization Action Plan

Acknowledgements

From the SAIS community, we would like to thank the International Law and Organizations Program and the Office of Academic Affairs for their continued support of the International Human Rights Clinic, SAIS alumnus Valerian Sikhuashvili for providing an introduction to Georgia, SAIS student Akanksha Baidya for providing extensive logistical and organizational support, SAIS International Law Department Administrative Coordinator Denise Melvin, SAIS alumna Sophie Bzishvili for helping arranging our meeting with the US Embassy, and SAIS alumna Thea Jokhadze and her husband Benedikt Kashakashvili for their tremendous hospitality in Tbilisi.

We greatly appreciate all of our interview partners in Tbilisi including representatives of Sector 3: Hub for Development, the Georgia Democracy Initiative (GDI), the US Embassy in Tbilisi, the Public Defender of Georgia, the United Nations Representative in Georgia, the Council of Europe (CoE), the Georgian Young Lawyers Association (GYLA), the Ministry of Justice, the EU Delegation in Tbilisi, the Ministry of Internal Affairs, Human Rights Center (HRIDC), Human Rights Education and Monitoring Center (EMC), the State Inspector's Service, Rights Georgia (formerly Article 42 of the Constitution), Amnesty International, Trade Unions, Partnership for Human Rights, the Tolerance and Diversity Institute, the

Open Society Foundation, the Media Development Foundation, Eurasianet, the Georgian Public Broadcaster, Mtvari Arkhi, TV Pirveli, GNCC, Transparency International Georgia, MPs George Tugushi and Endzela Machavariani, and the Prime Minister's Advisor on Human Rights Lela Akiashvili.

We would also like to acknowledge Ambassador David Bakradze and representatives from the Georgian Embassy in Washington, DC, representatives from Sector 3: Hub for Development, Anna Khizanishvili, and Konstantine Kopaliani for their briefings in Washington, D.C. Additionally, the following individuals provided invaluable support in organizing our trip and connecting us with key stakeholders: Sofia Gegechkori, Konstantine Kopaliani, Gavram Khandamishvili, Giorgi Gogia, and Hatia Jinjikhadze.

Throughout this entire process, both in Washington, D.C. and Tbilisi, we were met with unflagging kindness, generosity, and goodwill. We are deeply grateful for the hospitality we received, and we hope to return in kind whenever our paths cross again.

Executive Summary

The International Human Rights Clinic at the Johns Hopkins University School of Advanced International Studies (SAIS) is a hands-on, experiential-learning course meant to engage students not only in the academic study of human rights, but in the observation, analysis, and assessment of legal protections for those rights in the real world. To understand how specific international human rights norms are translated and enforced in local legal systems, this year's Human Rights Clinic focused on the implementation of human rights law in the Republic of Georgia.

Georgia was chosen because it has only relatively recently resumed self-government, and has therefore only over the last few decades been able to begin the adoption of legislation to implement binding principles of the international human rights legal regime. Yet Georgia's level of economic success has permitted it not only to pass laws, but to create mechanisms to promote those legislative objectives. Given the commitment to democratic principles espoused by Georgian political leaders, the Human Rights Clinic undertook its study with the expectation that those in power are dedicated to creating a system that actually works.

Our study focused on three areas: police

accountability, discrimination in the private sector, and freedom of expression and the media. In each of these areas, we considered (1) how rights are protected "on paper," that is, how laws and regulations compare with Georgia's international commitments, (2) whether those legislative and other enactments are actually translated into action "in practice," so that they affect people in their daily lives, and (3) whether public "perception" reflects that these rights and the mechanisms meant to guard them have become part of the domestic culture.

In conducting our research, we were made mindful of two large issues that must permeate any discussion of contemporary Georgia. First, two large parts of Georgia's sovereign territory are occupied by a foreign power. Abkhazia and South Ossetia – self-declared "independent states" recognized as such by virtually no one – are a constant reminder to Georgians of the fragility of their own sovereignty. And second, it is no exaggeration to say that daily life in Georgia is infused by a struggle for identity. Georgian political leaders generally strive for assimilation into Europe and European institutions, such as the EU and NATO. Yet the influence of Russia is deeply felt not only in history: it is a reality today, which may not be ignored. Georgia therefore occupies a crossroads, not only geographically but ideologically. We

were constantly made conscious of these important issues, and their consequences may be seen throughout our study.

The class studied Georgian law and institutions extensively, and visited Tbilisi in January 2020 for interviews and meetings with numerous stakeholders. Overall, we found a common theme, which was reinforced in one way or another by virtually every observer of Georgia today: the regime of human rights protection, and its conformity with international standards, “on paper” are admirable. “In practice,” however, there are steps that must still be taken to guarantee that human rights culture is firmly planted in the Georgian political landscape. And the public “perception” of that culture is not fully developed, requiring a substantial investment in awareness, education, and training.

The first substantive chapter of our report deals with police accountability. We introduce the relevant human rights instruments and domestic mechanisms governing interactions between agents of the state and everyday citizens. The “on paper” section concludes that Georgia’s domestic legislation on police accountability and the relevant domestic institutions largely align with even such progressive treaties as the European Convention on Human Rights (ECHR); however, there are areas where these mechanisms do not conform to international best practices, or have the potential to lead to systemic issues.

We paid particular attention to the structures and procedures of the Ministry

of Internal Affairs and the State Inspector’s Service. We found that in most cases of police misconduct the system works quite well. However, many perceive that it does not reliably deliver sufficient accountability when cases have political implications.

Our second substantive chapter looks at discrimination. Here, we consider whether the state’s endorsement of human rights goals has been translated and extended into policies requiring adherence not only by agents of the state but by private actors as well. The “on paper” section reviews the content of the laws and treaties reflecting Georgia’s commitments to international principles of equality. The section finds a robust legal system guided by constitutional protections for women and minorities, a forward-looking Anti-Discrimination Law, and civil and criminal laws that align with international conventions. “In practice,” however, the country still falls short in providing the LGBTQ+ community and certain ethnic minority groups the protections they are guaranteed. And there is a widespread and accurate “perception” that discrimination is still present in Georgian society, as evidenced by hate crimes, bias in access to education, and the selective application of law enforcement.

The last substantive chapter of this report covers freedom of expression and the media. We analyze whether ordinary people are able to access a broad spectrum of political perspectives, and whether media outlets are free to publish and to broadcast dissident points of view without hindrance. Georgia has espoused in full the

strong international legal framework for freedom of expression, including Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the ECHR. Georgia's Constitution and legislation are robust and definitive in declaring a national commitment to these objectives. The "on paper" section of this chapter again finds that Georgia's legislation aligns with international norms and best practices.

But "in practice" and in the widespread "perception," the media occupy a tense space in a politicized and hyper-polarized environment. We observe that in practice the media is able to broadcast dissent, but it faces practical and financial challenges to its independence, driven in part by the web of political influence. Deep connections between politicians and owners of television outlets are especially troubling. This sentiment is reinforced in the "perception" section, where we explore cases of misinformation connected to political interests and other challenges to media freedom, including the cases of Rustavi 2, and the Facebook troll factory. All of these factors have led to a growing mistrust and distancing between civil society and the governing Georgia Dream party.

In each chapter, we provide recommendations to relevant actors, which we put forward with the greatest respect for the many Georgians and their international friends – among whom we presume to count ourselves – whose wish for Georgia is the successful absorption and proliferation of a culture of human rights at all levels and in all institutions of society.

Introduction

RESEARCH DESIGN

1. Project Goals

In order for the international human rights system to succeed, individual states must not only agree to the treaties establishing the system, but also implement these rights domestically. Building on this premise, the overall objective of this report is to understand whether and how international human rights norms and obligations are translated into domestic laws and rules that affect the lives of real human beings. Importing international human rights into national regimes is the task of domestic institutions, as well as human rights advocates and other elements of civil society. The implementation of human rights principles into national law necessarily raises questions of enforcement, because unless citizens have the opportunity to use legal mechanisms to defend their rights, and to protest what they perceive as violations, those rights can too easily be ignored or even abused by the authorities, confident that they will never be challenged to justify their actions. This study examines Georgia's implementation of human rights norms in

three specific areas: police accountability, discrimination in the private sector, and freedom of the media. The project team divided itself into three subgroups to conduct their research into these topics. The study design is exploratory, using qualitative methods including open-ended interviews with relevant local stakeholders. Along with a literature review and desk research, the interviews and field research provide the basis for the findings and recommendations in this report.

2. The Project Team

The report is the culmination of a year-long academic research course, the International Human Rights Clinic, through Johns Hopkins University – Paul H. Nitze School of Advanced International Studies (SAIS). The research team is composed of 11 graduate student researchers with concentrations or minors in international law and organizations and international economics, as well as the practitioner-in-residence in the SAIS International Law and Organizations Program.¹ The Human Rights Clinic affords students an opportunity to study human rights as they actually operate, rather than only as they are described in

¹ Biographical sketches of the Project Team may be found at p. 174.

the literature.

3. Case Selection and Study Design

Georgia has only relatively recently taken its place as a full-fledged participant in the international community. Almost immediately after its independence, it embraced key human rights instruments, including the robust protections of human rights that the Council of Europe demands of its member states, and it aspires to conform to the high standards of the European Union. Successive governments have actively promoted the development of legal mechanisms and institutions. Given Georgia's stated desire to implement human rights norms, it serves as an excellent case study to examine the methods, rationale, and extent of a country's human rights implementation. In order to better investigate Georgia's implementation of human rights principles, we selected three specific areas, which reveal distinct aspects of application. First, police accountability tests the ability of the state to adhere to its human rights obligations through its agents, who are authorized to deploy the state's coercive powers in their direct interaction with citizens. If police officers are not trained to protect human rights, and if they are not held accountable when they fail to do so, then a state's espousal of norms has little practical meaning. Second, the legal treatment of discrimination in the private sector reflects the extent to which the state has created expectations and obligations not only for its own organs, but for private interests that act without government authority, to comply with the state's commitments to the international community. Third, the

measure of media freedom indicates the degree to which members of a society are truly able to express their thoughts without intervention, censorship, or coercion by the state or other actors, something that is greatly helped by the existence of a pluralist environment.

In order to evaluate Georgia's implementation of human rights norms in each area, we utilized three lenses: paper, practice, and perception. Paper refers to how well the legislation and the structure of institutions associated with each area align with international norms, obligations, and standards. Practice addresses how well the state is able to operationalize its human rights implementation, including how well its legislation and institutions actually function. Finally, perception refers to how well the state's implementation is perceived by its citizens, civil society, and the international community.

4. Research Methods

During the fall of 2019, the team began studying the broad theme of international human rights implementation, including key instruments and institutions. The team also studied Georgia's history and international context. After a month of initial research, the team divided into three subgroups, each focusing on one of the study areas and conducting its research in the relevant specific international regimes and Georgia's domestic legislation and institutions.

The desk research included conducting background consultations with experts from Georgia, identifying relevant actors, and speaking with the Georgian

Ambassador to the United States and his staff. From November 2019 through January 2020, the team planned for in-country fact finding, establishing local contacts, and arranging interviews with key stakeholders. Key stakeholders were identified through a purposive sampling method, as well as the snowball method to identify additional contacts in-country.

The Project Team visited Georgia for one week, January 18-26, 2020. All interviews were held in Tbilisi. Interviews were conducted with government ministries, local and international non-government organizations, Members of Parliament, international organization representatives, the Embassy of the United States and the Mission of the European Union, lawyers' groups, media companies, and independent journalists.² All interviews were in English, although some interviewees spoke in Georgian with their colleagues providing interpretation. In total, the researchers conducted 32 interviews in the field: 12 as a plenary and 20 in individual groups.

When scheduling interviews, all key stakeholders were given a written description of the project and the research goals, and during each meeting, this information was provided again. Audio recording was not used but, when allowed, researchers took written notes. The research was determined to be exempt by the Johns Hopkins University Homewood Institutional Review Board (HIRB). No members of the following populations were recruited for interviews: children (younger than 18 years old), Johns Hopkins University students, Johns Hopkins University employees, emancipated minors, wards of the state, individuals with cognitively impaired/

impaired decision-making capacity, pregnant women, critically ill or injured patients, or prisoners.

In late January, the team returned to Washington, D.C. and analyzed the meeting notes to ensure consistency and accuracy, and to flag items for further investigation. Subsequently, informed by follow-up communications with meeting participants and further desk research as necessary, researchers jointly developed this report. On May 18, 2020, the research team published the report and presented its findings and recommendations to the public via Zoom webinar.

5. Project Limitations

This report is limited in scope. First, it focuses on only three specific aspects of Georgia's human rights implementation, rather than Georgia's human rights record as a whole. The conclusions and recommendations presented in this report are based on these sectors, and we recognize that they may not be applicable to other aspects of Georgia's human rights implementation. Second, as will be detailed later in this chapter, the situations in South Ossetia and Abkhazia are outside the scope of this project despite their importance to Georgia specifically and to international human rights in general. Third, no member of the team speaks Georgian, Russian, or Abkhaz, meaning that we were unable to access certain resources or had to rely on unofficial translations. We were also limited to interviews conducted in English, rather than the speakers' native language.

Due to resource and academic schedule constraints, the team could not spend more

2 The individuals and organizations with whom we met are listed in the Acknowledgements section on p. 6.

than approximately one week in Georgia. This limited the number and depth of interviews conducted, and certain key stakeholders were not interviewed. Additionally, interactions were limited to Tbilisi, which meant that we could not investigate human rights observance in remote, rural, and/or ethnic minority areas that may be quite different from the national capital, a sophisticated urban center. Finally, we were unable to arrange for direct interaction with individuals who claim that they have been the victims of police misconduct or discrimination in the workplace. We recognize the value and robustness this testimony would have brought to this report.

This research was conducted before the COVID-19 pandemic. The report therefore does not reflect the human rights implications of the pandemic or any pandemic-related measures taken, or not taken, in Georgia.

6. Report Structure

The report proceeds as follows. First, we provide historical background on Georgia, its external relationships, and international human rights law. Next, we present the three case studies, examining Georgia's human rights implementation in each area through the lenses of paper, practice, and perception. Finally, we offer some overarching policy recommendations to Georgia as well as the international community.

BACKGROUND

1. Economic and demographic background

The Republic of Georgia is located in the Caucasus region of eastern Europe. The former Soviet Union member is bordered by Russia to the north; Turkey, Armenia, and Azerbaijan to the south; and the Black Sea to the west, as shown in the map below. The country covers an area of 69,700 sq. km (26,900 sq. miles), of which 12,560 sq. km lies in the provinces of Abkhazia and South Ossetia which have been occupied by Russia since 2008 (see section "The Occupied Territories" for more detail).³

Following the disintegration of the Soviet Union, Georgia's exports declined by 90% and output fell by 70%, causing the economy to collapse.⁴ By 1997, the lari was officially introduced alongside monetary policies to stabilize the economy. The latter effort was stalled by the 1998 Russian financial crisis which led to the devaluation of the lari.⁵ To promote growth and stability after the financial crisis, the International Monetary Fund (IMF) loaned Georgia \$141 million in support of a government run economic program that addressed structural reforms in areas such as social, economic, development, anti-corruption, and agriculture.⁶

Following these reforms, average annual growth reached 6.1% and inflation rates were in the single digits between 2003 and

3 *The Statesman's Yearbook 2018: The Politics, Cultures and Economies of the World*, (London: Palgrave Macmillan, 2018), 497, <https://doi-org.proxy1.library.jhu.edu/10.1007/978-1-349-70154-4>.

4 Ibid.

5 Craig R. MacPhee, "Economic Education and Government Reform in the Republic of Georgia," *The Journal of Economic Education* 32, no. 1 (2001): 68-77, <https://www.tandfonline.com/doi/abs/10.1080/00220480109595172>.

6 "Press Release: IMF Approves US\$141 Million PRGF Loan for Georgia," IMF, January 12, 2001, <https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr0104>.



Table 1.1 About Georgia

Area: 69,700 sq. km (26,900 sq. miles)
Pop. of Georgia: approx. 3.9 million
Pop. of Tbilisi: approx. 1.2 million
2014 census: 86.8% Georgian; 6.3% Azeri; 4.3% Armenian; 2.3% other
Languages: Georgian (official); Azeri; Armenian, Russian
Religion: Orthodox Christian (83.4%); Muslim (10.7%); Armenian Apostolic (2.9%); other (1.2%)
Currency: Georgian Lari (official)

Source: *The Statesman's Yearbook – 2018*,
CIA World Factbook

2012.⁷

Today, Georgia's economy is considered to be small, low-income, and transitional, its main activities consisting primarily of services, industry, and agriculture (mainly subsistence farming). Yet, the 'shadow' (black market) economy reflects approximately 62% of the official GDP.⁸ Following the 2008 conflict with Russia, and a decline in foreign direct investment and remittances after the financial crisis, growth has stalled.

The official GDP for 2019 was \$15.7 billion, with GDP per capita at \$4,764.⁹ Unemployment remains high in the country, with the failure to reduce unemployment stemming from a focus on capital-intensive growth. Agriculture makes up the majority of jobs, as 55% of the workforce is employed in agriculture.¹⁰

The Georgian government has carried out significant reforms designed to boost economic performance. Policy changes have eased regulations on businesses, strengthening private sector productivity.¹¹ Increases in social spending and amendments to the Labor Code to align with the International Labor Organization (ILO)¹² principles have lowered the national poverty rate to 16.3% (as of 2017).¹³ Lastly, after the conclusion of trade agreements with the European Union and China, trade integration is expected to increase and positively impact the economy. Economic risk analysts estimate that the growth rate for 2020 will be 4.4%.¹⁴

Nevertheless, the World Bank predicts that economic impacts from COVID-19 will lead the region into a recession, contracting growth.¹⁵ In summary, COVID-19 long-term effects are uncertain but Georgia's economic and social recovery will remain the primary concerns of the Georgian government in order to help mitigate the pandemic's impacts and further reduce poverty and close the inequality gap between urban and rural areas.

2. Government Structure

Georgia's government is a semi-presidential republic with the President as head of state and the Prime Minister as head of government. The President serves no more than two five-year terms. Prior to reforms instituted in 2017, the President was elected by a majority popular vote. A constitutional amendment changed the Presidential election process, and beginning in 2024, the President will be elected by a 300-member College of Electors, comprised of national lawmakers and regional and local officials. The current President, Salome Zourabichvili, will serve a six-year term before the transition to the changed procedures.

A 2010 amendment to the Constitution, which came into effect in 2013, reduced the President's powers and expanded those of the Prime Minister and the Parliament.¹⁶ As a result, the Prime Minister, who is nominated by Parliament and appointed by the

7 *The Statesman's Yearbook 2018*, 499.

8 *Ibid.*

9 "Overview: Georgia," World Bank, April 16, 2020, <https://www.worldbank.org/en/country/georgia/overview>.

10 *The Statesman's Yearbook 2018*, 499.

11 "Overview: Georgia."

12 "The World Factbook: Georgia."

13 "Overview: Georgia."

14 Georgia Country Risk Report – Q4 2019, (London: Fitch Solutions Group Limited, 2019), 17, <https://search-proquest-com.proxy1.library.jhu.edu/docview/2258974054?accountid=11752>.

15 "In Georgia, Growth Projected to Slow Due to Impacts of COVID-19," World Bank, April 8, 2020, <https://www.worldbank.org/en/news/press-release/2020/04/08/in-georgia-real-gdp-growth-projected-to-slow-due-to-impacts-of-covid19>.

16 *The Statesman's Yearbook 2018*, 497.

President, now has executive authority over domestic and foreign policy.¹⁷ Accordingly, the President can no longer initiate laws, introduce a budget or hold an office in a political party.¹⁸ The Parliament is made up of 150 members – 73 elected in single-seat constituencies (majority vote) and 77 by proportional representation – elected for four-year terms. Currently, the majority of the Members of Parliament (MPs) belong to the Georgian Dream Party after a parliamentary election in 2016 where the ruling Georgian Dream coalition won 115 of the 150 seats.¹⁹

The highest court in the country is the Supreme Court, consisting of 28 judges appointed to life-long terms by the Parliament. Supreme Court judges are nominated by the High Council of Justice – a 14-member body whose constituents include the Supreme Court chairperson, common court judges, and the President’s appointees.²⁰ Constitutional courts have nine judges, of whom three who are appointed by the President, three by Parliament, and three by the Supreme Court judges. All serve 10-year terms.²¹

3. Political History

Georgia’s journey toward democracy has been a long one due to its history of foreign occupation. After centuries of invasion and occupation by the Mongols, the Ottomans, the Persians and the Soviets, Georgia has emerged as the most robust democracy in the Caucasus region. A brief history of Georgia’s political transition – from the late

1800s under Russian Imperial rule through to today – is outlined below.

Georgia Under Imperial Rule – late 1800s to 1918

During Russian imperial rule, Georgia was under total control of the appointed Tsarist viceroy. By virtue of the remoteness and ruggedness of the Caucasus, the Tsarist administration struggled to keep control over the region and relied on Georgian nobility to look after its affairs.²² Like others in the colonial empires, Georgia’s elites and ruling nobility were rewarded with positions of power by the Tsar.

Around the turn of the century, a rising nationalist movement began to grow in the nations of the Caucasus. In Georgia, this movement was inspired by a radical peasantry including workers in cities like Tiflis (now Tbilisi) and Batumi. At the same time, there was an emerging group of Marxist intellectuals who were politically active and began to push for sovereignty. The Tsarist regime began to allow elections, and the Marxist intellectual class consolidated power under the Menshevik socialist faction – a break-away strand of Bolshevism.²³ These forces combined to weaken the Tsar’s grip on the Caucasus. The Russian Revolution of 1917-18 led to the downfall of the empire, and power was then transferred from the viceroy of the Transcaucasus to local national party elites.²⁴

17 Ibid.

18 “The World Factbook: Georgia.”

19 *The Statesman’s Yearbook 2018*, 497.

20 “The World Factbook: Georgia.”

21 Ibid.

22 Thomas de Waal, *The Caucasus: An Introduction* (New York: Oxford University Press, 2010), 38.

23 Ibid, 52.

24 Ibid, 54.

1918-1921: Georgian Independence under Menshevik Government

Following the collapse of the Russian empire, Georgia began a three-year period of independence under Noe Zhordania, who implemented sweeping land reforms, supported the peasantry, and established relationships with the international community. His regime adopted Georgia's founding constitution—signaling the country's transition to a modern, independent nation-state that was the only nation in the Caucasus to be recognized by the League of Nations and Soviet Russia. Despite this progress, Georgia's economy was devastated after years of imperial domination, and Zhordania's regime was notoriously nationalistic, discriminating against ethnic Russians and other minorities.²⁵

1921 – 1991: Georgia under Soviet rule

Unfortunately, this period of independence and self-rule was short-lived. During the upheaval following the Russian revolution, insurrectionist Bolshevik forces invaded Georgia and the Eleventh Army took over Tbilisi on February 25, 1921. Georgia was forced to capitulate, with no other viable option in the face of the Bolshevik's military might. Georgia would remain under Soviet Rule for the following 70 years.

This long period under Soviet hegemony saw a series of Georgian communist leaders (including Joseph Stalin) come into power in Moscow. As was true of Soviet officials from other republics, the visions of these leaders and movements varied greatly: some sought to retain the local character of Georgia in the

multinational USSR, under the Bolsheviks' "ethno-federal system," while others sought to crush any form of uniquely Georgian political identity. Stalin, a native Georgian, was especially brutal in his repression of Georgian nationalism.²⁶ During the late Soviet years, Eduard Shevardnadze, a Georgian politician, held the position of USSR Foreign Minister and served as a party leader from 1972-1985. Shevardnadze would later re-enter the political stage after Georgia's independence.²⁷ In 1991, unexpectedly, came the implosion of the Soviet Union, attended by rising nationalistic sentiments in the constituent republics of the former USSR. In Georgia, the desire for a sovereign state culminated in the vote for national independence in 1991.

1991– 1992: Post-Independent Georgia in Chaos and Crisis

Immediately following Georgia's independence from the Soviet Union in 1991, the nation's new leader Zviad Gamsakhurdia, was forced into hiding after a splinter group from his own faction took up arms against him. The country was plunged into violent chaos as militias and armed gangs roamed the streets, warring over control of various territories.²⁸ Georgia's economy completely collapsed, and extreme poverty followed – even the previously cosmopolitan city of Tbilisi no longer had the most basic of services such as running water and electricity.²⁹ The frustration and fear that dominated Georgian public sentiment led to the ouster of Gamsakhurdia, who was proving ineffective at controlling the roving militias. The grim

25 Ibid, 65.

26 Ibid, 74.

27 Ibid, 92-3.

28 Ibid, 189.

29 World Bank, "Georgia: From Reformer to Performer: A Systematic Country Diagnostic," (Washington, DC: The World Bank Group, 2018), xii.

situation was ameliorated when a military council was appointed in Gamsakhurdia's place, and the council members beckoned back the Georgian Soviet leader, Eduard Shevardnadze to stabilize the country.³⁰

1993– 2003: Shevardnadze Regime

Shevardnadze was well-known to Georgians.³¹ Calling upon old Soviet favors, he managed to rein in the violence with the support of Russia's military.³² Through a series of massive policy achievements and political maneuverings, Shevardnadze brought Georgia under control and to relative stability.³³ He was able even to jail two prominent warlords, and eventually, to lift the nation out of crisis. In foreign policy – in which he was a seasoned veteran from his time in the Soviet government – he took firm steps toward the nations of the West.³⁴ Shevardnadze was able to secure huge amounts of foreign aid money to improve and develop Georgia's governance.

Overall, Shevardnadze managed to lead Georgia to political stability. He wielded his political capital acquired during his Soviet days to bring order back to the nation, to forge new international alliances with Western powers now that Georgia was no longer beholden to Russia, to re-introduce Georgia as a modern nation on the international stage, and to attempt – even if half-heartedly – to curb the prevalence of corruption. Of course, this success could be facilitated only through the exertion of extreme power and Shevardnadze began to come under criticism

for capturing the state, rather than transforming it. Before long, the public became frustrated with unremitting widespread corruption and self-dealing. As Georgia continued to try to pivot westward, the public was also not particularly pleased with the continuing reign of a Soviet-era leader.

2003-2012: Saakashvili's Rise to Power, Rose Revolution, and Presidency

At this time, Mikheil Saakashvili had emerged as a talented young politician: a western-educated intellectual with liberal democratic ideals, he had served as justice minister within Shevardnadze's government, but eventually left – due primarily to his disgust with widespread corruption and disappointment that reform efforts had been thwarted by greedy government officials.³⁵ Many other reformers had defected from the government as well, and began organizing campaigns and public movements from the outside. This young progressive group drew upon their time inside government to give them strategic insight and an "insider's understanding" of the dynamics of the systemic corruption and political machinery of Shevardnadze's regime. In 2001, Saakashvili founded the United National Movement (UNM) political party.³⁶ After the 2003 parliamentary elections, which kept Shevardnadze in power, were exposed as corrupt, the public was motivated to action. Alongside other reformist groups, the UNM helped to galvanize public demonstrations

30 de Waal, 189.

31 Ibid, 92

32 Levan Ramishvili and Tamar Chergoleishvili, *The Making of Modern Georgia 1918-2018: March of the Goblins* (New York: Routledge, 2014), 186.

33 de Waal, 189.

34 Ibid, 189.

35 World Bank, "Fighting Corruption in Public Services: Chronicling Georgia's Reforms," (Washington, DC: The World Bank Group, 2012), 5.

36 Ibid, 6.

that ultimately lead to Shevardnadze's downfall. Massive crowds peacefully protested at the Parliament building for three weeks, demanding Shevardnadze's resignation as President. Amazingly, Shevardnadze eventually stepped down, making way for new political leadership. The protestors carried roses, and the peaceful transfer of power came to be known as the Rose Revolution.³⁷ In the subsequent parliamentary elections, the UNM emerged victorious by an overwhelming margin: Saakashvili was elected to the presidency with an astonishing 90% of the vote.³⁸

After assuming power, Saakashvili initiated a host of sweeping pro-market and governance reforms aimed at uprooting corruption, revitalizing the economy, and continuing Georgia's focus westward toward liberal and progressive international allies. President Saakashvili also accused Russia of engaging in a "creeping annexation" of South Ossetia and Abkhazia, having run on a campaign promise to restore Georgia to its "territorial integrity." The emerging conflict resulted in the five-day war with Russia in 2008 (see section for more detail).³⁹

Through rigorous, well-designed, and transformative policies, Saakashvili was able to lift Georgia out of stagnation and into a period of economic growth, during which the economy "grew robustly at an average annual rate of 4.5 percent."⁴⁰ However, to carry out these major reforms and to achieve these economic gains, Saakashvili amassed great powers for the executive. For example, in

order to jail prominent corrupt businessmen and government officials, Saakashvili acquired unprecedented prosecutorial power for the executive branch, enabling him to jail and fine individuals in order to fill government coffers. While this may have permitted him to fill government coffers, and many Georgians viewed these measures as necessary to root out endemic corruption, other critics, such as Transparency International, warned against the expanded scope of the presidency and the precedent this set.⁴¹

4. Current Political Situation

2012-Present: The Georgian Dream

While the concentration of power in the executive allowed for swift and comprehensive action, it ultimately led to public disillusionment with Saakashvili. While a series of constitutional amendments adopted by Parliament in 2010 did somewhat curb the role of the executive, they were not enough to quell public fears surrounding the growing and deepening power of the president, including usurping the independence of the media by placing private TV news outlets firmly under government control.⁴² Indeed, these public anxieties eventually came to fruition at the ballot box in 2013. The opposition to Saakashvili's UNM consolidated under the newly formed Georgia Dream-Democratic Georgia (GD-DG) party, which ultimately unseated the UNM in 2013 when its candidate Giorgi Margvelashvili won the presidency, defeating Saakashvili's bid for reelection.

37 de Waal, 191-193.

38 World Bank 2012, 5.

39 Neil Buckley, "Russia accused of annexation attempt," *Financial Times*, April 16, 2008, <https://www.ft.com/content/7c67dda8-0bd8-11dd-9840-0000779fd2ac>

40 World Bank, "Georgia: From Reformer to Performer: A Systematic Country Diagnostic," (Washington, DC: The World Bank Group, 2018), 4.

41 World Bank 2012, 117.

42 Christian Caryl, "The Georgian Paradox," *Foreign Policy*, January 31, 2012, <https://foreignpolicy-com/2012/01/31/the-georgian-paradox/>.

The transition in 2013 marked the first peaceful transfer of power in the country's history, ushering in an era of change along with the Georgian Dream party. Its leader, the politically inexperienced billionaire Bidzina Ivanishvili began to reverse the course of the country, a welcome change from Saakashvili's more authoritarian tendencies in later years.⁴³ The Georgian Dream platform was built on the pro-Western, pro-European, and pro-NATO desires shared with the previous government, as well as increasing spending to aid the poor and introducing universal health care.⁴⁴ However, different from his predecessor, Ivanishvili welcomed a reset with the relationship with Moscow.⁴⁵ When surveyed in 2013, 70% of Georgians believed that corruption had decreased since Georgian Dream took office. But that level of support did not last; following the elections, support for the Georgia Dream had dropped to 29% in December 2018.⁴⁶ Allegations of clientelism, cronyism, and kickback schemes for public contracts persisted.⁴⁷ Election integrity remained a concern: during the presidential election of 2018, a charity run by Ivanishvili was said to have offered over half a billion dollars in debt relief for 600,000 Georgians, just a week before the vote. There were also suggestions of voter intimidation at polling stations, according to election watchdog group International Society for Fair Elections

and Democracy (ISFED), representatives of the Georgian Dream party appeared to be checking on a list of "would be supporters," to see whether they showed up to cast a vote on election day.⁴⁸ Today, Georgia is ranked 56 out of a possible 100 points on Transparency International's Corruption Index, placing it 44th out of 180 countries, a slight improvement from 2012 (when it scored 51/100).

Growing pressure from opposition political groups mounted and came to a climax on June 20, 2019, when a Georgian Dream Member of Parliament invited a Russian legislator to address the Parliament from the speaker's chair. This gesture immediately took on great symbolic importance for many Georgians, who continue to protest Russian occupation in Abkhazia and South Ossetia, and who remember all too well the days of Russian domination. An estimated 10,000 demonstrators gathered outside the Parliament, and were subdued by police forces, whose alleged use of force and tactics prompted a Human Rights Watch investigation.⁴⁹ Protests continued the following day, leading to the resignation of Irakli Kobakhidze, Chairperson of the Parliament and Zakaria Kutsnashvili, the Georgian Dream politician who organized the Russian MP's visit. Overall, 305 protestors were arrested and more than 200 people were

43 Luke Harding, "Bidzina Ivanishvili: the eccentric billionaire chasing Georgia's leadership," *The Guardian*, October 1, 2012, <https://www.theguardian.com/world/2012/oct/01/bidzina-ivanishvili-profile-georgia>.

44 "Georgia: From Reformer to Performer, A systematic country diagnostic," *World Bank Group*, 2018, 4, <http://documents.worldbank.org/curated/en/496731525097717444/pdf/GEO-SCD-04-24-04272018.pdf>.

45 Harding.

46 Amy Mackinnon, "In Georgia's Parliament, One Russian Too Many," *Foreign Policy*, June 21, 2019, <https://foreignpolicy.com/2019/06/21/georgia-tbilisi-protests-political-russia-west/>.

47 Andrew McDevitt, "The State of Corruption: Armenia, Azerbaijan, Georgia, Moldova and Ukraine," *Transparency International*, July 2, 2015, https://www.transparency.org/whatwedo/publication/the_state_of_corruption_armenia_azerbaijan_georgia_moldova_and_ukraine.

48 Giorgi Lomsadze, "Opposition challenges results in Georgia's presidential election," *Eurasianet*, Nov 28, 2018, <https://eurasianet.org/opposition-challenges-results-in-georgias-presidential-election>.

49 Mackinnon.

injured, including 34 journalists.⁵⁰

The protests demonstrated a direct rebuke of the ruling party's hints of a closer relationship with Russia, although support for Georgian Dream had already been waning: only 21% of Georgians supported the party according to a survey in May 2019.⁵¹ Following the protests, Georgian Dream has attempted to crack down on the opposition, including reneging on a promise to switch to a fully proportional electoral system, and responding to calls for the Interior Minister Giorgi Gakharia to step down by promoting him to Prime Minister.⁵² In November, demonstrators called for snap elections and the resignation of current President Salome Zourabichvili, to no avail. As tensions continue, the country looks towards the upcoming parliamentary elections in 2020, which will be an important referendum on the direction of Georgia.

5. Relationship with Russia

Diplomatic Relationship:

Following independence, Georgia's turbulent civil war and the failures of the Shevardnadze administration in controlling mismanagement and corruption within the government left the newly democratic country in a difficult position. Relations with Russia were strained primarily by the influence it exerted in the two autonomous regions that proclaimed independence in 1991-2 and 1992-3.⁵³ But there was initial

coordination between Georgian and Russian forces: as USSR President, Mikhail Gorbachev initially annulled South Ossetia's act of secession from Georgia. and later, Russian President Boris Yeltsin and Georgian President Gamsakhurdia coordinated a joint Georgian–Russian militia to disarm Georgian and Ossetian paramilitary groups.⁵⁴ With Saakashvili's turn towards NATO and the EU in 2004, relations with Russia suffered. In 2006, Russia banned the imports of Georgian wine and mineral water.⁵⁵ When the five-day Russo-Georgian War over South Ossetia broke out in 2008 (further explained in Section III), relations with Russia became particularly strained. Georgia's continued struggle against Russian influence can be seen today in disinformation campaigns in which Russian online trolls and propaganda campaigns are exploiting divisions in Georgian society, with the intention of turning Georgia back towards the East, rather than the West.

50 Ibid; "Many journalists injured during protest outside Georgian parliament," *Reporters without Borders*, June 22, 2019, <https://rsf.org/en/news/many-journalists-injured-during-protest-outside-georgian-parliament>.

51 Kornely Kakachia and Bidzina Lebanidze, "Georgia's Dream Meets Georgia's Nightmares," *Foreign Policy*, June 25, 2019, <https://foreignpolicy.com/2019/06/25/georgian-dream-meets-georgias-nightmare/>.

52 Amy Mackinnon, "A Flickering Beacon of Democracy in Russia's Backyard," *Foreign Policy*, November 27, 2019, <https://foreignpolicy.com/2019/11/27/georgia-georgian-dream-ivanishvili-russia-democracy/>.

53 "A Brief look at Russian-Georgian Relations," *AP News*, June 21, 2019, <https://apnews.com/2fcbe15e50924aac9d45b60890cf6a82>.

54 Dimitri Sanakoev, "South Ossetia and Russia's War on Georgia," *McClatchy - Tribune News Service*, October 14, 2008. <https://search.proquest.com/docview/456813361?accountid=11752>.

55 Justin Burke, "Post-Soviet world: what you need to know about the 15 states," *The Guardian*, June 9, 2014, <https://www.theguardian.com/world/2014/jun/09/-sp-profiles-post-soviet-states>.

THE OCCUPIED REGIONS

Though we acknowledge that the occupied territories are a major issue in Georgia, human rights in these regions is not the primary focus of our report. This study focuses on Georgia's implementation of human rights norms, which it cannot do in Abkhazia and South Ossetia due to its lack of de facto control. Additionally, conducting research in these regions requires resources unavailable to us. However, a brief outline of the issue is included to demonstrate its importance in Georgia's politics, international relations, and general implementation of human rights.

Following Georgia's declaration of independence in 1991, tensions between Georgia and the autonomous territories continued. Throughout the early 1990s, the two sides engaged in hostilities. By 1994, when ceasefire agreements were reached Georgia had lost control of most of Abkhazia and parts of the South Ossetia. Since then, a joint peacekeeping force of Georgian, Russian, and Ossetian troops was established in South Ossetia, while Russian peacekeepers were stationed in Abkhazia. This arrangement allowed Russia to establish three military bases in territory claimed by Georgia. Russia considered itself as a neutral third party, while Georgia contends that it was an active patron of the Abkhazian and Ossetian forces. President Saakashvili accused Russia of engaging in a "creeping annexation" of South Ossetia and Abkhazia, and he ran on a campaign promise to return Georgia to its "territorial integrity."⁵⁶

In 2008, tensions between Georgia on one

side and Abkhazia, South Ossetia, and Russia on the other came to a head during the five-day Russo-Georgian War. Beginning on August 1 when South Ossetian separatists attacked Georgian villages, the conflict saw the Georgian Army enter South Ossetia and defeat Ossetian forces only then to be defeated themselves by Russian troops. The war then spread to Abkhazia, with the same outcome: Georgia lost control of both territories. Russian troops ventured further into Georgian territory, occupying several cities. A ceasefire was reached on August 12, with Russia and Georgia agreeing to withdraw troops to pre-war positions.

Shortly thereafter, Russia recognized South Ossetia and Abkhazia as independent states. Only Venezuela, Nicaragua, Nauru, and Syria have followed suit. Russia has kept an estimated 10,000 soldiers in South Ossetia and Abkhazia and in what it called "zones of responsibility" on the borders of those regions, occupying a total of 20% of Georgian territory. Legal actions have been brought against Russia or its agents in the International Criminal Court, the International Court of Justice, and the European Court of Human Rights, alleging that its continued occupation, the practice of "borderization," and the seizure of territory and property of ethnic Georgians all violated customary and conventional international law.⁵⁷

There have been reports of significant human rights violations in the occupied regions. During the conflict in the 1990s, charges of civilian detention, torture of detainees, rape, extrajudicial executions, and ethnic discrimination all regularly appeared in the

56 Caryl.

57 Everett Price and Alex Tiersky, "The Russian Occupation of South Ossetia and Abkhazia," CSCE, 16 July 2018, www.csce.gov/international-impact/publications/russian-occupation-south-ossetia-and-abkhazia.

international media.⁵⁸ The UN Human Rights Committee has noted the incidence of kidnappings, detentions without legal cause, restrictions in receiving education in the Georgian language, and ethnic discrimination, in both of the occupied regions. The so-called border fences erected by Russia are very restrictive, limiting freedom of movement and dividing properties and villages. Residents, especially ethnic Georgians continue to endure arbitrary detentions, property seizure, and discrimination. Economic conditions are poor, with high levels of unemployment and “deplorable” living conditions.⁵⁹ Finally, displaced Georgians are unable to return to their homes and businesses in either of the territories, thereby denying them the right of return.

Russia’s occupation of South Ossetia and Abkhazia significantly impacts Georgia’s international relations and domestic politics. Aside from its referral of the issue to numerous international courts, the government regularly invokes the ECHR and international law to justify its claim to continued sovereignty over the territories. Practically, it attempts to fulfill its obligations regarding both the rights of displaced persons as well as the Georgian citizens in the occupied regions. The Georgian government’s attempts to engage with the population seem to have improved some aspects of their lives, [but they need more international support in stabilizing the area and removing Russian encroachment so that citizens have access to full rights under

Georgian law.⁶⁰

The US has decried the human rights violations occurring in the region. There are political tensions and violence occurring due to the Russian occupation of these territories. Yet Russia is a powerful neighbor and Georgians sometimes feel more influenced by Russia than by the West. Some of those old enough to remember Soviet times may be more susceptible to Russian influence if they look back on that era favorably. By necessity, Georgia’s foreign policy must avoid incitement of further tensions with Russia despite its interest in reclaiming its occupied territories.⁶¹

The dividing lines between the territories and the rest of Georgia did not exist when Georgia was part of the USSR- one NGO spokesperson noted, perhaps to demonstrate the arbitrary nature of occupation and reaffirm Georgian sovereignty. Some people living there would prefer to be part of Russia, others of Georgia, and still others would prefer to be independent entirely. Yet the so-called borders (which the Georgian Government refers to as “the lines of occupation”), guarded by Russian troops, changed due over time due to the conflict, greatly affecting those who live in the region, and causing issues with, for example, outside aid, because access to this region is restricted by the border crossing. Russia does not allow NGOs in the region, except for the Red Cross, and Georgians living there must come to Georgia to access free health care, among other services.⁶²

58 United Nations, “Georgia,” UNHCR, www.unhcr.org/en-us/georgia.html&ved=2ahUKewigjPHisIjIAhVhIDQIHc0kDy8QFjALegQIA-hAB&usq=AOvVaw3fuQSmMQ89u4R1vUy5Ih9_.

59 Kenneth Roth, “World Report 2019: Rights Trends in Georgia,” Human Rights Watch, 17 Jan. 2019, www.hrw.org/world-report/2019/country-chapters/georgia; “Tensions Along Disputed Georgia-South Ossetia Boundary Lead To Calls For Restraint,” RadioFreeEurope/RadioLiberty, Radio Free Europe / Radio Liberty, 31 Aug. 2019, www.rferl.org/a/30138607.html.

60 Price and Tiersky.

61 Ibid.

62 Government of Georgia, *State Strategy on Occupied Territories* (January 2010), <https://reliefweb.int/report/georgia/georgia-state-strategy-occupied-territories-engagement-through-cooperation>.

RELATIONSHIP WITH THE WEST

Georgia's relationship with Western actors like the European Union (EU) and NATO, markedly contrasts to its relationship with Russia. This clash between its Soviet past and Western aspirations currently positions Georgia at a geographic, economic, political, and cultural crossroads. Following the dissolution of the Soviet Union, Georgia quickly sought greater cooperation with the West, joining the Council of Europe in 1999. The Saakashvili era solidified this Westward orientation with then-President Saakashvili declaring in a 2009 speech: "Our choice has one name – Europe. This name means freedom, democracy, independence and peace."⁶³ This aspiration, along with Saakashvili's anti-corruption efforts, free-market reforms, and strong opposition to Russia, earned him the title of "darling of the West."⁶⁴ Georgia's increased cooperation with NATO, the EU, and the US, has promoted the country's development - particularly on human rights – though not without consequences.

1. Council of Europe

In short, Georgia sees itself as European. In the words of Georgian President Salome Zourabichvili, "Our values, culture and history are European, our population is European."⁶⁵

Georgia has been a Christian country since the fourth century and has a similarly long history of winemaking.⁶⁶ Geographically as well, Georgia is located east of Europe, separated by the Black Sea. These historical, cultural, and geographic factors informed Georgia's decision to join the Council of Europe in 1999, an early step in harmonizing European values in Georgian law. Described by current Georgian Foreign Minister David Zalkaliani, "membership symbolized the aspirations of Georgian people towards European values and identified the readiness to launch significant reforms in human rights, rule of law, and democracy."⁶⁷ Commitments under the framework of the Council included the ratification of conventions, adoption of national laws, and implementation of reforms to ensure protection of human and minority rights.⁶⁸ Georgia has served as a productive member of the Council for the past 20 years, has contributed interesting case law, and today serves as President of the Council for the first time. Georgia's six-month presidency began November 27, 2019, with a priority of its presidency being "Human Rights and Environmental Protection."⁶⁹ Conversation with the Council of Europe Office in Tbilisi affirmed that leadership in the Council serves not only as a matter of prestige for Georgia, but also as an avenue to harmonize its

63 Donnacha O. Beachain and Frederik Coene, "Go West: Georgia's European Identity and its Role in Domestic Politics and Foreign Policy Objectives," *Nationalities Papers: The Journal of Nationalism and Ethnicity* 42, no. 6 (2014): 923 – 941, <https://www.cambridge.org/core/journals/nationalities-papers/article/go-west-georgias-european-identity-and-its-role-in-domestic-politics-and-foreign-policy-objectives/AB309EDA6F4E1E4D-25C97F00DCFF7973>.

64 Peter Zalmayev and Lincoln Mitchell, "The Rise and Fall of Mikheil Saakashvili," *Al Jazeera*, February 20, 2018, <https://www.aljazeera.com/indepth/opinion/rise-fall-mikheil-saakashvili-180220122748810.html>.

65 Georgi Gotev, "Georgia suggests taking an unconventional path to accession," *Euractiv*, July 11, 2019, <https://www.euractiv.com/section/eastern-europe/news/georgia-suggest-taking-an-unconventional-path-to-eu-accession/>.

66 This narrative of shared history and culture has been used by leaders, from Saakashvili to current President Salome Zourabichvili

67 David Zalkaliani, "Georgian Presidency will contribute to making the Council of Europe Stronger," *Euractiv*, November 28, 2019, <https://www.euractiv.com/section/eastern-europe/opinion/georgian-presidency-will-contribute-to-making-the-council-of-europe-stronger/>.

68 Council of Europe, "Georgia joins the Council of Europe," April 27, 1999, <https://reliefweb.int/report/georgia/georgia-joins-council-europe-0>.

69 Zalkaliani.

human rights norms and reclaim its European identity.⁷⁰

2. The European Union

Membership in the Council of Europe has also served as a precursor for greater European cooperation. For the past 15 years, Georgia has aspired to join the EU with a consistent 80% of the population supporting this pursuit.⁷¹ The EU - Georgia Association Agreement (AA) formalized these pursuits in June 2014, after four years of negotiations. The AA entered into force on July 1, 2016 and includes the Deep and Comprehensive Free Trade Area (DCFTA) Agreement; the AA and DCFTA build a foundation for the political association and economic integration of Georgia into the EU.⁷² The AA is designed for increasing democracy and rule of law, human rights, good governance, and economic development in Georgia, while the DCFTA aims to further strengthen the trade relationship between Georgia and the EU. The AA institutional framework also establishes bodies such as the Association Council to oversee its application, with the Association Agenda defining yearly implementation milestones and priorities.⁷³

Another part of Georgia's effort to strengthen its relationship with the EU was visa liberalization, permitting document-free access to the Schengen Zone. In early 2013,

the Visa Liberalization Action Plan (VLAP) was presented as the basic instrument of dialogue. The VLAP contains four "blocks," with each including a "legislative and policy framework" and "benchmarks for effective implementation."⁷⁴ After four years of policy changes and close monitorization of the Action Plan, Georgia gained visa liberalization on February 27, 2017, "bringing the EU and Georgia closer together," according to EU Ambassador to Georgia Carl Hartzell.⁷⁵ Considered a "resounding success," the plan has permitted over a half a million Georgians to have access to the Schengen Zone under the liberalized visa regime.⁷⁶

From Georgia's perspective, the importance of the Association Agreement is not limited to EU accession: the aspirational pull of the EU has also motivated significant rule of law and human rights reforms. In the words of Georgian Foreign Minister David Zalkaliani, "we realize that the process itself is very useful for the country. That road we are on is helping us strengthen our state institutions [and] democracy, to build a society where human rights are respected."⁷⁷ The influence of EU aspirations on human rights developments is seen directly in the adoption of an Anti-Discrimination Law and the creation of a Human Rights Secretariat within the Prime Minister's Office. The former was directed in the fourth block of the VLAP, where the Action Plan required that Georgia adopt a

70 Representative from the Council of Europe - Georgia in discussion with the authors, January 2020.

71 NDI, "Results of December 2019 Public Opinion Polls in Georgia," January 16, 2020, <https://www.ndi.org/publications/results-december-2019-public-opinion-polls-georgia-0>.

72 L261: Legislation Official Journal of the European Union. Volume 57. 30 August 2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:261:FULL&from=EN>

73 Ibid.

74 European Commission, *EU-Georgia Visa Dialogue, Action Plan on Visa Liberalization*, <http://migration.commission.ge/files/vlap-eng.pdf>.

75 "Results of EU-Georgia Visa Liberalisation Agreement: Three Years On," EU Neighbors, December 16, 2019, <https://www.euneighbours.eu/en/east/stay-informed/news/results-eu-georgia-visa-liberalisation-agreement-three-years>.

76 Ibid

77 Andrew Wrobel, "It's Time for the EU to Show Georgia That a Clear Path towards Membership Exists," *Emerging Europe*, December 20, 2019, <https://emerging-europe.com/news/its-time-for-the-eu-to-show-georgia-that-a-clear-path-towards-membership-exists/>.

“comprehensive anti-discrimination law, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination.”⁷⁸ This translated to Georgia’s passage of the “Law on the Elimination of All Forms of Discrimination” (Anti-Discrimination Law) on May 2, 2014.⁷⁹ Similarly, the creation of the Interagency Council for Human Rights Strategy and Action Plan was initiated by Decree No. 169, on July 5, 2013, pursuant to the EU Association Agenda’s call for “a comprehensive National Human Rights Strategy and Action Plan.”⁸⁰ Though initiated and modeled on a European standard, the Human Rights Council has been internalized in Georgia. In the second human rights strategy, the four priorities for 2020-2024 include further protections relating to gender, children, anti-discrimination, and persons with disabilities.⁸¹ Though encouraging developments, Georgia’s greater cooperation with the West has not come without challenges.

3. The North Atlantic Treaty Organization

Georgia’s intention to join NATO was formalized at the Bucharest Summit on April 3, 2008, which stated: “NATO welcomes Ukraine’s and Georgia’s Euro-Atlantic aspirations for

membership in NATO. We agreed today that these countries will become members of NATO.”⁸² Shortly thereafter, the NATO-Georgia Commission was founded with the goal of enhancing political dialogue, cooperation among the parties, and supervision of the membership process.⁸³ However, the initiation of NATO-Georgia accession negotiations reverberated throughout Russia, with Prime Minister Dmitry Medvedev describing this prospect as “absolutely irresponsible” and a “threat to peace.”⁸⁴ Medvedev’s interview with Russian state television on August 7, 2008 warned of a “horrible conflict” if Georgia joined NATO, a foreshadow to the Russo-Georgian War (see Relationship with Russia).⁸⁵ Exemplifying the tensions between the West and Russia, NATO engagement highlights the challenging position Georgia occupies.

In the aftermath of the conflict with Russia, Georgia remains one of the Alliance’s “closest partners.”⁸⁶ NATO has supported Georgia’s recovery efforts and has called for Russia to reverse its recognition of Abkhazia and South Ossetia as independent states.⁸⁷ NATO membership is viewed favorably in Georgia with 74% of the public in support as of December 2019.⁸⁸ Likewise, Georgia was the top non-NATO contributor of troops to the coalition mission in Afghanistan and had the

78 European Commission, *EU-Georgia Visa Dialogue, Action Plan on Visa Liberalization*.

79 Ioanna Sakellarakis, “Georgia passes antidiscrimination law,” Human Rights House Foundation, May 6, 2014, accessed May 9, 2020, <https://humanrightshouse.org/articles/georgia-passes-antidiscrimination-law/>.

80 Delegation of the European Union to Georgia, *Association Agenda between Georgia and the EU, 2014-2016*, 5, https://eeas.europa.eu/sites/eeas/files/associationagenda_2014_en.pdf.

81 The Human Rights Advisor to the Prime Minister in discussion with the authors, January 2020.

82 NATO, *Bucharest Summit Declaration - Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council in Bucharest on 3 April 2008*, accessed May 4, 2020, https://www.nato.int/cps/us/natohq/official_texts_8443.htm.

83 “Relations with Georgia,” NATO, last updated March 26, 2019, https://www.nato.int/cps/en/natohq/topics_38988.htm?selectedLocale=en.

84 Vladimir Isachenkov, “Russia Warns of ‘Horrible’ Conflict If Georgia Joins NATO,” AP NEWS, August 7, 2018, <https://apnews.com/21036352495b4b4fa9802bd2d7c5ac86/Russia-warns-of-‘horrible’-conflict-if-Georgia-joins-NATO>.

85 *Ibid.*

86 “Relations with Georgia.”

87 *Ibid.*

88 NDI, “Results of December 2019 Public Opinion Polls in Georgia.”

third-largest contingent of forces in Iraq.⁸⁹ Despite these efforts, Georgia's membership in NATO remains unlikely given Russia's strong opposition and current territorial disputes with the two breakaway regions. EU ascension is similarly uncertain, with former president of the European Council Donald Tusk asserting "[it] seems unrealistic in the foreseeable future."⁹⁰ Regardless of the uncertainty of formal accession to Western organizations, EU and NATO integration remain top priorities for the government, retain strong support from the populace, and continue to be a driving factor in Georgia's human rights development.

INTERNATIONAL HUMAN RIGHTS LAW

1. Introduction to International Human Rights Law

International Human Rights Law (IHRL) has developed rapidly since the end of World War II, growing from a single, aspirational declaration to a vast array of international and regional conventions, standards, and institutions. In order to understand the extent to which and the reasons why Georgia is incorporating human rights norms into its domestic legal system, one must first understand how the regime has developed.

The Universal Declaration of Human Rights (UDHR), adopted by the General Assembly of the newborn United Nations (UN) in 1948, was the first document to codify a global conception of human rights.⁹¹ While aspirational in nature, it set forth the principles from which the human rights regime would develop. The UDHR, and by extension the regime that flowed from it, contains two sets of rights: negative rights and positive rights. Negative rights are those that the state commits not to infringe; positive rights are those that the state is affirmatively obligated to provide. Examples of the former include the rights to free speech and assembly, while the latter include the right to education. All three areas examined in this report (police accountability, private sector discrimination, and freedom of the media) are addressed by the UDHR.⁹²

The UDHR gave rise to two international legally binding treaties: the International

89 Neil Hauer, "The West Takes NATO for Granted. One Country Still Wants In," *The Atlantic*, April 3, 2019, <https://www.theatlantic.com/international/archive/2019/04/west-georgia-nato/586225/>.

90 Published in Tusk's memoir, as described in a note following a visit to the caucuses in July 2015. Wrobel.

91 "Universal Declaration of Human Rights," United Nations, October 6, 2015, accessed April 10, 2020, <https://www.un.org/en/universal-declaration-human-rights/>.

92 See Articles 7 through 9; 2, 7, and 23; and 19, respectively.

Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The former principally sets out negative rights, while the latter mostly articulates positive ones. Developed during the Cold War, the ICCPR was supported by the United States and its allies, while the ICESCR was promoted primarily by the Soviet Union and states that shared its ideology. Today, the Covenants have 113 and 110 states parties, respectively.⁹³ In total, the international community has adopted 18 human rights treaties: many are widely subscribed, while some have only a few states parties.

The international legal regime which underpins IHRL starts from the premise that states are the primary actors in international law, and therefore it is that are responsible for guaranteeing the human rights of their citizens. While there has been movement to incorporate private entities in human rights promotion, most prominently through the UN Guiding Principles on Business and Human Rights, the legal obligation to ensure that individuals' rights are protected in the private sector remains with the state.⁹⁴ As such, to fully evaluate the implementation of human rights norms and principles, one must look at how states guarantee those rights both in the public and the private sector.

Several human rights treaties have established committees to monitor their implementation. These include, for example, the Committee on the Elimination of Discrimination against

Women, the Committee on the Rights of the Child, and the UN Human Rights Committee, each tasked with observing and reporting on states' compliance with the relevant treaties.⁹⁵ Other UN bodies are assigned a human rights mandate, most importantly the UN Human Rights Council (UNHRC) and the Office of the High Commissioner for Human Rights (OHCHR). While these bodies lack enforcement capabilities, they are able to use pressure to promote IHRL compliance. Outside of the UN system, non-governmental organizations (NGOs) and regional organizations play a large role in identifying human rights violations and advocating for the international community to address them.

While much of IHRL has been adopted at the global level, regional regimes have also expanded upon the rights contained in IHRL treaties, imposing stricter obligations on the states parties. Europe has led in this effort, even prior to the adoption of the ICCPR and the ICESCR. Formed in 1949, the Council of Europe (CoE) adopted the European Convention on Human Rights (ECHR) one year later. The ECHR requires its signatories to embrace many of the provisions now enshrined in global IHRL.⁹⁶ In addition, it created the European Court of Human Rights (ECtHR, or the Strasbourg Court), whose rulings serve as a binding enforcement mechanism. Throughout its history, the CoE has adopted a number of other human rights conventions and institutions, creating a comprehensive legal framework for its members.

93 The United States is not part of the ICESCR. *International Covenant on Civil and Political Rights (ICCPR)*, New York, 19 December 1966, *United Nations Treaty Series*, vol. 999, No. 14668, p. 171, https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf; *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, New York, 16 December 1966, *United Nations Treaty Series*, vol. 993, No. 14531, p. 3, https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf.

94 Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, United Nations, New York, 2011, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

95 "Human Rights Bodies," OHCHR, accessed April 11, 2020, <https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx>.

96 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, https://www.echr.coe.int/Documents/Convention_ENG.pdf.

The ECHR adjudicates claims under the ECHR. It may receive interstate complaints as well as applications by individuals. That is, people, NGOs, and groups of individuals may bring claims against their state once they have exhausted local remedies. The CoE's member states have thus allowed an external court to pass judgement on their treatment of their own citizens, ceding what is normally considered a fundamental part of state sovereignty. Other examples of the same kind of oversight are the Inter-American Court of Human Rights and the African Court of Justice and Human Rights.

While the ECtHR has adjudicated cases against all 47 states parties to the ECHR, its effectiveness is unclear. The Court has faced claims of judicial overreach and activism, especially in the United Kingdom.⁹⁷ Additionally, its judgments have not been uniformly implemented, with some studies reporting that more than half of them have gone unenforced.⁹⁸ While the Court has succeeded in providing de jure minimum standards for the rule of law and protection of fundamental rights, these have not been consistently internalized, particularly in Central and Eastern Europe.⁹⁹ Still, citizens have seen the Court as an extension of their judicial system, capable of impacting their daily lives. In that regard, the ECtHR has succeeded in democratizing human rights throughout Europe.

2. Georgia and International Human Rights Law

Upon independence, Georgia quickly began to join the global IHRL regime. On April 9, 1991, the Supreme Council approved the Act of Restoration of State Independence of Georgia in an emergency session. The act declared among other things that:

The Republic of Georgia, striving for a dignified position in the world community of nations, recognizes and ensures equally all the fundamental rights and freedoms of individuals, including national, ethnic, religious and linguistic groups, envisaged by international law, as required by the Charter of the United Nations, the Universal Declaration of Human Rights, and international pacts and conventions.¹⁰⁰

This commitment was further cemented by Georgia's 1995 Constitution. Article 4 (2) declares:

The State acknowledges and protects universally recognized human rights and freedoms as eternal and supreme human values. While exercising authority, the people and the State shall be bound by these rights and freedoms as directly applicable law. The Constitution shall not deny other universally recognized

⁹⁷ See, for example, Emma Bonino and James A. Goldston, "Overworked but Vitally Important," *POLITICO*, December 7, 2011, accessed April 11, 2020, <https://www.politico.eu/article/overworked-but-vitally-important/>; Lord Phillips, "Strasbourg Overreach and ECHR Membership," *Judicial Power Project* (blog), March 7, 2018, accessed April 11, 2020, <https://judicialpowerproject.org.uk/lord-phillips-strasbourg-overreach-and-echr-membership/>.

⁹⁸ Veronika Fikfak, "Changing State Behaviour: Damages before the European Court of Human Rights," *European Journal of International Law* 29, no. 4 (December 31, 2018): 1091–2, accessed April 11, 2020, <https://doi.org/10.1093/ejil/chy064>.

⁹⁹ Jernej Letnar Čeranič, "Impact of the European Court of Human Rights on the Rule of Law in Central and Eastern Europe," *Hague Journal on the Rule of Law* 10, no. 1 (April 2018): 130–3, accessed April 11, 2020, <https://doi.org/10.1007/s40803-018-0074-5>.

¹⁰⁰ Supreme Council of the Republic of Georgia, "Act of Restoration of State Independence of Georgia," 4 September 1991, accessed March 18, 2020, <https://matsne.gov.ge/en/document/view/32362?publication=0>.

human rights and freedoms that are not explicitly referred to herein, but that inherently derive from the principles of the Constitution.¹⁰¹

According to the Constitution, these “universally recognized human rights and freedoms” gain further prominence in two important ways. First, Article 4 (5) states that the “legislation of Georgia shall comply with the universally recognized principles and

rules in international law. A treaty or international agreement of Georgia, unless it comes into conflict with the Constitution or the Constitutional Agreement of Georgia, shall take precedence over domestic normative acts.”¹⁰² Thus, the Constitution provides international treaties, such as the ICCPR, as well as customary international law, including the contents of the UDHR, a prominent position within the country’s

Table 1.2: Georgia’s Accession to or Ratification of International Human Rights Treaties

Treaty	Date of Accession/Ratification
Convention against Discrimination in Education	November 4, 1992
Geneva conventions and additional protocols	September 14, 1993
Convention on the Prevention and Punishment of the Crime of Genocide	October 11, 1993
ICCPR	May 3, 1994
ICESCR	May 3, 1994
Convention on the Rights of the Child (CRC)	June 2, 1994
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	October 26, 1994
Convention on the Elimination of All Forms of Discrimination against Women	October 26, 1994
Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty	March 22, 1999
European Convention on Human Rights	May 20, 1999
International Convention on the Elimination of All Forms of Racial Discrimination	June 2, 1999
International Labor Organization fundamental conventions	1993 - 2002
Convention Relating to the Status of Refugees	August 9, 1999
Rome Statute of the International Criminal Court	September 5, 2003
Optional Protocol to the CRC on the sale of children child prostitution and child pornography	June 28, 2005
Optional Protocol of the Convention against Torture	August 9, 2005
Optional Protocol to the CRC on the involvement of children in armed conflict	August 3, 2010
Convention Relating to the Status of Stateless Persons	December 23, 2011
Convention on the Rights of Persons with Disabilities	March 13, 2014
Convention on the Reduction of Statelessness	July 1, 2014

Sources: OHCHR, CoE, UN Treaty Collection, ILO, ICRC, ICC

¹⁰¹ Parliament of Georgia, “Constitution of Georgia,” 24 August 1995, Art. 4.2, accessed March 15, 2020, <https://matsne.gov.ge/en/document/view/30346?publication=35>.

¹⁰² *Ibid.*, Art. 4.5.

hierarchy of legal norms. The Constitution explicitly guarantees fundamental human rights in Chapter 2.

Articles 9 through 35 describe the basic rights protected by the international regime. These closely align with the provisions of IHRL and include the right to equality; freedom of opinion, information, mass media, and the internet; and due process and procedural rights, including compensation for damage inflicted by a public authority.¹⁰³ Additionally, the Constitution establishes the Public Defender as the body responsible for supervising human rights protections.¹⁰⁴

These provisions of the Georgian Constitution demonstrate the State's willingness to adhere to international norms. The human rights treaties and international conventions to which Georgia is a state party are listed in Table 1.1 (of the major human rights treaties, the only ones to which Georgia has not acceded are the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families).¹⁰⁵

Georgia's laws have undergone changes to become compatible with these treaties. For instance, according to the ECtHR, its judgements have led to reforms in areas such as improvement in procedural safeguards,

with particular "strengthening of adversarial principle."¹⁰⁶

3. Understanding Georgia's Compliance with IHRL

As discussed above, Georgia has acceded to much of the global IHRL framework and, as a member of the CoE, Europe's regional framework. However, a state's becoming a party to a treaty does not necessarily mean that it will comply with or fully implement the treaty's provisions. In fact, studies show limited to no correlation between participation in a human rights treaty and compliance with it.¹⁰⁷ This study seeks to understand the extent of and the reason behind Georgia's compliance with IHRL. To that end, the international law literature on compliance offers several frameworks that help explain Georgia's actions.

Coercion: A state sometimes participates and complies with international human rights law because another, more powerful state uses or threatens to use coercive measures to induce that behavior, which might otherwise not be adopted.¹⁰⁸ IHRL itself is not the immediate driver of policy changes, rather the state is changing its policies in response to the hard and soft power mechanisms used by the coercing state. This may explain the impact of the European Union on Georgia's human rights compliance, as the EU has conditioned

103 Ibid, Arts. 11, 17, 18, and 31.

104 Ibid, Art. 35.

105 Human Rights Council, "Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to council resolution 16/21 - Georgia," A/HRC/WG.6/23/GEO/2, 24 August 2015, accessed April 17, 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/99/PDF/G1518799.pdf?OpenElement>, 2-3.

106 "The ECtHR and Georgia: Facts and Figures," The European Court of Human Rights, February 2020, https://www.echr.coe.int/Documents/Facts_Figures_Georgia_ENG.pdf.

107 See, for example: Linda Camp Keith, "The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?," *Journal of Peace Research* 36, no. 1 (1999): 95-118, accessed March 11, 2020, www.jstor.org/stable/451106; Oona A. Hathaway, "Do Human Rights Treaties Make a Difference?," *The Yale Law Journal* 111, no. 8 (2002): 1935-2042, accessed March 11, 2020, <https://doi.org/10.2307/797642>.

108 Jack L. Goldsmith and Eric A. Posner, *The Limits of International Law* (Oxford: Oxford University Press, 2005), 28-29.

the visa-free regime and the Association Agreement on human rights compliance.

Cross Issue Persuasion: The liberal corollary to coercion, cross issue persuasion suggests instances in which one state persuades another to comply with IHRL by linking compliance to an issue salient to the latter.¹⁰⁹ By emphasizing cooperation, cross issue persuasion may help to visualize Georgia's relationship with the EU by focusing less on the power dynamics of the relationship and more on the mutual benefits both gain.

Signaling: States may choose to participate in international human rights law to gain the reputational benefits associated with participation without necessarily guaranteeing compliance with the law.¹¹⁰ Similarly, a state may comply with the law to signal restraint in exercising its power and its acceptance of international norms in order to induce beneficial interactions with other states.¹¹¹ Given that Georgia has taken significant action to comply, perhaps Georgia is signaling to the international community its desire to accept international norms and be a productive member of the international community, an important prerequisite to membership in NATO and the EU.

Normative Persuasion: States also may be persuaded to comply with international human rights norms by other entities, such as treaty bodies or international organizations.

This persuasion can take place because of the state's rigorous analysis of the argument, its view of the persuader as an authority, or the alignment of the persuader's argument with the state's current behavior.¹¹² This may help explain Georgia's implementation of recommendations from the UN, the CoE, and the EU as normative leaders.

Acculturation: Finally, some states comply with human rights norms due to cognitive and social pressures they feel from the international community.¹¹³ Acculturation facilitates the internalization of human rights norms and opens political space in its society for their further discussion and promotion.¹¹⁴ This may help to explain how Georgia and its citizens are beginning the process of internalizing these norms.¹¹⁵

While none of these frameworks by itself explains Georgia's compliance with IHRL, taken together, they may aid in the understanding of some of the mechanisms that have shaped the current state of affairs. As we demonstrate throughout the remainder of the report, Georgia faces pressures on multiple fronts, both internal and external, that affect how its incorporation of human rights norms into its domestic legal system. We hope that this study will help to demonstrate how these multiple pressures have contributed to the outcome.

109 Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca, NY, USA: Cornell University Press, 2009).

110 James D. Fearon, "Signaling Foreign Policy Interests: Tying Hands versus Sinking Costs," *The Journal of Conflict Resolution* 41, no. 1 (1997): 68–90, accessed March 3, 2020, www.jstor.org/stable/174487.

111 David H. Moore, "A Signaling Theory of Human Rights Compliance," *Northwestern University Law Review* 97, no. 2 (2003): 879–910, accessed March 3, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=932066.

112 Alastair Iain Johnston, "Treating International Institutions as Social Environments," *International Studies Quarterly* 45, no. 4 (December 2001): 496–99, accessed March 11, 2020, <https://doi.org/10.1111/0020-8833.00212>.

113 Ryan Goodman and Derek Jinks, "How to Influence States: Socialization and International Human Rights Law," *Duke Law Journal* 54, no. 3 (2004): 621–703, accessed March 11, 2020, www.jstor.org/stable/40040439.

114 Ryan Goodman and Derek Jinks, "Incomplete Internalization and Compliance with Human Rights Law," *European Journal of International Law* 19, no. 4 (September 1, 2008): 725–48, accessed March 11, 2020, <https://doi.org/10.1093/ejil/chn039>.

115 The internalization process is discussed at length in Harold Hongju Koh, "How Is International Human Rights Law Enforced," *Indiana Law Journal* 74, no. 4 (Fall 1999): 1397–1418, accessed March 11, 2020, <https://heinonline.org/HOL/P?h=hein:journals/indana74&i=1407>.





Police Accountability

INTRODUCTION

1. Police Accountability and Human Rights

a. International Human Rights Law

Law enforcement is the primary way most governments directly interact with their citizens. As agents of the state, members of law enforcement are tasked with ensuring that the laws are being followed and that the state is fulfilling its obligation to protect its citizens. As a part of these responsibilities, law enforcement helps ensure that the rights of the citizenry are protected and maintained. These responsibilities are both negative and positive. While there is a clear responsibility for the police themselves not to violate the rights laid out in International Human Rights Law (IHRL), police are also responsible for preventing rights violations from happening.¹¹⁶ IHRL also mandates that when a member of law enforcement fails to fulfill this responsibility, those victimized by the failure should be accorded the right to claim a remedy for a violation, the right to have that claim heard and resolved, and the guarantee that any remedy is enforced.¹¹⁷ Law enforcement must be accountable to the state and the public, and the state must have

mechanisms to ensure this accountability.

Effective police accountability mechanisms are important for any society that is based on the rule of law. These mechanisms ensure that the police act impartially, applying the law fairly, and being held responsible when it does not. Robust mechanisms also enhance the public perception of police, building trust between the public and the government. But beyond helping the stability and governance of the state, police accountability is a fundamental part of the human rights regime. Successful implementation of police accountability norms is crucial for a state to comply with IHRL.

While there is no treaty expressly addressing the accountability of law enforcement, it is at least implicitly embedded in every part of IHRL. Specific provisions of numerous international instruments relate to principles of police accountability. For example, the Convention Against Torture contains provisions regarding both the right to redress and remediation.¹¹⁸ Accountability is an important part of the Code of Conduct for Law Enforcement Officials, adopted by the UN GA in resolution 34/169. This was elaborated upon by the 1989 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement

116 Sarah Poolman, Richard Wilshaw, and Jamie Grace, "Human Rights in Policing: The Past, Present and Future," *The Political Quarterly* 90, no. 3 (September 2019): 451-2, accessed October 22, 2019, <https://doi.org/10.1111/1467-923X.12711>.

117 ICCPR, Art 2.3.

118 UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, accessed March 20, 2020, <https://www.refworld.org/docid/3ae6b3a94.html>, Articles 12-15.



Georgian patrol police officers and vehicles.
© Image: Ministry of Internal Affairs

Officials.¹¹⁹ Other instruments, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Convention against Corruption, the Paris Principles relating to the status of national institutions, and several guidelines, standards, and rules governing detention and imprisonment further build out the legal framework and requirements for a robust police accountability system.¹²⁰ Thus, at the international level, there are binding legal obligations and strong normative requirements for police accountability and

the right to a remedy as human rights issues. The Council of Europe has developed two primary police accountability mechanisms. The first is the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Convention's Committee conducts prison visits and issues reports and recommendations based on their findings.¹²¹ The second is the European Code of Police Ethics, adopted in 2001. The Code outlines in detail best practices for policing and has a section that explicitly discusses accountability systems.¹²²

119 United Nations Office on Drugs and Crime, *Handbook on Police Accountability, Oversight and Integrity*, Criminal Justice Handbook Series (New York: United Nations, 2011), accessed October 23, 2019, https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf, 22-4.

120 *Ibid.*, 24-7.

121 "About the CPT," Council of Europe, accessed March 19, 2020, <https://www.coe.int/en/web/cpt/about-the-cpt>.

122 Council of Europe, *The European Code of Police Ethics: Recommendation Rec (2001) 10, Adopted by the Committee of Ministers of the Council of Europe on 19 September 2001 and Explanatory Memorandum*, Recommendation Adopted by the Committee of Ministers of the Council

Finally, the ECtHR has developed case law holding members of law enforcement liable for severe misconduct, such as unlawful killings and ill-treatment.¹²³ As a member of the Council of Europe, Georgia is required to ensure that its police accountability provisions meet international standards.

b. International Best Practices and Standards

The legal and normative framework for police accountability described in the previous section has developed into an established set of best practices, policies, and requirements. These fall into four categories: internal, governmental, non-governmental, and community.¹²⁴ These categories are complementary; an effective police accountability system will be strong in all four. We use these categories to evaluate Georgia's police accountability system.

i. Internal Accountability

Institutions responsible for the police should have internal mechanisms such as codes of conduct, agency standards, monitoring bodies, and disciplinary bodies.¹²⁵ Internal accountability mechanisms should address all phases of police operations: direction setting before, supervision and monitoring during, and review and evaluation after police activities.¹²⁶ Each phase feeds cyclically into the next. The following are best practices associated with internal accountability.

Standards and Direction Setting:

The success of an internal accountability mechanism begins with clear standards set by legislation, regulations, codes of conduct, and senior officials in charge of police activities. These should meet or exceed the international standards described in the previous section, with explicit reference to protecting human rights, using proportional responses, and restricting the use of deadly force.¹²⁷ These standards should also emphasize that the police are accountable to the state, the public, and each other, and lastly should outline the consequences for violations.

The actions and attitudes of senior officials regarding police accountability set a direction for how deeply the average police officer will internalize these standards. Senior officials should foster a culture that promotes these standards and encourages internal reporting¹²⁸. This is crucial to ensure that members of law enforcement feel empowered to report instances when they view others violating these standards. Ultimately, those at the top of the chain of command are responsible for noncompliance with the standards and so their role in direction setting is critical.

Human Resources:

Law enforcement is only as effective as its members. Human resources play a large role in ensuring compliance with the applicable

of Europe, 2001,10 (Strasbourg: Council of Europe Publishing, 2002), accessed October 23, 2019, <https://www.fenpol.org/legislacao/legpsp01.pdf>.

123 UNDOC, 30.

124 These categories are derived from the vertical, horizontal, external, and from below framework presented in Eric Scheye, "The Effectiveness of Police Accountability Mechanisms: What Works and the Way Ahead" (Washington, DC: USAID, November 9, 2018), accessed November 13, 2019, <https://www.usaid.gov/sites/default/files/documents/1866/Police-Accountability-What-Works.-Nov2019ab.pdf>, 8.

125 *Ibid.*, 9.

126 UNODC, 11.

127 *Ibid.*, 77-9; Scheye, 9.

128 UNODC, 75-6.

standards. First, police departments must have well documented hiring practices and procedures which help recruit the best candidates and vet them for potential red flags, such as prior criminal convictions and temperament issues.¹²⁹ Second, recruits must have sufficient training including training on human rights and police accountability.¹³⁰ Training curricula offer an excellent opportunity for new police officers to cooperate with civil society to ensure that the community has a voice in how it wants to be policed. Third, education must be continual. As human rights and accountability practices develop, officers must be retrained to ensure that new practices are internalized and to reemphasize existing safeguards. Finally, human resources must take human rights practices and accountability into consideration in advancement and disciplinary decisions.¹³¹

Complaint Processing:

Effective complaints processing is at the core of police accountability. Police institutions must have a mechanism for addressing complaints from the public as well as other members of law enforcement. Information for accessing the complaint mechanism must be displayed prominently at all police institutions, including online, and complaints should furthermore be accepted at all such locations. Using the complaint mechanism should be free, offer guaranteed security, and be especially sensitive to gender and

marginalized groups.¹³² When a complaint is received, it should be recorded and investigated. The complainant should be informed about the progress and outcome of their complaint and should be given the opportunity to appeal if the complaint is dismissed.¹³³

Monitoring:

Police departments should be not only reactive to complaints, but also proactive in monitoring to ensure that human rights are respected throughout all police actions. Monitoring units should have access to all facets of policework, subject only to limits needed to protect citizens' privacy. This is especially important for covert operations, as they are more legally sensitive and less transparent. Monitoring units should have adequate resources to conduct their operations. When violations are found, they should be reported to the appropriate investigative or disciplinary body. Monitoring units should also disseminate examples of best practices to foster a culture of human rights promotion and protection.¹³⁴

Investigating:

Once a complaint is received and deemed credible, or a monitoring body has identified a possible violation in need of investigation, an independent investigative body must ascertain the facts of the case.¹³⁵ If in the course of an investigation it is found that the

129 Ibid, 80-3.
130 Ibid, 83-4.
131 Ibid, 84-6.
132 Ibid, 33-5.
133 Ibid, 35-6.
134 Ibid, 35-6.
135 Ibid, 37-8.

violation reached a criminal threshold, the case should be transferred to the prosecutor.¹³⁶ The investigative body must be independent and impartial; as such, it should have the power to conduct its own investigation without relying on the police and should be housed in an office separate from the police officer or unit under investigation.¹³⁷ The results of the investigation should be forwarded to a disciplinary proceeding if a violation is found to have occurred.

Disciplinary Procedures:

For accountability mechanisms to be effective, there must be consequences once an officer is found to have committed a violation. There should be a range of potential punishments depending on the severity of the transgression, up to and including termination. Any disciplinary decision must be made transparently, be subject to appeal, and ultimately be enforced.¹³⁸

Reporting: Transparency is key to ensuring that internal accountability mechanisms serve the public and the state. Consistent and accurate reporting helps to build trust in these mechanisms, leading to better relations between law enforcement and the public. This in turn will incentivize the public to utilize the internal mechanisms in future cases of suspected police misconduct.¹³⁹ Police institutions should publish comprehensive statistics on complaints, investigations, and disciplinary outcomes.

ii. Government Accountability

As agents of the state, police are accountable to the government as a whole. They are subject to the country's system of checks and balances, such as parliamentary and judicial oversight, police and human rights specific oversight bodies, and legislation and administrative codes governing public service.¹⁴⁰ The following are best practices for governmental accountability mechanisms.

Parliament:¹⁴¹

Parliament plays a significant oversight role by enacting legislation to govern, fund, and oversee the police.¹⁴² For Parliament to do so effectively, it must adopt robust democratic practices ensuring that legislation and funding meet the needs of their constituents. In terms of oversight, relevant committees should have the power to investigate police misconduct when necessary and call law enforcement personnel to testify. Parliament should also mandate reporting from police to ensure transparency and work with outside advocacy groups to ensure it is receiving a full account of police actions.¹⁴³

Legislation:

A variety of legislation governs the police and how they are allowed to operate, thereby defining police misconduct and systems of accountability. Specific legislation outlines many of the provisions of internal accountability mechanisms, as well as

136 Ibid, 39-40. Note that this will often happen at the outset if the violation involves killing, torture, or a violation of human rights.
137 Ibid, 41-2.
138 Ibid, 40-1.
139 Ibid, 75.
140 Scheye, 8-9.
141 Not all police systems are governed at the federal level. In these cases, Parliament refers to the appropriate legislative body.
142 UNODC, 93-4.
143 Ibid, 94-6.

defining police powers, when and how they can be used, and how they are reported.¹⁴⁴ Other laws define the powers and responsibilities of all public servants, such as anti-corruption and public service legislation. Finally, substantive and procedural criminal codes, administrative frameworks, and security related laws help define how police operate, both outlining the actions they may take as well as the limits imposed on them.¹⁴⁵ All legislation must be made available and known to police officers as well as the public.¹⁴⁶

Executive:

Even though police are part of the executive branch of government, the police system should be politically independent, thereby allowing the executive to function as a governmental accountability mechanism.¹⁴⁷ In this regard, the executive, much like the Parliament, has the power to control policing through executive actions and to oversee the police through reporting and investigation. The executive also sets the direction for police activities and the accountability system, treating these issues as a priority.

Judiciary and Prosecutors:

The judiciary and the component institutions of the judicial process, including prosecutors, are particularly important in ensuring police accountability. Police must comply with court orders, seek judicial authorization for certain

investigative measures, and submit to the judicial process when accused of criminal conduct. Effective police accountability requires an independent judiciary trusted by the public.¹⁴⁸

At the same time, prosecutors rely on the police every day to conduct investigations, collect evidence, and provide testimony. There may be a real or perceived conflict of interest for them when they must hold police accountable for misconduct.¹⁴⁹ While the best solution is to ensure rigorous oversight of prosecutors not only by state institutions but also by the public, other solutions may be necessary. In the United States, for example, some jurisdictions' prosecutors do not handle cases of police misconduct in their own districts but bring in prosecutors from other areas.¹⁵⁰ Another solution is to have all police misconduct cases handled by an independent body with its own investigatory capacity.

Independent Bodies:

Independent bodies can help to address potential conflicts of interest in the judicial system. While the specific mandate and methodology may vary in different countries and jurisdictions, they must follow many of the same best practices as internal accountability mechanisms. First, these bodies must be truly independent. They must have a legislative mandate, independent funding, and transparent and merit-based appointment

¹⁴⁴ UNODC, 94.

¹⁴⁵ Scheye, 9; UNODC, 93-4.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*, 98.

¹⁴⁸ *Ibid.*, 99.

¹⁴⁹ See, for example, Kate Levine, "Who Shouldn't Prosecute the Police," *Iowa Law Review* 101, no. 4 (May 2016): 1447-96, accessed March 30, 2020, <https://ilr.law.uiowa.edu/print/volume-101-issue-6/who-shouldnt-prosecute-the-police/>.

¹⁵⁰ See, for example, Caleb J. Robertson, "Restoring Public Confidence in the Criminal Justice System: Policing Prosecutions When Prosecutors Prosecute Police," *Emory Law Journal* 67, no. 4 (March 2018): 853-87, accessed March 30, 2020, <https://law.emory.edu/elj/content/volume-67/issue-4/comments/restoring-confidence-justice-prosecute-police.html>; Sabrina G. Singer, "Embracing Federalism in Special Prosecution Models: An Analysis of Experimentation in the States," *Columbia Journal of Law & Social Problems* 51, no. 3 (2018): 431-77, accessed March 30, 2020, <http://jlsplaw.columbia.edu/wp-content/uploads/sites/8/2018/06/Vol51-Singer.pdf>.

processes, and they should report directly to the Parliament.¹⁵¹ Second, they must have the ability to access police materials, even in classified matters, to ensure that abuses are not being hidden and that covert operations are not being abused.¹⁵² Third, they should be able to address all cases within their jurisdiction; however, they should also be able to use discretion in deciding to exercise their mandate.¹⁵³ Fourth, these independent bodies must have the same complaint processing qualities as previously described. In addition, they should have oversight over the entire police complaints process in both governmental and internal accountability.¹⁵⁴ Finally, these bodies must be transparent in their operations and communicate openly with both the public and the police. This helps to build trust in the accountability system and encourages its use.¹⁵⁵

iii. Non-Governmental Accountability

Entities and organizations outside of the system of governance provide oversight of police conduct and the accountability system. These can take many forms, such as Civil Society Organizations (CSOs), the media, think tanks and research groups, academia, and legal aid societies.¹⁵⁶ It is important that all of these entities act within a strong democratic system, meaning that they are free to operate, are independent of the state, and can go about their business without fear of reprisal. They have a number of tools that

contribute to police accountability, such as awareness raising, research and reporting, strategic litigation, legal assistance, advocacy campaigning, monitoring, and training.¹⁵⁷ Best practices for police interaction with such entities include coordinating in the design of training curricula, open discussion of potential reforms, and outreach and information sharing.¹⁵⁸

International actors, whether states or international organizations, also help bolster police accountability, and international best practices and assistance programs can be crucial in reforming accountability systems.¹⁵⁹

iv. Community Accountability

Police are directly accountable to the communities they serve, engaging at the grassroots level. They should be responsive to the needs of their communities, in order to be viewed as not just law enforcement but also a service provider. Community policing and community oversight boards are examples of such accountability mechanisms.¹⁶⁰ They succeed when there is open and direct communication between communities and the police, through both established fora and less formalized interactions. When issues arise, the community and police should have established methods of resolving them or bringing in third parties to assist. In this way, the police build trust with the community, improving relations and the quality of

151 UNODC, 49-51.

152 Ibid, 53.

153 Ibid, 50.

154 Ibid, 52-3.

155 Ibid, 56-7.

156 Scheye, 9-10.

157 UNODC, 105.

158 Ibid, 106-7.

159 See the section "Understanding Georgia's Compliance with IHRL" in Chapter 1.

160 Scheye, 10.



The Ministry of Internal Affairs and Patrol Police Headquarters, Tbilisi, Georgia.

© Image: Gia Chkhatarashvili/archilovers.

policing.¹⁶¹

2. History of Police in Georgia

Georgia's police force has undergone a number of significant changes since the country's independence. To understand how and why Georgia's police accountability system has reached its current state, we first examine the history of police in Georgia.

Pre-Rose Revolution:

After Georgia's independence in 1991, the country had no formal, functioning state police force. During the years immediately following independence, militias and armed gangs – ominously called the Mkhdrini (horsemen) – roamed the streets. The paramilitary groups were ultimately reined in by Georgian Soviet

Party leader and former Foreign Minister, Eduard Shevardnadze.¹⁶² While Shevardnadze was able to stabilize the country and greatly improve the security situation through the eventual establishment of a police force, he was not able to address the systemic corruption that had taken root throughout law enforcement.¹⁶³

The police force established under Shevardnadze was notoriously corrupt and patrol officers operated with complete impunity. The ranks of the police force were bloated in comparison with the country's relatively small size, and police were noted to have often shaken down, harassed, and abused average citizens.¹⁶⁴ As the most visible representation of the state's apparatus in Georgians' daily lives, the corrupt patrol

161 See Sarah Lawrence and Bobby McCarthy, "What Works in Community Policing? A Best Practices Context for Measure Y Efforts" (Berkeley, CA: The Chief Justice Earl Warren Institute on Law and Social Policy, November 2013), accessed May 1, 2020, https://www.law.berkeley.edu/files/What_Works_in_Community_Policing.pdf.

162 De Waal, 189

163 Levan Ramishvili and Tamar Chergoleishvili, *The Making of Modern Georgia 1918-2018: March of the Goblins* (New York: Routledge, 2014), 186.

164 Matthew Devlin, *Innovations for Successful Societies – Seizing the Reform Moment: Rebuilding Georgia's Police, 2004-2006* (Princeton University Press, 2010).

police were almost universally loathed and feared by Georgians.¹⁶⁵ During his tenure, Shevardnadze never enacted reforms specifically targeted to address police misconduct and accountability.

Saakashvili Era Reforms:

When Mikheil Saakashvili ousted Shevardnadze during the Rose Revolution in 2003, he inherited a state weakened by decades – if not centuries – of foreign occupation, endemic poverty, and deeply-rooted corruption.

Upon taking office, Saakashvili immediately set about a complete renewal of the country's police force. At the time he took office, Georgia's traffic and patrol police were "the most visible and hated manifestation of the pervasive corruption" in Georgia.¹⁶⁶ In 2003, Saakashvili launched a total assault on corruption within the ranks. Overnight, the entire 16,000 person-strong police force of Georgia was fired, and new police were brought on board.¹⁶⁷ The new officers were told that there would be a zero-tolerance policy on corruption, and if they failed to adhere to it, they were promptly fired. After two rounds of firing and re-hiring, as well as a drastic reduction in the bloated rank numbers, police officers eventually began to get the message, and to fall into line.¹⁶⁸

In sync with Saakashvili's approach to clear and consistent messaging, he also launched a public relations campaign to cast police

officers in a more favorable light. This campaign included outfitting police in new uniforms, placing them in new patrol cars, running public service ads depicting them as good people and good citizens, and even remodeling police stations to feature glass walls and street-facing windows, signifying the reformed institution's new transparency. All of these measures worked to visually signal a shift from old to new. The police reforms were "quick wins" of "easily observable reductions in corruption" and were astonishingly effective. By 2011, nearing the end of Saakashvili's reign, the police had become the most trusted element of the State among the broader public.¹⁶⁹

End of Saakashvili Era, Rise of Georgia Dream:

Despite the lauded reforms, achieving real police accountability required more than glass-walled police stations. The fragility of the newly developed institutions was exemplified by two Saakashvili era scandals. The first occurred just four years after the Rose Revolution and posed one of the first threats to the new democracy. In December 2006, the Georgian Parliament amended the Constitution, extending its term of office to coordinate presidential and parliamentary elections slated for later in the year.¹⁷⁰ Opposition parties argued that these amendments were a ploy to consolidate power, a politicization of democratic institutions, and further evidence of corruption.¹⁷¹ This

165 World Bank "Fighting Corruption in Public Services: Chronicling Georgia's Reforms", 5.

166 Ibid, 1.

167 Devlin, 7.

168 World Bank, "Fighting Corruption in Public Services: Chronicling Georgia's Reforms," 16.

169 World Bank, "Georgia: From Reformer to Performer: A Systematic Country Diagnostic," 19.

170 Parliamentary elections were originally scheduled for April 2008; the stated impetus for changing the election date was to decouple Georgian and Russian elections. "Crossing the Line: Georgia's Violent Dispersal of Protesters and Raid on Imedi Television, (Human Rights Watch, December 19, 2007), <https://www.hrw.org/report/2007/12/19/crossing-line/georgias-violent-dispersal-protestors-and-raid-imeri-television>.

171 Ibid.

development prompted anti-government demonstrations in front of the Parliament building in Tbilisi on November 7, 2007. With protesters initially numbering 50,000, these were the largest public demonstrations since the Rose Revolution.

The peaceful protests turned violent when riot police used water cannons, tear gas, and rubber bullets on protesters who passively stood with their hands up.¹⁷² According to the Ministry of Health, 508 people were hospitalized with injuries resulting from the excessive force, yet no law enforcement officers were charged in connection with these events.¹⁷³ Saakashvili declared a state of emergency and defended the actions of law enforcement, explaining that they had appropriately responded to an attempted coup. This event heightened concerns about the politicization of the police under Saakashvili. International condemnation of the violence led to a snap presidential election on January 5, 2008. Though Saakashvili survived the electoral pressures of this scandal, the memory of the November 7th protests remains vivid in the minds of Georgians.

Saakashvili remained in power until a second scandal broke in September 2012. This scandal highlighted the double-edged nature of Saakashvili's reforms. Prison reforms and a policy of zero tolerance for petty street crimes created instability by inflating prison populations just as new rules were being implemented.¹⁷⁴ Between 2003 and 2010,

Georgia's prison population had increased by 300%; by 2012, Georgia had the third highest prison population per capita in the world, just behind the United States and Rwanda.¹⁷⁵ Simultaneous prison reforms created volatility within prisons, resulting in numerous riots between 2005 and 2006. To smother the riots, harsher punishments were used to curb the overcrowded prison population, with little supervision.¹⁷⁶ As described by Open Democracy, "amid the absence of oversight mechanisms, and the effective sanctioning of abuse by staff, violence became widespread and abuse normalized."¹⁷⁷ Saakashvili's policy of zero-tolerance in combination with destabilizing reforms, enabled the culture of lawlessness in Georgian prisons.

With parliamentary elections looming, video footage of prisoners being abused in the Gldani No. 8 state prison gave rise to public outcry and protest demonstrations. Exposed by a former prison guard, the videos depicted widespread and systematic acts of torture, taunting, physical abuse, and sexual assault, including rape and sodomy with a broom.¹⁷⁸ In attempts to ameliorate the scandal, Saakashvili and his UNM political party immediately called for an investigation and the resignation of high-level officials, including the Minister of Correction, Probation and Legal Assistance, Khatuna Kalmakhelidze. Additionally, the Saakashvili government suspended the prison staff and temporarily gave patrol police oversight of state prisons. In 2012, police reforms had

172 Ibid.

173 Ibid

174 The policy of zero-tolerance introduced mandatory custodial sentencing for petty crimes.

175 Gavin Slade, "Georgia's prisons: roots of scandal," Open Democracy, September 24, 2012, <https://www.opendemocracy.net/en/georgias-prisons-roots-of-scandal/>.

176 Ibid.

177 Ibid.

178 Charles H. Fairbanks, Jr., "Georgia's Prison Rape Scandal—and What It Says About the Rose Revolution," The Atlantic, September 24, 2012, <https://www.theatlantic.com/international/archive/2012/09/georgias-prison-rape-scandal-and-what-it-says-about-the-rose-revolution/262720/>.

been so successful, the patrol police were well trusted by the populace and employed to oversee the prisons. Prison reforms, on the other hand, resulted in torture and scandal.

The 2012 prison scandal aired these cruelties and fueled claims of abuses of power by the governing. The October 1, 2012 election saw the ouster of Saakashvili and the rise of the Georgia Dream party. Led by billionaire businessman Bidzini Ivanishvili, (see Introduction, page 19) GD ran on a platform of normalizing ties with Russia, depoliticization, promises of justice system reforms, release of those unfairly imprisoned, and punishment for misfeasance during the Saakashvili administration.¹⁷⁹

Current Issues:

The peaceful transfer of power from Saakashvili's UNM government to GD reinvigorated the hopes espoused in the Rose Revolution. Under GD leadership, prison reforms quickly addressed popular concerns. The implementation of the National Preventative Mechanism (NPM) "effectively abolished" the use of corporal punishment, in the words of UN Special Rapporteur Juan E. Mendez.¹⁸⁰ By 2014, nearly half of the prison population was released in amnesty, dropping Georgia's incarceration rate per capita to 63rd in the world.¹⁸¹ Investigations into the torture scandal led to convictions of

14 former prison officials. The rosy rule of GD, however, was short-lived with a series of broken promises resulting in a number of current issues.

During the 2012 parliamentary elections, GD ran on a campaign promise never to use violence against protestors, invoking the visceral memory of November 7, 2007. On June 20, 2019, however, this promise was broken (see Introduction, page 19 for overview; a detailed account of police actions follows.) During a session of the Inter-Parliamentary Assembly of Orthodoxy, Sergei Gavrilov, a member of the Russian Duma, delivered a speech in Russian while sitting in the chair reserved for the Speaker of the Georgian Parliament. This act incited immediate but peaceful protests at the Parliament building on Rustaveli Avenue. A police cordon was established at the entrance.¹⁸² Protesters numbered between 5,000 and 15,000, from 7:00pm to 4:00am. The protesters called for the resignations of three high level officials: Irakli Kobakhidze, Speaker of Parliament, Giorgi Gakharia, Minister of Internal Affairs, and Vakhtang Gomelauri, Head of the State Security Service.

The demonstrators threatened to enter the building, albeit peacefully with hands raised. Nika Melia, a UNM protestor, addressed the crowd asking, "does Gavrilov have the right to sit in this building but Georgian people do not even have the right to stand in the Parliament

179 Thomas Hammarberg, "Georgia in Transition: Report on the human rights dimension: background, steps taken and remaining challenges," September 2013, http://gov.ge/files/38298_38298_595238_georgia_in_transition-hammarberg1.pdf.

180 Mairi Mackay, "Torture was once 'normal' in Georgia's prisons – this is how they 'effectively abolished' it," Open Democracy, July 28, 2016, <https://www.opendemocracy.net/en/torture-georgia/>. The NPM is administered by the Public Defender's Office. See "National Prevention Mechanism," Public Defender of Georgia, <http://ombudsman.ge/eng/preventsiiis-erovnuli-meqanizmi>.

181 Nika Jeiranashvili and Gavin Slade, "Georgia's Disastrous Attempt to Bring Prisons Up to 'European Standards,'" Open Society Foundations, March 10, 2015, <https://www.opensocietyfoundations.org/voices/georgia-s-disastrous-attempt-bring-prisons-european-standards>. The incarceration rate refers to the number of individuals under the jurisdiction of correctional authorities per 100,000 residents; The US has the highest global incarceration rate meaning that it has the highest number of incarcerated citizens per capita. In this instance, being ranked first has a negative connotation.

182 Giorgi Gotsiridze, Eka Mamrikishvili, et al., "Beyond the Lost Eye: Legal assessment of June 20-21 events" (Tbilisi: Georgia Young Lawyers' Association, 2019), 14.

yard?”¹⁸³ The crowd responded with cheers of excitement, and a small number of protesters began pushing the police line.¹⁸⁴ In response, the MIA ordered law enforcement to disperse the protesters with tear gas, water cannons, and rubber bullets. The excessive force used by law enforcement officers resulted in 275 injuries, among them 187 civilians and 15 journalists.¹⁸⁵ Of those injured, 28 required surgery, and two civilians lost eyes due to the inflicted trauma.

In response to the protests and violent aftermath, Kobakhidze resigned. Gakharia retained his position as Minister of Internal Affairs despite the protesters’ demands, until he was promoted to Prime Minister on September 8, 2019. While Ivanishvili pledged to implement electoral reforms prior to the 2020 elections, the statutory amendment intended to realize that objective was rejected in a polarized parliamentary vote on November 14, 2019.¹⁸⁶

An investigation led by the Prosecutor General’s Office into the June 20th protests rendered a controversial decision. Just three MIA officers were criminally charged, and a mere seven civilians, out of the over 200 injured, were accorded “victim status,” an essential step in guaranteeing their role in obtaining justice. By contrast, 17 protesters were charged with crimes and 67 of 73 injured law enforcement agents were granted “victim status.” The inexplicable disparities have been criticized by civil society and international observers alike.

The June 20-21 protests illustrate many of the issues currently facing police accountability

in Georgia: questions of police competence, the apparent politicization of investigations, and the provision or withholding of the rights extended to “victim” of crimes. All of these are discussed at length below. This recent episode also brought into sharp focus many of the broader issues confronting democracy in Georgia: the clash of Russian and Western influences, political influence over supposedly independent institutions, and backsliding in the face of perceived threats. Police accountability in Georgia, like human rights in general, is at a moment of reckoning.

183 Ibid, 15.

184 Ibid, 18-21.

185 The remaining 73 were employees of the Interior Ministry and were thus serving in law enforcement roles.

186 “CSOs Call for Govt to Fulfill Promise on Moving to Proportional Electoral System,” Civil.ge, December 20, 2019, <https://civil.ge/archives/332366>.

ON PAPER

To understand how well Georgia has implemented the applicable principles and standards on paper, we examine Georgia's domestic legislation on police accountability and the relevant domestic institutions. Within each category, we identify, analyze, and evaluate each relevant mechanism. We find that on paper, Georgia's system largely aligns with international standards; however, there are certain areas where the mechanism does not meet international best practices or has the potential to lead to systemic issues.

1. Internal Accountability

a. Police Code of Ethics

The Georgian Police Code of Ethics binds all members of the police to uphold human rights standards, subscribe to the principle of rule of law, and be accountable to the public. The provisions of the Code conform to international best practices, and the preface specifically references Georgia's international legal obligations, including the European Code of Police Ethics, the EHCR, and the UDHR. The Code provides that violations will lead to "disciplinary responsibility in accordance with decrees of the Minister of Internal Affairs of Georgia." Generally, the Police Code represents good standard setting by the MIA.¹⁸⁷

b. MIA General Inspection

Background

The primary internal control for the Ministry of Internal Affairs is the General Inspectorate (GI). It is independent of all other structural units of the Ministry, reporting directly to the Minister. Its purposes are to prevent violations of human rights and to reveal those that nevertheless occur. It is tasked with investigating officers' conduct both on and off duty.¹⁸⁸

Structure

The statute of the GI is established by order of the Minister of Internal Affairs, based on the Law of Georgia on Police.¹⁸⁹ The head of the GI is appointed by the Minister. The GI has 180 employees in four divisions: Operative Maintenance, Administrative, Informational, and Disciplinary Proceedings.¹⁹⁰ The Operative Maintenance division handles the operative-investigative and counter-intelligence functions of the GI.¹⁹¹ The Administrative Division oversees general administration, and runs the GI's telephone hotline.¹⁹² The Informational division conducts statistical analysis and studies public opinion.¹⁹³ Finally, the Division of Disciplinary Proceedings receives complaints from the public as well as internal complaints, into which it conducts investigations, and is also responsible for inspecting MIA's special forces and for

187 Georgian Police Code of Ethics, 2013, accessed January 7, 2020, <https://police.ge/files/pdf/etikis%20kodeqsi/Georgian%20Police%20Code%20of%20Ethics%20English%20final.pdf>.

188 Ministry of Internal Affairs in discussion with the authors, January 2020.

189 Minister of Internal Affairs of Georgia, *Statute of the General Inspection of the Ministry of Internal Affairs of Georgia* (საქართველოს შინაგან საქმეთა სამინისტროს გენერალური ინსპექციის დებულება), 23 February 2015, accessed April 11, 2020, <https://police.ge/files/მსს%20გენერალური.pdf>; Parliament of Georgia, Law of Georgia on Police, 4 October 2013, accessed April 16, 2020, <https://matsne.gov.ge/en/document/view/2047533?publication=23>, Art. 57.

190 Ministry of Internal Affairs in discussion with the authors, January 2020.

191 *Statute of the General Inspection of the Ministry of Internal Affairs of Georgia*, Art. 7.

192 *Ibid*, Art. 6.

193 Ministry of Internal Affairs in discussion with the authors, January 2020.



Patrol Police officers standing in front of the Ministry of Internal Affairs and Patrol Police Headquarters.
© Image: Ministry of Internal Affairs

financial inspection and monitoring.¹⁹⁴

The GI receives complaints through two separate hotlines: one for the MIA in general and one specifically for the GI. The public may also reach out via letter, Facebook, email, or in person.¹⁹⁵ The GI also receives complaints from other members of the MIA, and complaints are forwarded to it from other oversight bodies.

Jurisdiction/Powers

The General Inspectorate has oversight over the following allegations against police officers: violations of ethical or disciplinary norms, improper performance of official duties, and specific illegal actions. It also has competence over conflicts of interest of MIA employees and personnel violations. When a violation rises to the level of a crime, the GI

forwards the case to the Prosecutor's Office. On request, the GI is empowered to conduct investigative and procedural actions on behalf of the Prosecutor.¹⁹⁶

The GI's statute outlines its powers and the grounds upon which it can investigate complaints. The GI has the authority to compel production of personnel and case files, and other information from units and subunits of the MIA. It also has access to all MIA facilities. GI employees are not allowed to work on cases in which they may have a conflict of interest.¹⁹⁷

Once an investigation is completed, the results must be approved by the Head of the GI.¹⁹⁸ In the course of the investigation, proposals may be submitted to the GI's leadership regarding appropriate punishment, or possible criminal liability, for the employee(s) being

194 *Statute of the General Inspection of the Ministry of Internal Affairs of Georgia*, Art. 8.

195 Ministry of Internal Affairs in discussion with the authors, January 2020.

196 *Statute of the General Inspection of the Ministry of Internal Affairs of Georgia*, Arts. 2-3.

197 *Ibid*, throughout.

198 *Ibid*, Art. 9.

investigated.¹⁹⁹ The Head of the GI reports these to the Minister of Internal Affairs.

Evaluation

The GI's statute and structure meet the standards and best practices as an internal accountability mechanism. There are multiple methods for submitting complaints, both by the public and by MIA employees. The office is independent of the rest of the MIA and has sufficient investigatory powers, including access to relevant records and individuals. There is a wide range of disciplinary options available for recommendation. Finally, it is subject to mandatory reporting, enhancing the transparency of its operations.

c. MIA Human Rights Department

Background

The Human Rights Department was established on January 12, 2018, by ministerial order and at the urging of the Public Defender and civil society. Tasked with investigating specialized crimes, or those defined as targeting women, juveniles, or minorities, the Human Rights Department was created to improve the qualifications and responses of law enforcement in dealing with 'new challenges.' These new challenges include domestic violence, violence against women, hate crimes, and human trafficking.²⁰⁰ Inadequate training and a lack of sensitivity among law enforcement had resulted in such cases being gravely underreported.²⁰¹

Mandate

The Human Rights Department, a subunit of the MIA, works closely with other MIA mechanisms but plays an oversight role over investigations of the crimes within its purview. Investigators may request information from relevant agencies, but the bulk of its work relies on criminal case management software.²⁰² Its monitoring is intended to reveal weaknesses and gaps in police responses. One such weakness was the insensitivity of police dealing with domestic violence. The Department addressed these concerns by mandating specialized qualifications and additional training. A greater emphasis has been placed on recruiting female officers.²⁰³

Evaluation

The sharp increase in domestic violence reports is evidence that the Human Rights Department has been effective. In 2015, 5,106 individuals filed for domestic violence related restraining orders; by 2018 this number rose to 13,518.²⁰⁴ This, plus the three-fold increase in investigations and prosecutions, demonstrates heightened public awareness, growing trust in law enforcement agencies, and a well-functioning mechanism to address these sensitive crimes. The understanding of police officers has improved, even if the support of the conservative populace is not guaranteed. Crimes committed on the basis of sexual orientation remain a challenge, rendering this population one of the most vulnerable groups in Georgia. Geography

199 Ibid, throughout.

200 "Departments," Ministry of Internal Affairs, 2019, accessed April 1, 2020, <https://police.ge>.

201 "Ministry of Internal Affairs of Georgia launches Human Rights Protection Department to strengthen response to violence against women and domestic violence," UN Women, January 23, 2018, <https://georgia.unwomen.org/en/news/stories/2018/01/ministry-of-internal-affairs-of-georgia-launches-human-rights-protection-department>.

202 Ministry of Internal Affairs in discussion with the authors, January 2020.

203 Ibid.

204 "Domestic Violence Statistics, 2015-2019," Ministry of Internal Affairs Georgia, accessed May 4, 2020, <https://info.police.ge/page?id=102>.

also poses difficulties, as rural regions are more difficult to monitor, and the availability of investigators is minimal. Despite these open questions, CSOs and international NGOs applaud the creation and success of the relatively new Department.

2. Governmental Accountability

a. Parliament

i. The Committee on Human Rights and Civil Integration

Background

The Committee on Human Rights and Civil Integration is a standing committee of the Georgian Parliament. It focuses on a wide range of human rights issues, including press freedom, detention and imprisonment centers, the rights of national and ethnic minorities and children, religious freedom, and human trafficking, among others.²⁰⁵ As with all Parliamentary Committees in Georgia, the Committee on Human Rights and Civil Integration supports the larger Parliamentary body in identifying national priorities for domestic and foreign policy.

Structure

Composed of 14 appointed MPs headed by a chairman, the Human Rights Committee has fixed weekly meetings during parliamentary sessions and operates by majority vote. Committee members serve for the entire legislative period. Members are appointed from each faction in proportion to its representation in Parliament.

Mandate

The Committee's work falls into the following

broad categories:

- **Legislation:**
The Committee initiates and drafts legislation related to Georgia's promotion and protection of human rights and proposes amendments to existing laws.
- **Oversight, Monitoring and Evaluation:**
It monitors government compliance with national human rights laws and human rights-related international agreements to which Georgia is a party. The Committee serves as the mechanism for parliamentary oversight over the activities of the Georgian Public Defender, which submits its annual report to the Committee and briefs the Committee on its activities.
- **Implementation:**
The Committee works to ensure the proper implementation of legislation by closely supervising government bodies involved in human rights protection and civil integration. It submits recommendations urging government bodies to promote human rights and to comply with applicable standards and may request government entities to prepare and submit reports for its review.
- **International Collaboration:**
The Committee collaborates with counterpart human rights-focused parliamentary bodies in countries throughout Europe.
- **Community Collaboration:**
It interfaces with representatives and ordinary citizens from Georgia's national, ethnic, linguistic, and religious communities.

205 "About Human Rights and Civil Integration Committee," Parliament of Georgia, 2014, <http://www.parliament.ge/en/saparlamento-saqmi-anoba/komitetebi/adamianis-uflebata-dacvisa-da-samoqalaqo-integraciis-komiteti/komitetis-shesaxeb>.

- **Domestic Civil Society Collaboration:**
The Committee cooperates closely with various elements of Georgian civil society to remain updated on human rights issues within the country.
- **Citizen Voices and Case Referral:**
The Committee receives, and reviews individual petitions alleging violations of fundamental human rights and refers these cases to the appropriate public institution. It also reviews submissions from citizens who voice views and concerns on draft legislation within its mandate.²⁰⁶

ii. The Committee on Legal Issues

Background and Mandate

The Parliamentary Committee on Legal Issues has the mandate to improve existing Georgian legislation and is responsible for the crafting of legislative reform. While its mandate is not specific to human rights concerns, the Committee oversees and implements revisions to legislation touching upon law enforcement accountability issues, such as the Code of Administrative Offences, the Criminal Code, and the Enforcement Code. The Legal Issues Committee works closely with government bodies including the Ministry of Internal Affairs and the Ministry of Justice. It strives to bring legislation into line with European and international standards, and therefore collaborates with international institutions such as the United Nations Development Program (UNDP), the United States Agency for International Development (USAID), the Council of Europe, and the German Agency for International Cooperation

(GIZ). Importantly, the Legal Issues Committee is the responsible body for hearing regular reports on the priority activities and ongoing reforms of several agencies across the government.

Evaluation of the Committees on Human Rights and Civil Integration, and on Legal Issues

The roles and functioning of the Parliamentary Committees were not a primary focus of our research, and the Committees were not referenced by stakeholders as being of significant importance to police accountability. However, the Committee on Human Rights and Civil Integration plays a critical role in the crafting and adoption of national human rights legislation in Georgia. As a result, the Committee actively and positively contributes to the creation of robust human rights law in the country. The Committee is a key actor in ensuring that legislation protects Georgian citizens from abuse by law enforcement officers, and that legal avenues exist for citizens to seek justice and redress. Similarly, the Parliamentary Committee on Legal Issues plays an important role in overseeing the efficacy of the governmental entities and agencies responsible for the proper conduct of law enforcement and prosecution officials.²⁰⁷

b. Legislation

Law of Georgia on Police:

The Law of Georgia on Police defines the structure of the police force, the legal grounds and basic principles of police activity, and police powers, functions, and measures.²⁰⁸

206 Ibid.

207 "Legal Issues Committee," Parliament of Georgia, 2014, <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi/iuridul-sakitxta-komiteti-146>.

208 *Law of Georgia on Police*, Arts. 4 and 5, Chs. II – IV.

The law specifies when and how coercive measures may be used.²⁰⁹ It establishes the qualifications to become a police officer as well as the rights of and services available to the police.²¹⁰ Finally, the law outlines control of police authority, including the previously discussed internal accountability mechanisms, and establishes state control over the police through “parliamentary, presidential, governmental, financial, and prosecutorial supervision.”²¹¹ The law meets international best practices for police legislation. Throughout our discussions in Georgia, no defect or omission in the Law of Police was ever cited as a concern.

Administrative Offenses Code:

Adopted in 1984, the Administrative Offenses Code (AOC) is the only law Georgia inherited from the Soviet period that remains in effect. It covers offenses which in many countries are considered misdemeanors; however, in Georgia, they are not considered criminal, and those who violate the Code do not accrue a criminal record. Given this, persons charged and punished under the AOC do not receive the due process rights they would were the charges criminal in nature. Administrative

trials are conducted quickly, and as such offer few opportunities for the defendant to be properly represented.²¹² The trials are not governed by the same rules as criminal trials, with no presumption of innocence, and a low burden of proof.²¹³ Penalties for administrative violations are often excessive given the non-criminal nature of the alleged offenses, with a maximum of 15 days in administrative imprisonment or a large fine.²¹⁴ The ECtHR has held that in countries with similar codes, if imprisonment is a potential penalty, an administrative offense must be considered criminal for the purpose of the ECHR’s due process articles.²¹⁵

While many government agencies refer cases for judgement under the AOC, most administrative cases come from the MIA. Police have used the AOC to pursue individuals seeking to exercise the fundamental rights of freedom of assembly and expression.²¹⁶ For example, Articles 166 and 173 prohibit disorderly conduct and non-compliance with a lawful demand of a police officer, respectively.²¹⁷ According to reports, these articles are frequently invoked to arrest peaceful protestors and to break up rallies.²¹⁸ When a police officer arrests someone

209 Ibid, Ch. V.

210 Ibid, Ch. VI and VII.

211 Ibid, Ch. IX.

212 Judicial Independence and Legal Empowerment Project (JILEP), “How to End Georgia’s Unconstitutional Use of Its Administrative Offences Regime” (East West Management Institute, October 15, 2013), 2-4, accessed April 24, 2020, http://ewmi-prolog.org/images/files/5244Eng_Admin_Regime_JILEP_Report_Oct_30_final.pdf. Article 245 of the AOC requires a law enforcement officer to inform the detainee of their administrative offence, the right to defense counsel, as well as the right to make his detention known to a designated third party and the right to appeal the detention; however, the code does not provide a time frame in which these things must occur, meaning that in practice defendants are often not informed of their rights.

213 Meri Daushvili and Nona Kurdovanidze, “Prevention of and Response to Incidents of Ill-Treatment,” (Tbilisi: Georgian Young Lawyers’ Association, 2019), 17-18, accessed May 1, 2020, <https://gyla.ge/files/news/2006/Report.%20eng.pdf>; Rights Georgia in discussion with the authors, January 2020; Human Rights Center in discussion with the authors, January 2020.

214 The maximum prison sentence used to be 90 days.

215 Human Rights Watch, “Administrative Error: Georgia’s Flawed System of Administrative Detention,” January 2013, 32-4, <https://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>.

216 See, for example, Coalition for an Independent and Transparent Judiciary (CITJ), “Coalition Communicates with the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association,” CITJ, May 7, 2018, http://www.coalition.ge/index.php?article_id=187&clang=1.

217 Presidium of the Supreme Council of the Georgian SSR, *Administrative Offences Code of Georgia*, 15 December 1984, Art. 173, accessed January 22, 2020, <https://matsne.gov.ge/en/document/view/28216?publication=381>.

218 See, for example, Daushvili and Kurdovanidze; JILEP; and “Administrative Error: Georgia’s Flawed System of Administrative Detention.”

under the AOC, they can place that person in administrative detention. Because police do not indicate the grounds for detention in the detention report, it is difficult for the detainee to prove that the detention was unlawful. Additionally, since administrative detention does not require a court ruling, police may use it as a punishment without proper justification.²¹⁹

The AOC remains a primary concern for the international community and for local NGOs. Many are advocating for a systemic reform to the administrative offenses system, with one potential solution being the creation of a misdemeanor category in the Criminal Code and proceeding with many AOC charges under that authority.²²⁰ This would provide defendants with additional rights, increase transparency in the process, and align Georgia with international best practices.

c. Executive - Prime Minister's Human Rights Advisor

The role of the Human Rights Advisor to the Prime Minister was established in 2014 to spearhead the National Strategy for Human Rights in Georgia and its complementary Action Plans (See Introduction, page 25 for more information on the Human Rights Strategy.) Together with her small team, Lela Akiashvili, the current Human Rights Advisor, coordinates with state Ministries, civil society, and international organizations to draft, implement, and monitor the Action Plans in accordance with the broader National Strategy. Regarding the issue of police

accountability, the 2018-2020 Action Plan called for improved standards of crime prevention and investigations, in accordance with international human rights standards. Specifically, the recommendations called for "stamping out misconduct by creating a control mechanism for effective regulatory measures of law enforcement agents."²²¹

The establishment of a Human Rights Advisor in the Prime Minister's office signals that human rights are valued at the highest policy levels in Georgia, at least on paper. Effective implementation requires political will, a reality made more difficult in an election year. Political tension, polarization, and a changing environment are present challenges faced by the Advisor.²²²

d. Prosecutor's Office of Georgia

Background

The Prosecutor's Office of Georgia (POG) is an independent government institution in charge of criminal prosecutions. Throughout Georgia's history, the office has gone through a number of structural changes, first as an independent body, then as a judicial authority, and then as a sub-agency of the Ministry of Justice, before taking its current form in 2018.²²³ The POG prosecutes crimes by the police, both when the State Inspector Service (SIS, discussed below) forwards its cases to the POG after completing its investigations and when police are charged with crimes outside of the SIS's jurisdiction.

219 Daushvili and Kurdovanidze, 6.

220 JILEP, 5-11; Rights Georgia in discussion with the authors, January 2020.

221 Human Rights Action Plan for 2018-2020, Human Rights Secretariat, 2019, accessed April 10, 2020, <http://myrights.gov.ge/en/plan/Human%20Rights%20Action%20Plan%20for%202018-2020>.

222 The Prime Minister's Human Rights Advisor in discussion with the authors, January 2020.

223 "History of the Prosecutor's Office," Prosecutor's Office of Georgia, 2019, accessed April 7, 2020, <http://pog.gov.ge/en/history>.

Appointment of the Prosecutor General

The statute of the POG emphasizes its independence from the rest of the government, with appropriate parliamentary and judicial oversight.²²⁴ The appointment of the Prosecutor General and their staff must be independent as well.

The Prosecutor General is selected through a multi-stage process, beginning with a consultation of academia, civil society, and legal specialists conducted by the Prosecutorial Council.²²⁵ The Council is an independent collegiate body consisting of 15 members appointed by several different governmental bodies.²²⁶ It selects at least three candidates, with mandatory gender diversity. It then votes on each candidate individually by secret ballot, and the candidate with the most votes and at least a two-thirds majority wins. The Parliament then must approve that nominee.²²⁷

Structure

Office of the Prosecutor General: The Office of the Prosecutor General is the primary central body within the POG. Alongside operational and administrative divisions, there are several departments tasked with giving procedural guidance to investigations conducted by the investigative bodies detailed below, as well as a division of human rights protection.²²⁸

District Offices: There are nine regional prosecutors' offices in Georgia: in the Autonomous Republics of Adjara and Abkhazia, Tbilisi, and six other regions. Each of these is subdivided into district offices.²²⁹

Office of the Coordinator of Witnesses and Victims: The Office of the Coordinator of Witnesses and Victims assists individuals participating in criminal proceedings, "reducing the stress caused by the crime, avoiding...re-victimization and secondary victimization and ensuring their awareness during the investigation and trial." There are 20 coordinators throughout the POG system.²³⁰

Powers

The statute of the Prosecutor's Office and the Criminal Procedure Code of Georgia outline the powers of the POG. Of these powers, two are particularly salient for police accountability and were raised in several interviews.

Investigations: Criminal investigations are conducted by the investigative divisions of the Ministry of Justice, Ministry of Internal Affairs, Ministry of Defense, Ministry of Finance, State Security Service, and the State Inspector Service.²³¹ Unless otherwise provided by law, the prosecutor determines investigative jurisdiction.²³² While investigations are

224 Parliament of Georgia, *Organic Law of Georgia on the Prosecutor's Office*, 30 November 2018, Ch. 1, accessed January 22, 2020, <https://matsne.gov.ge/en/document/view/4382740?publication=2>.

225 Ibid, Art. 16.

226 Ibid, Art. 19.

227 Ibid, Art. 16.

228 "Structure of the Office of the Prosecutor General," Prosecutor's Office of Georgia, accessed April 16, 2020, <http://pog.gov.ge/en/structure>.

229 "Structure of the District Prosecutor's Offices," Prosecutor's Office of Georgia, accessed April 16, 2020, <http://pog.gov.ge/en/district-structure>.

230 "Office of the Coordinator of Witnesses and Victims," Prosecutor's Office of Georgia, accessed April 16, 2020, <http://pog.gov.ge/en/interesting-info/coordinator-of-the-witness-and-victim>.

231 Parliament of Georgia, *Criminal Procedure Code of Georgia*, 9 October 2009, Art. 34, accessed April 7, 2020, <https://matsne.gov.ge/en/document/view/90034?publication=106>.

232 Ibid, Arts. 35 and 36.

conducted by these different divisions, they are directed by the POG, and investigators are obliged to follow prosecutorial instructions. Investigators may appeal these instructions, and a superior prosecutor has the authority either to reassign the case to another investigator or to annul the instructions. Prosecutors “personally involved in the investigation” are considered investigators as well.²³³

Victim Status: People officially designated as “victims” of crimes receive certain rights during criminal proceedings. (Victim status is one of the controversial issues surrounding the June 20 protests). They are entitled to be informed about the charges in the case, to provide testimony, to request and to receive protection for themselves and their family, to be informed on the investigation’s progress, and to review case materials. Upon request, victims are made aware of the time and location of proceedings. They must also be informed of the conclusion of a plea bargain.²³⁴ These rights, and the availability of a victim coordinator, allow victims a personal role in the process. With this access, victims are able to raise concerns if they feel that the prosecution is not working to obtain appropriate justice.

Victim status is determined by the assigned prosecutor, who decides upon receiving an application or on their own initiative. If the prosecutor does not grant victim status, the applicant may apply to a superior prosecutor, whose decision is final unless the crime is “particularly serious” or is under the jurisdiction of the SIS. In such cases, the applicant may appeal to a district court. The prosecutor may also revoke victim status

if it emerges that there are no appropriate grounds for the designation, subject to the same appellate review as the granting of status. Judicial rulings on either determination are final and not appealable.²³⁵

Evaluation

On paper, the POG meets international requirements for holding the police accountable. The institution has a strong legislative mandate and clear powers for directing investigations and bringing and pursuing criminal charges. The consultative process for selecting the Prosecutor General and the strict standards with which the Prosecutorial Council must comply, reinforce the independence of the POG. Importantly, the Prime Minister does not have a direct role in appointing the Prosecutor General, reducing political influence in the selection process. Finally, the system is sensitive to the trauma associated with being a witness or a victim and provides services and rights to the needs of such individuals.

The success of these safeguards, however, is predicated upon the resolve of its constituents to act free from political influence. While the Prosecutorial Council is tasked with the independent selection of the Prosecutor General, the possibility of political interference cannot be entirely ruled out. Since prosecutors have such significant power in investigations, a politically motivated prosecutor, or one attempting to curry favor with political actors, could in principle have improper influence over a case without adequate oversight. Along these same lines, the level of discretion permitted to prosecutors in granting or withholding

233 Ibid, Art. 37, Art. 33.5.

234 Ibid, Arts. 57 and 58.

235 Ibid, Art. 56.

victim status opens the door to abuse of that discretion for political reasons, as has been alleged, for example, in the case of the June 20 protests.

e. State Inspector's Service

Background

The State Inspector's Service (SIS) is the newest actor in Georgia's police accountability system, beginning operations on November 1, 2019. Created after Georgia faced pressure from NGOs and the international community to establish an independent police monitoring agency, the SIS added a police accountability function to its existing Personal Data Protection Inspector (PDPI). While many advocates were not in favor of this arrangement, viewing it as an arbitrary combination that could lead to public distrust of the institution, the legislation clearly defines the police accountability function of the SIS and it does not appear that its combination with the PDPI undermines this role.²³⁶

Purpose and Structure

The SIS is an independent public institution in Georgia's government. It is not legally subordinated to another agency or ministry; its only obligation to another entity is annual reporting to the Parliament and the government. It operates on the principles of legality, human rights, independence, objectivity, and impartiality.²³⁷ The SIS has

three main functions: police accountability, monitoring the legality of personal data processing, and the monitoring of Secret Investigative Actions.²³⁸ The SIS is headed by the State Inspector, selected by Parliament following a search by a commission appointed by the Prime Minister. The commission includes representatives from the Government of Georgia, Parliament, the Supreme Court, the POG, the Public Defender, and civil society. The commission recommends candidates to the Prime Minister, who nominates two finalists for final Parliamentary selection.²³⁹

Mandate

The SIS's police accountability mandate and powers are limited to certain types of cases. The SIS has jurisdiction when a member of law enforcement is alleged to have committed one of the following crimes: torture, threat of torture, humiliation or inhuman treatment, abusing or exceeding official powers through violence or offending personal dignity of the victim, using unlawful coercion to extract evidence, and coercing prisoners into giving or changing evidence. The SIS also has jurisdiction in cases where actions by a member of law enforcement caused the death of someone under the effective control of the state, including prisoners and those in temporary detention.²⁴⁰ The SIS has wide investigative powers, including the ability to use coercive measures in certain circumstances, subject to the POG's procedural oversight.²⁴¹

236 CITJ, "The Coalition's Opinion on the Initiative to Create a State Inspector's Office," Humanrights.ge, February 16, 2018, accessed April 30, 2020, <http://www.humanrights.ge/index.php?a=main&pid=19486&lang=eng>.

237 Parliament of Georgia, *Law on the State Inspector's Office*, 21 July 2018, Arts. 4, 11, and 12, accessed April 12, 2020, <https://matsne.gov.ge/ka/document/view/4276790?publication=4>.

238 *Ibid.*, Art. 2.

239 *Ibid.*, Art. 6.

240 *Ibid.*, Art. 19.

241 *Ibid.*, Arts. 20-22.

There are three main ways for the SIS to receive these cases. First, individuals may report allegations to the SIS's hotline. Second, other government institutions, such as the POG, the Public Defender, and the MIA, may refer appropriate cases.²⁴² Finally, the SIS may request that the Prosecutor transfer a case if they believe it falls under their investigative jurisdiction. Denials of such requests may be appealed, with the final decision made by the Prosecutor General. Thus, while the SIS is legally independent, it is still reliant on the Prosecutor General's jurisdictional decisions.²⁴³

Evaluation

The SIS meets many of the best practices and regulations for an independent police oversight body. It has jurisdiction over many of the most severe crimes and human rights violations that a police officer might commit and is accountable only to Parliament. While NGOs have complained that it should not have been combined with the PDPI, the combined mandate does not compromise the mandate of the SIS. In fact, part of the PDPI's mandate, monitoring Secret Investigative Actions, fits nicely with police accountability.

There are, however, several areas where the SIS legislation is weak. First, the jurisdictional mandate could be wider, encompassing a greater variety of police crimes. Second, the independence of the SIS is not total, since the Prosecutor General has the final say over whether to refer cases that the SIS requests.

Finally, the SIS's mandate is not retroactive: it cannot look into matters that occurred before

November 1, 2019, including the June 20 protests.

f. Public Defender's Office

Background

The Public Defender, also referred to as the Ombudsman's Office, is a national-level, independent human rights institution located outside of Georgia's government ministries. It is a constitutional body with oversight powers, serving a watchdog function over other state entities. The Public Defender was created in 1996 by the national constitution. The Organic Law on the Public Defender of Georgia outlines the powers of the office. As an autonomous government body, the Public Defender is beholden solely under the relevant laws themselves: "the Constitution, international treaties and agreements of Georgia, and by the universally recognized principles and rules of international law, the Organic Law on Public Defender of Georgia, and other legislative acts."²⁴⁴

Structure

The Office is led by the Public Defender, who serves a five-year term. The details for the nomination and election process are articulated in Article 6 of the Organic Law.

The Public Defender currently is Nino Lamjaria. She is supported by three Deputy Defenders, who each oversee various portfolios. The Office is spread across seven divisions:

- Division of Case Proceedings: This unit investigates cases and claims filed with the Public Defender.

242 State Inspector Service in discussion with the authors, January 2020.

243 *Law on the State Inspector's Office*, Art. 19.

244 "About Us," Public Defender of Georgia, 2019, accessed April 12, 2020, <http://www.ombudsman.ge/eng/sakhalkho-damtsveli>.

- Division of Strategic Litigation: This section brings cases to the Constitutional Court, challenging legislation that appears to be inconsistent with the Constitution.
- Division of International Relations, Project Management, and Civic Education: This unit regulates and oversees the national-level primary school curriculum to ensure that it promotes human rights. It also designs curricula for human rights education courses.
- Division of Public Relations and Event Management
- Statistical Division
- Eastern & Western Georgia Divisions

Mandate

The Public Defender oversees the government's protection of universal human rights and monitors implementation of its human right commitments under the various treaties to which it is a party. The office supervises all state agencies, all local self-governing agencies, all public institutions, and public officials regarding their upholding of human rights. To pursue this mandate, the Public Defender is vested with the power to receive and review individual cases of alleged human rights violations committed by the state, or any public entity or official. The Public Defender receives applications filed by individuals and may pursue cases on its own initiative.

In general, the Public Defender reviews claimed violations of the rights enshrined and protected by Georgian law, or by applicable international treaties and agreements. The Office carries out a number of functions under the international conventions to which Georgia is a party, such as UNCAT and CPRD.

The Office also serves as the "equality body" for Georgia's 2014 comprehensive anti-discrimination statute.

Case Review and Recommendation

As mentioned above, the Public Defender directly reviews cases submitted to it that allege a violation of human rights. Accordingly, the Public Defender may receive cases charging abuse, harassment, or other forms of misconduct by law enforcement. While the office does not have the power to prosecute on its own initiative, it may issue recommendations for remediation. If a case is brought to the Public Defender's office which is more appropriate to the mandate of another agency, such as the SIS or the MIA's Human Rights Department, then the Public Defender may refer the case to that body.

While unable to provide a remedy, the Public Defender Office is able to obtain acknowledgment of wrongdoing from the respondent and may urge, for example, that an individual be reinstated to a position if unlawfully fired. According to Deputy Public Defender Giorgi Burjanadze, the office's greatest strength is its ability to "name and shame," which works effectively in publicizing and exposing human rights violations to be corrected through other mechanisms.²⁴⁵

Evaluation

The Public Defender is highly respected among all stakeholders with whom we met: civil society organizations, the EU delegation, Members of Parliament, and other government agencies. The Public Defender also serves as a bridge between various NGO

245 "About Us," Public Defender of Georgia, <http://www.ombudsman.ge/eng/sakhalkho-damtsveli>.

coalitions and other segments of civil society and Parliament. According to the many different constituents whom we consulted, the office has been effective as convener and mediator. This unanimous agreement among a wide range of individuals and entities, is testament to the caliber of the Public Defender’s work in illuminating human rights issues in Georgia and to the integrity with which it pursues its mandate.

3. Non-governmental and Community Accountability

a. NGOs

NGOs actively engage on police accountability issues with many Georgian government agencies. As discussed above, NGOs are involved in the selection of the Prosecutor General, as the Prosecutorial Council is supposed to consult with them at the start of the process. NGOs help to select the State Inspector, given that a member of civil society selected by the Public Defender sits on the selection committee. Additionally, NGOs serve on the Government’s Human Rights Council, involved in drafting the National Human Rights Action Plan. NGOs also liaise with the Public Defender’s office, through meetings and consultations, as well as through more formal mechanisms and intermediary bodies such as the Equality Coalition. Finally, NGOs work with the MIA to develop training curricula and develop reforms.²⁴⁶ In all of these collaborative roles, NGOs offer recommendations to government bodies on ways to improve police accountability.

We spoke with four NGOs engaged in research and advocacy, strategic litigation,

and awareness raising.²⁴⁷ NGOs work together to advocate for reforms to the accountability system, as seen in the creation and early functioning of the SIS, and they are vocal, representing a vital part of a democratic Georgia. It is imperative that space for NGOs remains open and that they continue to have access to public and government fora.

b. Media

A robust, independent media is crucial for reporting on instances of police misconduct, ensuring that police accountability mechanisms are conducted transparently, and calling out instances where the system is inadequate. In Georgia, the Law on Police mandates that police “promptly provide objective information about their activity to the public and mass media,” even while avoiding disclosure of sensitive information.²⁴⁸ Throughout our research, we have found reporting on many of the issues and cases that are discussed in this Chapter. Chapter 4 examines media freedom in depth, and the conclusions from that study are applicable to media’s role in police accountability.

c. International Community

The 2014 Association Agreement between the EU and Georgia promotes the modeling of Georgia’s legislation in accordance with European standards. The Association Agreement and the quadrennial Association Agendas offer direct, external involvement in Georgia’s police accountability framework. Article 4 of the Association Agreement regarding domestic reforms provides:

246 Ministry of Internal Affairs in discussion with the authors, January 2020.

247 These NGOs are Human Rights Center, Georgian Young Lawyers Association, Human Rights Education and Monitoring Center, and Rights Georgia (formerly Article 42). Each engage in some form of strategic litigation.

248 *Law of Georgia on Police*, Art. 15.2.

The Parties shall cooperate on developing, consolidating and increasing the stability and effectiveness of democratic institutions and the rule of law; on ensuring respect for human rights and fundamental freedoms; on making further progress on judicial and legal reform, so that the independence of the judiciary is guaranteed, strengthening its administrative capacity and guaranteeing impartiality and effectiveness of law enforcement bodies.²⁴⁹

The initiation of the Human Rights Secretariat within the PM's office and the creation of the Human Rights Department in the MIA are examples of Georgia's attempts to strengthen its administrative capacity, to increase its institutional effectiveness, and to address emerging human rights concerns. The 2014-2017 Association Agenda also observes that: "Complaints against the police and prosecutors will require a professional, effective mechanism for credible response. Consider establishing a full-fledged independent and effective complaint mechanism to investigate such cases. Provide a comprehensive professional training of law enforcement officers on ethical standards and human rights."²⁵⁰

The recent establishment of the SIS with the mandate to investigate such cases is a prime example of Georgia's attempts to harmonize

with European human rights standards. Georgia has also become a member of a number of European Law Enforcement agencies, including the Association of European Police Colleges (AEPC), the European Agency for Law Enforcement (CEPOL), and the Police Academies Network (PAN) of the Organization of Security and Cooperation in Europe (OSCE).²⁵¹

In addition to European partners, the United States has been actively involved in funding and facilitating law enforcement trainings in Georgia. Greater security partnerships began in 2009, following the 2008 Russo-Georgian War. Since 2014, the U.S. has provided \$117.3 million in security assistance.²⁵² Support for law enforcement trainings are a facet of this greater security cooperation. The International Narcotics and Law Enforcement Section (INL) of the U.S. Embassy in Tbilisi has assisted the MIA Patrol Police Department with training initiatives across Georgia, from local police departments in rural districts to the Georgian Security Forces. Trainings include bolstering police capacity, crowd control, and human resources management.²⁵³ Partnership with the U.S. has strengthened law enforcement awareness of human rights through the U.S. Leahy Law, which prohibits the allocation of U.S. funds to assist units credibly known to have committed gross violations of human rights.²⁵⁴ External support from the European Union and U.S., whether normative or practical, has helped to shape Georgia's law enforcement mechanisms in accordance with international human rights standards.

249 L261: Legislation Official Journal of the European Union.

250 *Association Agenda between the European Union and Georgia*, 4, https://eeas.europa.eu/sites/eeas/files/associationagenda_2014_en.pdf.

251 "Country Profile: Georgia," OSCE, accessed May 11, 2020, <https://polis.osce.org/country-profiles/georgia>.

252 Bureau of Political-Military Affairs, "U.S. Security Cooperation with Georgia," May 21, 2019, <https://www.state.gov/u-s-security-cooperation-with-georgia/>.

253 U.S. Embassy in Georgia conversation with authors, January 2020.

254 Bureau of Democracy, Human Rights, and Labor, "Leahy Law Fact Sheet," Department of State, January 22, 2019, <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/human-rights/leahy-law-fact-sheet/>.

d. Community Policing

There have been many ad-hoc “community policing” training initiatives in Georgia over the years, which have largely been funded by European institutions like the OSCE and by the U.S. Embassy; however, these have not been coordinated into a single comprehensive program. Over the past decade, various partnerships and “learning exchanges” have been carried out over the past decade between patrol police officers in Georgia and police units in the United States, specifically in the State of Georgia.²⁵⁵ Yet these US-funded efforts appear to be piecemeal in nature: efforts aimed more at building good faith and cooperation between nations than at adopting a systematic “community policing” model and approach throughout all of Georgia’s police forces.

Recently, Georgia’s MIA has begun to incorporate community policing as part of the “Systematic Upgrade” of its operations.²⁵⁶ In 2018, the then-Minister of Internal Affairs, Giorgi Gakharia, in a speech to the new unit of “community-oriented officers,” said: “Today is a very important day for us. As you are aware, the Ministry of Internal Affairs has been proceeding a systemic upgrade reform already for a year and you are the first real practical step to the implementation of this reform. Your function – taking care of our citizens - is the most important thing.” The MIA envisions that community policing will eventually replace the “district-level” inspector model that the MIA currently employs. As with all community-policing models, its objective is to bring police officers

closer to local communities and to build trust and good will between citizens and law enforcement. The pilot initiative is currently limited to the Vake-Saburtalao Police division in Tbilisi and will eventually be scaled up and rolled-out to all of Tbilisi’s police force.²⁵⁷

255 U.S. Embassy in Georgia in conversation with the authors, January 2020.

256 Amy Jones, “Community Policing Begins in Tbilisi,” Georgia Today, December 5, 2018, <http://georgiatoday.ge/news/13562/Community-Policing-Begins-in-Tbilisi>.

257 Ibid; Ministry of Internal Affairs in discussion with the authors, January 2020.

IN PRACTICE

As discussed in the preceding section, Georgia's mechanisms for ensuring police accountability are located throughout many governmental bodies and as well as in civil society. To examine Georgia's implementation of this system, we have focused on the practice of the two primary police accountability institutions, the MIA and the SIS, as well as the overarching issues of politicization and competence, which were raised repeatedly throughout our research. We find that in practice, Georgia's police accountability system works very well in most cases of alleged misconduct; however, the system struggles to deliver accountability when cases have potential political implications.

1. Strong Internal Mechanism

As the primary internal accountability mechanisms, the MIA's GI and Human Rights Monitoring Body seems to be working well. While we do not have access to the data necessary to evaluate how well the institution has functioned systemically, there is nevertheless evidence that points to a successful vertical mechanism.

Throughout our research, the GI was positively regarded by our interlocutors. When we interviewed members of civil society, most responded that the GI was adequate, and that when an alleged violation was criminal in nature, the case would be properly forwarded to the SIS. One NGO did point to delays in the GI's response time in initiating investigations and to the problematic limits on how long

the GI can have a case, potentially limiting the ability of the GI to conduct a thorough investigation.²⁵⁸ However, we heard little other criticism. The lack of emphasis placed on the GI by civil society demonstrates that it is working well enough, although it may also be attributable to the low-level nature of the offenses investigated by the GI.

In terms of transparency, the GI has published statistics on disciplinary penalties imposed on MIA employees since 2013. Yet it does not provide information on the nature of the alleged violations or the length of time it has taken to process these cases.²⁵⁹ Since 2018, the MIA has begun to report on the number of citizen complaints and applications filed, meaning that cases of alleged police misconduct are registered and kept on record. Applicants are also notified of the disciplinary proceedings' results. Currently, the statistics maintained by the MIA are not based on a systematized procedure and are not governed by any sort of standard format.²⁶⁰

2. State Inspector Service

The State Inspector Service has been in operation only since November 1, 2019, less than three months at the time of our field research and only six months as of this writing. The common refrain we heard was that it was too early to evaluate the performance of the SIS. While we cannot fully assess how well the new SIS aligns in practice with the research framework, there are signs that point to both positive and negative trends, as well as issues that need to be further reviewed.

258 GYLA in discussion with the authors, January 2020.

259 Ministry of Internal Affairs Public Information, "Statistics of Disciplinary Penalties Imposed on the Employees by the General Inspection," Ministry of Internal Affairs of Georgia, accessed April 25, 2020, <http://info.police.gepage?id=234>.

260 Open Government Partnership, "Open Government Partnership Action Plan of Georgia 2018-2019," December 4, 2018, 19-50, <https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>.

Delay in Establishment

The process of establishing the SIS revealed a troubling lack of government support for an independent police oversight institution. NGOs, the Public Defender, and the international community began advocating for such an independent body as long ago as 2014.²⁶¹ The need for an oversight mechanism was included in Thomas Hammarberg’s influential report on Georgia’s human rights, and was reiterated by Maggie Nicholson in her 2017 assessment of its human rights strategy.²⁶² The United Nations helped to develop the SIS through workshops and roundtables, expert advice, and suggested amendments to draft legislation.²⁶³ Four years later, on July 21, 2018, the Georgian Parliament enacted the SIS legislation. According to the statute, the SIS was to begin operations on January 1, 2019.²⁶⁴ This date was subsequently pushed to July 1, and eventually to November 1, 2019.²⁶⁵ The official explanation for the delay was a lack of financing.²⁶⁶ NGOs objected to the postponements, especially since the second came so soon after the June 20-21 protests. They noted that the Prosecutor had opened investigations into charges that would have been within the SIS’s jurisdiction had the institution been operational at the time.²⁶⁷

These delays suggest a lack of sufficient government support for the SIS or an unwillingness to prioritize it. To demonstrate its commitment to the SIS, the government must ensure that the institution is sufficiently resourced to carry out its mandate.

Appointing the State Inspector

The position of State Inspector has high importance in both the functioning and the symbolic value of the SIS. Yet NGO claims of flaws in the selection process of the first State Inspector must be taken seriously. In the view of a coalition of NGOs, in particular the Georgian Young Lawyers’ Association (GYLA) which participated in the selection panel, only one candidate fulfilled all of the selection commission’s statutory requirements; however, the commission had to put forward the names of two candidates. Instead of reopening the search to recruit another individual who fulfilled these requirements, it presented the names of both the nominee that met the requirements and someone who did not. The coalition alleges that this was orchestrated so that the predetermined candidate would win the job.²⁶⁸

The Deputy Public Defender, who was also on the commission, leveled the same criticism.

261 “From November 1, 2019 the State Inspector’s Service Investigative Function Will Be Launched,” United Nations in Georgia, accessed April 12, 2020, http://www.ungeorgia.ge/eng/news_center/media_releases?info_id=707#.XpNln4hKjIV.

262 Hammarberg, 23-4; Maggie Nicholson, “Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches,” (USAID and the East-West Management Institute, March 2017), 17-21, accessed May 8, 2020, <http://ewmi-prolog.org/images/files/1266ReportonImplementationHumanRightsStrategyENG.pdf>.

263 Ibid.

264 Parliament of Georgia, *Law of Georgia on the State Inspector’s Office* (საქართველოს კანონი სახელმწიფო ინსპექტორის სამსახურის შესახებ) (original), 21 July 2018, Art. 29, accessed April 12, 2020, <https://matsne.gov.ge/ka/document/view/4276790?publication=0>.

265 Parliament of Georgia, *On Making Amendments to the Law of Georgia on the State Inspector’s Office* (“სახელმწიფო ინსპექტორის სამსახურის შესახებ” საქართველოს კანონში ცვლილების შეტანის თაობაზე), 27 December 2018, accessed April 12, 2020, <https://matsne.gov.ge/ka/document/view/4432896?publication=0>; Parliament of Georgia, *On Making Amendments to the Law of Georgia on the State Inspector’s Office* (“სახელმწიფო ინსპექტორის სამსახურის შესახებ” საქართველოს კანონში ცვლილების შეტანის თაობაზე), 28 June 2019, accessed April 12, 2020, <https://matsne.gov.ge/ka/document/view/4599623?publication=0>.

266 Human Rights Watch, “World Report 2020: Georgia,” Human Rights Watch, December 10, 2019, accessed April 12, 2020, <https://www.hrw.org/world-report/2020/country-chapters/georgia>.

267 CITJ, “The Parliament of Georgia Postponed the Activation of the Investigative Authority of the State Inspector’s Office for the Fourth Time,” CITJ, July 3, 2019, accessed April 12, 2020, http://www.coalition.ge/index.php?article_id=212&clang=1.

268 CITJ, “The Coalition’s Statement on Developments Related to the State Inspector,” CITJ, June 10, 2019, accessed April 16, 2020, http://coalition.ge/index.php?article_id=209&clang=1.

The person eventually named as State Inspector, Londa Toloraia, faced criticism from opposition MPs as well as NGOs for her ties to the MIA and the Prosecutor's Office. She had served as the director of the MIA's Human Rights Department and worked for the POG for nine years. According to the critics, these past connections meant that she could not impartially investigate the police or sufficiently advocate for the independence of the SIS.²⁶⁹ Regardless of whether these represented an actual conflict of interest, there certainly existed the appearance of a conflict.

While these allegations and criticisms are concerning, they should not prejudice an objective evaluation of the SIS's work. They do, however, emphasize the high standard to which State Inspector Toloraia and the SIS as a whole are being and should be held, and the lengths to which they must go to demonstrate their independence and impartiality.

Early Functioning

The legislative delays did not mean that more time was invested in standing up the new institution. In fact, they added pressure to have the SIS fully functional as soon as its mandate started. The State Inspector and her team had to move quickly to operationalize. During this period, she worked with the Parliament to implement several changes to the SIS statute. She promulgated several internal mechanisms including a General

Inspectorate.²⁷⁰ In addition, the SIS had to establish its complaints mechanism, a case management system, and a handbook for its operations. Finally, it had to hire staff, doing so within the single month of October.²⁷¹ On November 1, 2019, the SIS was operational.

In its first two months, the only period included in its 2019 annual report, the SIS received 351 complaints, which resulted in investigation into 68 criminal cases, as well as one additional case referred by the General Prosecutor's Office. Of those, 34 were referred to other institutions, since they did not fall within the SIS's jurisdiction. Most of the complaints came from the MIA, with others from citizens and other non-governmental entities.²⁷² The annual report provides extensive information about the demographics of the cases as well as the different investigative actions taken.²⁷³ Finally, the report demonstrates the swiftness with which the SIS launched its investigations, something favorably noted by civil society.²⁷⁴ The report shows not only that the SIS's police accountability function is being used, but also that the SIS is taking seriously its responsibility to report data. This bodes well for the transparency of the institution and should be continued.

Resources

According to the SIS Annual Report, the institution is adequately resourced, with sufficient investigators, finances, and appropriate equipment.²⁷⁵ However, there

269 "Parliament Confirms Londa Toloraia as State Inspector," Civil.Ge (blog), June 11, 2019, accessed April 16, 2020, <https://civil.ge/archives/308090>.

270 State Inspector's Service, *State Inspector's Office Activity Report – 2019 (სახელმწიფო ინსპექტორის სამსახურის საქმიანობის ანგარიში - 2019 წელი)*, 1 April 2020, accessed April 13, 2020, 105-9, <https://personaldata.ge/cdn/2020/04/სახელმწიფო-ინსპექტორის-სამსახურის-საქმიანობის-ანგარიში-2019>.

271 Ibid, 109-14.

272 Ibid, 117-26.

273 Ibid, 126-34.

274 GYLA in discussion with the authors, January 2020.

275 Ibid, 138.

are areas where the service lacks sufficient support, and current appropriations are inadequate to scale up its activities. In particular, the SIS cannot properly service the entire country from two offices, as it has difficulty launching timely investigative actions in areas far from either of the offices. It also does not have sufficient resources to create juvenile-specific interview spaces and has difficulty involving juvenile psychologists in investigations, impeding its ability to deal with cases in which young people are involved as suspects, victims, or witnesses. Similarly, forensic experts are not always available to conduct examinations, which delays the process and may prolong victim trauma.²⁷⁶ Finally, were the mandate of the SIS to increase in scope as has been urged by NGOs and others, additional funds and assets would surely be needed.²⁷⁷ Even without an expansion of its mandate, higher volume of SIS operations due to increased public awareness could strain the institution’s ability to respond. The SIS must not be allowed to become a victim of its own success.

Working with Other Institutions

The SIS has good working relationships with other Georgian institutions, especially the Public Defender. This includes consulting with each other, as well as conducting joint workshops and exercises. The Public Defender is currently conducting a substantive review of one of the SIS’s cases, showing that the SIS fits within the larger system of checks and balances among bodies with similar or overlapping mandates.²⁷⁸ The SIS also works closely with other investigative institutions,

holding joint trainings and working sessions.²⁷⁹

The status of the SIS’s relationship with the POG is less clear. According to the 2019 Annual Report, the two institutions have cooperated well, filing a number of joint investigative claims, with the SIS submitting nine requests to the POG.²⁸⁰ However, the true test of the SIS and the Prosecutor Office’s cooperation will not be known until the POG has had to rule on which body has jurisdiction in situations posing complicated or controversial jurisdictional questions.

Some critics within civil society believe that the process for resolving jurisdictional disputes between the SIS and the POG creates a risk of politicization. They argue that because the POG retains the ultimate authority, it can effectively serve as the gatekeeper for SIS’s access to sensitive cases alleging official misconduct, which might put government officials and agents at risk. These civil society members suggest that a fully independent investigative authority is needed, operating entirely outside the Prosecutor’s control, oversight, or influence.

When there is significant uncertainty over whether the SIS or POG has jurisdiction, the controversy has the potential to become consequential. Such a situation may have been presented in the so-called Cemetery Case. On January 2, 2020, Murad Tsurtsumia, a 24-year-old man, was killed in a cemetery on the outskirts of Tbilisi. One of the two

primary suspects was Zurab Popkhadze, a high-ranking police official. The POG charged Popkhadze under Articles 117 (intentional

276 Ibid, 139-43.
 277 State Inspector’s Service in discussion with the authors, January 2020.
 278 *State Inspector’s Office’s Activity Report – 2019*, 146-7.
 279 State Inspector’s Service in discussion with the authors, January 2020.
 280 *State Inspector’s Office Activity Report – 2019*, 135-6.

infliction of grave injury resulting in death), and Article 126 (violence) of the Criminal Code. The investigation is being led by the POG.²⁸¹ The Prosecutor claims that since Popkhadze was out of uniform and was not on duty, his alleged crime does not fall within the SIS's jurisdiction.

However, a coalition of NGOs issued a statement calling on the State Inspector to petition the POG to transfer the case to the SIS. The coalition contends that while the specific charges against Popkhadze may not fall within part of the SIS's jurisdiction relating to specific articles of the Criminal Code, the alleged crime falls within the SIS's broader jurisdiction over deaths of persons confined and/or unable to leave a place against their will. They also argue that the SIS should review the details of the case to make its own jurisdictional determination, given the perceived lack of public trust in the POG.²⁸² These arguments were echoed by opposition political parties, particularly Lelo, a recently established group.²⁸³ Others that we talked to thought that the situation was less clear cut, and that the government had a reasonable argument for keeping the investigation with the POG.²⁸⁴

While the State Inspector ultimately agreed with the POG's jurisdictional decision,

the coalition's advocacy demonstrates their frustration with the murkiness of the SIS's mandate. If the POG can craft charges deliberately to fall outside the SIS's jurisdiction, then the SIS's independence would be severely undermined.

In other situations, the SIS has proactively asserted jurisdiction.²⁸⁵ On December 12, 2019, a 15-year-old boy attempted suicide by jumping off a building. Two days earlier, he had been interrogated at a police station in connection with graffiti at his former school. Allegedly, the police pressured him to confess and at one point interviewed him without his legal guardian present. He died on December 17.²⁸⁶ The State Inspector began investigating the allegation on December 13, finding evidence that an investigator had compelled the teen to give testimony.²⁸⁷ The investigator was subsequently arrested. Later, the State Inspector discovered additional violations of the Juvenile Justice Code and Police Code of Ethics by the investigator and other police officers. She also noted that the SIS had requested that the GI impose disciplinary punishments and that charges against the investigator had been forwarded to the Tbilisi City Court.²⁸⁸ This case shows the SIS functioning as intended: it asserted jurisdiction, preferred charges against the investigator, and continued to pursue the investigation on its own initiative.

281 "Senior Police Officer, One More Person Arrested over Death of Georgian Citizen," Civil.ge, January 10, 2020, accessed April 30, 2020, <https://civil.ge/archives/333944>; "Statement of the Prosecutor's Office of Georgia," Prosecutor's Office of Georgia, January 9, 2020, accessed April 30, 2020, <http://pog.gov.ge/news/saqarTvelos-prokuraturis-gancxa-1>.

282 "CSOs call on the State Inspector to Petition the Prosecutor's Office to Relinquish Tsurtsumia's Case to Her Office," Georgian Democracy Initiative, January 9, 2020, accessed April 30, 2020, <https://gdi.ge/en/news/csos-call-on-the-state-inspector-to-petition-the-prosecutors-office-to-relinquish-tsurtsumias-case-to-her-office.page>.

283 "Political unity Lelo demands state inspector investigate murder involving Interior Ministry Employee," agenda.ge, January 8, 2020, accessed April 30, 2020, <https://agenda.ge/en/news/2020/51>.

284 Amnesty International in discussion with the authors, January 2020.

285 Human Rights Center in discussion with the authors, January 2020.

286 "Police Blamed, as Teen, 15, Succumbs to Injuries after Attempted Suicide in Tbilisi," Civil.ge, December 17, 2019, accessed May 1, 2020, <https://civil.ge/archives/331828>.

287 Ibid.

288 "Georgian State Inspector Speaks of Additional Violations into Teen Suicide Case," Civil.ge, February 7, 2020, accessed May 1, 2020, <https://civil.ge/archives/337840>.



An opposition demonstrator kneels in front of riot police at the Georgian Parliament on Friday June 21, 2019.

© Image: AP Photo/ Zurab Tsertsvadze

Outlook

Since the SIS is so new, there is much that it still needs to do to fully establish itself. Its 2019 annual report is revealing in its clear-eyed view of the challenges and its proposals to work towards solutions. These initiatives include increased public awareness, more resources including a new office in Batumi, additional facilities for juveniles, and certain legislative amendments.²⁸⁹ There are also plans to create an advisory body and an internal evaluation mechanism, reflecting the SIS's desire to improve its responsiveness and transparency.²⁹⁰ The test will be to see whether the government will support, and the SIS can implement, these improvements over the coming years.

289 *State Inspector's Office Activity Report – 2019*, 105-9.

290 State Inspector's Service in discussion with the authors, January 2020.

3. Crosscutting Issues

a. Politicization

The primary issue that emerged repeatedly and consistently throughout conversations with civil society groups, Members of Parliament, and various government bodies such as the Public Defender, is politicization. Given Georgia's history, the reasons for this concern are readily understandable.

All actors and organizations whom we consulted agreed that police forces in Georgia have come a long way in the nearly 30 years since independence. They are now generally trusted by the public, and even serve as the model for all neighboring countries in the Caucasus region. This reputation is supported by an exemplary domestic legal framework

that largely aligns with international standards and is designed to ensure due process and accountability for officers who engage in misconduct. Nevertheless, even this legal framework is still vulnerable to politicization by powerful forces occupying key positions in government, who may be able to manipulate application of the laws for political gain.

The recent appointment of Irakli Shotadze as Prosecutor General over the objections of civil society have raised claims of undue political influence. Shotadze was Prosecutor General from 2015 to May 2018. He resigned following mass protests over his handling of the Khorava Street Murders, where two 16-year-olds were stabbed to death. In addition, a special parliamentary investigatory committee was formed.²⁹¹ When the Prosecutorial Council announced in January 2020 that Shotadze was one of the nominees, NGOs issued statements opposing his candidacy. They argued that the circumstances surrounding his resignation, his association with several allegedly biased high-profile cases, and the overall lack of public trust in his impartiality should disqualify him from serving. They also observed that Shotadze was the preferred candidate of GD, an argument echoed by opposition parties.²⁹² Civic activists and opposition politicians organized protests

against his appointment; however, in the end, he received parliamentary approval despite the opposition's boycott of the vote.²⁹³ Whether or not Shotadze's appointment was politically motivated, the controversy it raised demonstrates the potential for political influence in the selection process and the need for reforms to improve transparency.²⁹⁴

Another issue raised throughout our research was prosecutorial authority over investigations. The current legislation allows prosecutors de facto control, with no entity possessing truly independent oversight.²⁹⁵ The government has proposed reforms to the system, which would grant investigators independence until formal charges are ready to be brought against a suspect.²⁹⁶ This reform is supported by most entities in Georgia including the Prime Minister and civil society.²⁹⁷ In 2019, at Georgia's request, the Council of Europe's Venice Commission issued an opinion supporting the reform and providing recommendations for its implementation.

Similar reforms have not been presented to address the potential politicization in the awarding of victim status. As we noted earlier, following the June 20th protests, the POG awarded victim status to nearly all

291 For more information on the Khorava Street Murders, see Ted Jonas, "The Khorava Street Murders: Justice Delayed, Justice Denied," Civil.ge, June 1, 2018, accessed May 6, 2020, <https://civil.ge/archives/243423>; Giorgi Lomsadze, "Georgian protests draw other bereaved parents," eurasianet, June 4, 2018, accessed May 6, 2020, <https://eurasianet.org/georgian-protests-draw-other-bereaved-parents>.

292 "EMC urges Prosecutorial Council not to support Irakli Shotadze's candidacy for the post of Prosecutor General (EMC მოუწოდებს საპროკურორო საბჭოს მხარი არ დაუჭიროს ირაკლი შოთაძის კანდიდატურას გენერალური პროკურორის თანამდებობაზე)," EMC, January 16, 2020, accessed May 6, 2020, <https://emc.org.ge/ka/products/emc-moutsodebs-saprokuroro-sabchos-mkhari-ar-dauchiros-irakli-sho-tadzis-kandidaturas-generaluri-prokuroris-tanamdebobaze>; Human Rights Center, "Another Protest Rally of the Human Rights Center and Independent Lawyers in front of the Prosecutor General's Office," Humanrights.ge, February 7, 2020, accessed May 6, 2020, <http://www.humanrights.ge/index.php?a=main&pid=20063&lang=eng>.

293 "Situation tense at parliament as civic activists denied entry," agenda.ge, February 17, 2020, accessed May 6, 2020, <https://agenda.ge/en/news/2020/487>; "Amid opposition boycott, parliament approves Shotadze as chief prosecutor for 2nd time," agenda.ge, February 18, 2020, accessed May 6, 2020, <https://agenda.ge/en/news/2020/503>.

294 EMC in discussion with the authors, January 2020; "CSOs Call for Transparent Selection of Georgian Chief Prosecutor," civil.ge, January 13, 2020, accessed May 6, 2020, <https://civil.ge/archives/334276>.

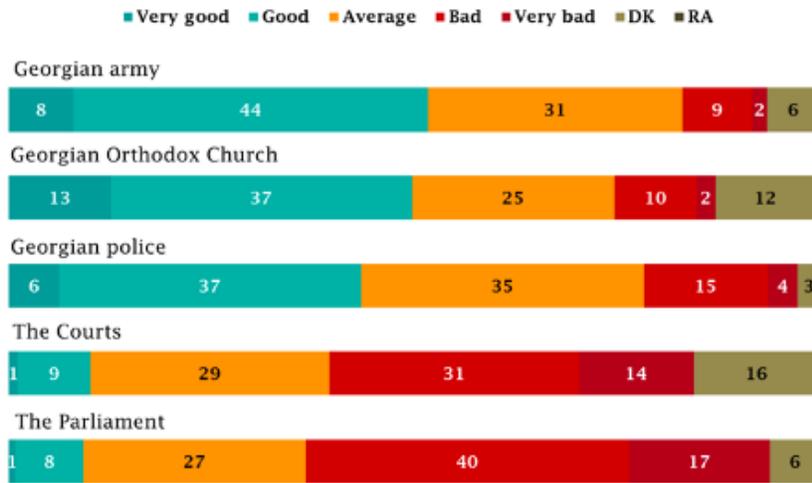
295 European Commission for Democracy Through Law (Venice Commission), *Georgia: Opinion on the Legislative Amendments to the Criminal Procedure Code Concerning the Relationship between the Prosecution and the Investigators*, 18 March 2019, 3-4, accessed May 6, 2020, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)006-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)006-e#).

296 Ibid, 7.

297 GYLA in discussion with the authors, January 2020.

Performance of institutions

How would you rate the performance of ...? (q5)



Public Opinion Polling
 Conducted by NDI in
 December 2019.
 © Image: NDI, December 2019

police officers injured, while it withheld the designation from all but a handful of injured citizens, some of whom lost their eyesight because the police dispersed the crowd using rubber bullets. This disparity, along with additional reports of persons being denied victim status, suggests that the process for this determination is not free from political influence, and may suggest to the public that the system serves individuals in state positions, and not the average citizen.

Other issues of concern arose during the course of research. For example, there are allegations of possible political interference with the Public Defender, stemming from attempts by the Ministry of Justice to dispute the Ombudsman’s report on ill-treatment in some prisons.²⁹⁸ The independence of the judiciary was raised repeatedly as an issue, with several NGOs alleging the existence of a cohort of politically influenced judges. They take issue with the process of appointing judges, and a lack of transparency in

the process of selecting the judiciary’s independent inspector.²⁹⁹ Perceived or real, these cases threaten to undermine the tremendous gains made through years of successive police reforms.

Many individuals we interviewed believe that politicization leads to declining public trust in these institutions and declining public faith in the government. NGO staff and independent researchers emphasized and celebrated recent reforms, such as the creation of the SIS and the continuing vigorous work of the Public Defender’s Office, but voiced concern that these positive achievements are fragile if they are not better shielded from politics.

b. Competence

Many civil society bodies, as well as government agencies such as the MIA itself, mentioned the ongoing issue of the competence of some of its police forces and investigators.

298 “Justice Ministry, Penitentiary Service Fined for Violation of Personal Data Protection Law,” *civil.ge*, March 28, 2020, accessed May 6, 2020, <https://civil.ge/archives/344532>.

299 See, for example, “CSOs: Competition Selecting Independent Inspector Not Transparent,” *civil.ge*, January 20, 2020, accessed May 6, 2020, <https://civil.ge/archives/335095>.

This concern primarily refers to investigators' technical abilities to thoroughly and satisfactorily assess accusations, as well as law enforcement's ability to tactfully handle sensitive incidents and volatile situations.³⁰⁰ The ability to competently perform these central duties is critical to law enforcement's efficacy and reputation among the public.

The MIA is striving to improve police competence through the roll-out of trainings across the country. The goal is to increase the capacity of police forces in ethically and thoroughly carrying out investigations, and conducting proper interrogations and forensics, particularly in rural areas. The MIA has also incorporated "sensitization" into its police training program, which all recruits must undergo as part of their six-month education period before beginning their employment. This program prepares officers-in-training on human rights issues, to ensure that they have the necessary tools and resources to effectively respond especially to crimes committed against LGBTQ individuals and other vulnerable populations.³⁰¹

Of course, as is the case with any officer training program, this component alone cannot prevent rogue individuals from acting on their own beliefs, values, and biases, rather than following the official state protocol. This issue is exacerbated by the prevailing cultural climate in Georgia, which is notoriously hostile to LGBTQ-identifying individuals, as is discussed in more detail in the "Discrimination" section of this report. While the MIA has taken important steps to ensure that police officers effectively respond to the needs of the LGBTQ community, this remains a persistent challenge.

Some groups and individuals within civil society have also voiced concern that the severe civilian injuries during the June 20 protests were in part also due to the police force's lack of competence in responding appropriately to orders and in deploying rubber bullet firearms. While the details surrounding the decision to use rubber bullets are still unclear, and the exact sequence of order-to-action also remain unknown and debated, some critics of the police's actions have suggested that the overreaction was also likely a product of poor training.

Individuals from this viewpoint assert that had the police had preparation on proper use of crowd control techniques, they would not have fired projectiles indiscriminately into groups of people. Whether the police's actions were related to orders given by higher officials is still not fully understood, but nevertheless, the officers' improper handling of the entire incident illuminates the need for more rigorous training on how to safely and responsibly handle mass protests and gatherings.³⁰² In recent years, internationally-sponsored programs from the U.S. and EU have focused on building patrol police capacity, particularly when handling hate crimes and issues that affect members of minority communities.³⁰³

300 Amnesty International researcher in discussion with the authors, January 2020.

301 Ministry of Internal Affairs in discussion with the authors, January 2020.

302 Amnesty International in discussion with the authors, January 2020.

303 EU Ambassador in discussion with the authors, January 2020.



Protesters outside of Parliament in November 2019.

© Image: Lemma Shehadi, "We are drifting away from democracy": Protests grip former Soviet republic of Georgia," *Independent*, December 3, 2019, <https://www.independent.co.uk/news/world/europe/protests-georgia-tbilisi-bidzina-ivanishvili-russia-a9229921.html>.

PERCEPTION

No matter how well Georgia’s police accountability system objectively aligns with international standards, it will lose credibility if it is not perceived by the populace to be serving its intended function of holding police responsible for misconduct. The perception of how well these mechanisms are working is of utmost importance for building public trust in the state and for upholding the legitimacy of the police forces. In this section, we examine the perception of the police and police accountability in Georgia at three levels: individual, civil society, and international.

1. Individual

Given that law enforcement is the most common way an individual interacts with the state, Georgians’ perceptions of police

accountability offer insight into of how well these systems are truly functioning. Awareness of police accountability is the first step. As explained by a Member of Parliament and demonstrated in the June protests, the public is sensitive to injustice in Georgia.³⁰⁴ Although individuals may not be familiar with the specific issues concerning accountability of law enforcement personnel, they are aware of police actions. Only a small percentage of the population (6%) answered ‘Don’t Know’ when asked to evaluate the performance of the police.³⁰⁵ Furthermore, “equality before the law and protection of justice” was the second most popular response to the question: “What does democracy mean to you?”³⁰⁶

As we have noted, the police as an institution retain great confidence among the population, with law enforcement consistently ranked among the most trusted institutions in Georgia.³⁰⁷ In July 2019, 42%

304 MP George Tugushi in discussion with the authors, January 2020.

305 Laura Thornton and Koba Turmanidze, “Public Attitudes in Georgia: Results of July 2019 Survey,” *National Democratic Institute*, July 2019, https://www.ndi.org/sites/default/files/NDI_July_2019_political%20presentation_Eng_vf.pdf.

306 Luis Navarro, “Public Attitudes in Georgia: Results of April 2014 Survey,” *National Democratic Institute*, April 2014, <https://www.ndi.org/node/23817>.

307 Laura Thornton and Koba Turmanidze, “Public Attitudes in Georgia: Results of December 2019 Survey,” *National Democratic Institute*,

of the population surveyed assessed the performance of the police as 'Good,' compared to 37% as 'Average' and 14% as 'Bad.'³⁰⁸ This poll was conducted shortly following the June protests, of which 92% of the population was aware, yet public opinion reacted only tepidly. Between April and July of 2019, there was but a minor decrease in 'Good' ratings of police performance, from 48% to 42%, with 'Bad' ratings floating around 13 to 15%.³⁰⁹ Given high awareness of the events and police conduct in general, it is clear that the populace did not blame the police for the violent treatment of the June 20th protesters. An open-ended polling question asked: "Who do you think is primarily responsible for the violence that occurred on June 20th?" An overwhelming number of respondents (43%) answered 'the Government;' the next most common response was 'Everyone is equally responsible' at just 14%, with only 1% of respondents answering 'the Police.'³¹⁰ A significant portion of Georgians (61%) described the actions taken against civilians by law enforcement as "too harsh," but the public did not hold the police responsible for this incident of violence. Consistent confidence in the police and general satisfaction with their performance helps explain why police were not found liable in the court of public opinion. Broadly speaking, individuals possess a positive perception of the police in Georgia.³¹¹

2. Civil Society

Civil society, as the independent watchdogs over government performance, provide crucial insight into the strengths and

weaknesses of the harmonization of police accountability with international norms. While Georgian civil society is made up of a range of voices with diverse viewpoints, it is impossible to capture the full scope of opinions about police accountability; however, a consistent theme did emerge during our conversations with Georgian NGOs—on paper, Georgian laws surrounding police accountability are satisfactory, but that problems arise in practice.

NGOs generally agreed that Georgian laws are comprehensive and in line with international law, but that their implementation is flawed. In other words, NGOs are not advocating the revision of particular legislation on law enforcement but urge improved translation of the laws and procedures already in place. NGOs primarily highlighted the violence of the June 20 protests and the politicization of government accountability processes such as prosecutorial decisions and determination of victim status. Civil society members praised and appreciated the progress of Georgian police, but had no tolerance for continued instances of impunity, as was seen in the cemetery and suicide cases. Overall, civil society members emphasized politicization as a core issue to police accountability.

3. International

While the popular perception of law enforcement institutions is important to internal stability, a positive international assessment of Georgia's democratic institutions is essential, given its European aspirations and reliance on international support. In the past the international

December 2019, 10, https://www.ndi.org/sites/default/files/NDI%20Georgia_December%202019_Public%20Presentation_ENG_VF.pdf.

308 Thornton and Turmanidze, "Public Attitudes in Georgia: Results of July 2019 Survey," 20.

309 Ibid.

310 Ibid.

311 Amnesty International, GYLA in discussion with the Authors, January 2020.

community, including the EU delegation and U.S. Embassy, applauded the reforms initiated under Saakashvili and hailed the institutional developments introduced by the EU Association Agreement. The steady progression toward European-modeled institutions has attracted great financial support from both the EU and U.S. The EU has trained “over 5,000 judges, prosecutors, prison and probation staff, police investigators, public defenders, and lawyers to increase their skills and efficiency to further protect Georgians’ rights.”³¹² At present, the EU is prioritizing the development of the Public Defender “to strengthen the system of checks and balances.”³¹³ The U.S. as well has invested extensive time and resources in good governance and law enforcement training.³¹⁴

Despite this progress, the June 20th protests and recent political developments have also generated criticism and concern from the international community. While the U.S. did not consider the police response to the June 20th protests to have been ‘excessive force,’ the unfulfilled promise of electoral reform generated concern (See Introduction, page 24, for more on U.S. – Georgia relations.) On January 29, 2020, U.S. Senators Jim Risch (Republican - Idaho) and Jeanne Shaheen (Democrat – New Hampshire) condemned recent events as an indication of weakening democracy and governance. The letter to Prime Minister Giorgi Gakharia states: “two of the most pressing matters are parliament’s failure to uphold its commitment to electoral reform and the government’s violent suppression

of peaceful protests . . . Your government’s decision to prevent that change indicates a backsliding from commitments to build the institutions of Georgia’s democracy. . . The government’s violent suppression of these protests is a violation of Georgians’ democratic rights and of the government’s duty to protect its citizens.” The Senators reaffirmed their support for Georgia but said they will be watching the 2020 election closely: “an independent, democratic Georgia has many international supporters, and we are eager to continue to assist your country. However, we are motivated to support Georgia’s economic and political development only as long as we can rely on Georgia to be a stable, trustworthy, and democratic partner in this effort.”³¹⁵

Similar sentiments were expressed by European partners. In the words of Federica Mogherini, the previous High Representative for the EU for Foreign Affairs and Security Policy, Georgia has made “great steps” toward normative and economic integration with the EU.³¹⁶ Despite praising closer ties, the EU Delegation has issued similar statements of concern regarding recent developments. In the 2020 Association Implementation report, released on February 6 of this year, it observed:

2020 will be an important year for Georgia to continue to demonstrate its reform commitment, which will be crucial for further advancing on its European path. It will be key to take forward ambitious election reforms, to tackle the increasing

312 “Facts and Figures About EU-Georgia Relations,” EU Neighbors, 2019, accessed April 15, 2020, https://www.euneighbours.eu/sites/default/files/publications/2020-03/EAP%20SUMMIT%20FACTSHEET_Georgia_EN.pdf.

313 Ibid.

314 U.S. Charge d’Affaires and Embassy Staff in discussion with authors, January 2020.

315 United States Senate, Committee on Foreign Relations, *U.S. Senators Jeanna Shaheen and James Rische to Georgian Prime Minister Giorgi Gakharia*, January 29, 2020, <https://www.foreign.senate.gov/imo/media/doc/Risch-Shaheen%20Letter%20to%20H.E.%20Gakharia.pdf>.

316 “EU Hails Georgia’s Implementation of Association Agreement,” *Radio Free Europe/Radio Liberty*, March 5, 2019, <https://www.rferl.org/a/eu-hails-georgia-s-implementation-of-association-agreement/29805224.html>.



Police officers in Tbilisi
© Image: Ministry of Internal Affairs

political polarization and pursue judicial reform . . . an enabling environment for free and pluralistic media will be another key factor in the run-up to the elections.³¹⁷

Police accountability in Georgia, and human rights in general, are in progress but presently face a moment of reckoning. To improve human rights protections for police misconduct, we offer the following recommendations.

317 European Commission, *Association Implementation Report on Georgia*, 6 February 2020, 17-18, https://eeas.europa.eu/sites/eeas/files/1_en_document_travail_service_conjoint_part1_v4.pdf.

RECOMMENDATIONS

To the Ministry of Internal Affairs

- Continue to improve training to reduce human rights violations by police officers. This includes greater sensitization to issues facing marginalized communities, working with juveniles, and crowd control.
- Provide additional statistical information from the General Inspection, including a classification of the types of police misconduct that occur.
- Ensure that any community policing initiative is grounded in the international best practices.

To the Parliament of Georgia

- Reform the Administrative Offenses Code and move most current administrative offences to a misdemeanor section of the Criminal Code. Ensure that both legislation and practice align with international standards, including adequate recognition of due process rights.
- Expand the jurisdiction of the State Inspector Service to include:
 - Alleged crimes that took place before November 1, 2019.
 - All allegations of criminal activity by police personnel.
- Reinforce the SIS's independence by reducing POG involvement throughout the investigative process.
- Provide sufficient resources to the SIS so that it can expand its operations throughout the country, conduct more effective investigations, and raise awareness amongst the public of its activities so that more citizens feel comfortable filing complaints.
- Implement legislative and operational reforms to provide all investigators greater

independence from the Prosecutor's Office of Georgia.

- Develop and mandate the use of a set of objective criteria for the determination of victim status and allow such determination to always be appealable review by the courts.

To the Prosecutor's Office of Georgia

- Transfer the June 20-21 protest cases to the SIS for oversight of the investigation.
- Provide greater transparency when victim status applications are granted or denied and when determinations are made in cases alleging that police officers have committed crimes under the SIS's jurisdiction.
- Provide greater transparency any time procedural guidance is given to the SIS.

To the State Inspector's Service

- Continue to build capacity to conduct effective investigations and prepare to increase that capacity if Parliament extends the mandate.
- Follow through on plans contained in the Annual Report to strengthen the institution and raise public awareness.



Discrimination in the Private Sector

INTRODUCTION

Georgia has signed many international frameworks incorporating human rights protections, including conventions requiring the adoption of domestic anti-discrimination legislation. We have studied how these legal frameworks have been implemented in Georgia, especially in terms of addressing discrimination against minority groups in the workforce. In particular, we are investigating discrimination on the basis of gender and sexual orientation, and against ethnic and religious minorities. We focus on employment discrimination in the private sector because even if the government itself is committed to international standards, it must pursue a proactive approach to ensure private sector compliance if its commitments are to be meaningful. We are looking for gaps in the translation of relevant international frameworks into domestic legislation, and implementation of that legislation. The Georgian Constitution, the Anti-Discrimination Law, and civil and criminal law aspire to human rights norms outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as conventions and recommendations on racial and ethnic discrimination and International Labor Organization (ILO) Conventions.

Georgia became a party to the ICCPR and the

ICESCR in 1994. Both contain a number of provisions promoting equality and combating discrimination.

ICCPR

- Article 2.1 requires that each party undertake “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- Under Article 3, states parties “undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”
- Article 20.2 obliges States to prohibit “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”
- Article 27 provides express protection for ethnic, religious and linguistic minorities: “persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

ICESCR

- Article 2.2 requires States parties “to guarantee that the rights enunciated in the Covenant will be exercised without

discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

- Article 3 provides that parties must “ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”

- Article 7.a.i guarantees “fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.”

- Article 7.c secures the right to “equal opportunity for everyone to be promoted in his employment to an appropriate higher level,” on the sole bases of seniority and competence.

Georgia also ratified the European Convention on Human Rights (ECHR) in 1999. The ECHR incorporates an even more robust approach to discrimination. It forbids the obstruction of the rights and freedoms guaranteed by the Convention, while a general prohibition of discrimination itself is contained in the 12th Protocol, an anti-discrimination treaty adopted by the Council of Europe in 2000.³¹⁸ It states:

The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national

minority, property, birth or other status. No one shall be

discriminated against by any public authority on any ground such as those mentioned in Paragraph 1.

Georgia was one of the two countries that immediately ratified the Protocol, a demonstration of the country’s strong commitment to international anti-discrimination principles.

Georgia ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1994, which in Article 1 prohibits “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Georgia is also among the 34 states that have ratified the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence.

No relevant international convention specifically focuses on the rights of the LGBTQ+ community. Nevertheless, several treaty bodies have adopted decisions confirming that sexual orientation and gender identity are included among prohibited grounds of discrimination under international human rights law.³¹⁹

Discrimination on the basis of ethnicity is addressed by the International Convention on the Elimination of All Forms of Racial

318 Council of Europe, *The European convention on human rights*, Strasbourg, 1952; Council of Europe, *Protocol 12 to the European Convention of Human Rights and Fundamental Freedoms on the Prohibition of Discrimination*, Rome, 2000.

319 Human Rights Council, United Nations, *Resolution 32/2 Protection against violence and discrimination based on sexual orientation and gender identity*. June 30, 2016, Human Rights Council, United Nations, *Resolution 17/9 Human rights, sexual orientation and gender identity* June 17, 2011; Human Rights Council, United Nations, *Resolution 27/32 Human rights, sexual orientation and gender identity*. September 26, 2014; Committee on Economic, Social and Cultural Rights, United Nations, *General Comment No. 20*, May 2009

Discrimination (CERD), which Georgia ratified in 1999.³²⁰ CERD prohibits states parties from maintaining “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

Georgia has also ratified the Framework Convention for the Protection of National Minorities, which includes both negative and positive rights to protect minorities from discrimination. It states: “a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity.”³²¹ The Framework makes clear, though, that it is not self-executing: its provisions “are not directly applicable in the domestic orders of the member states, but will have to be implemented through national legislation and appropriate governmental policies.”

According to the Framework Convention for the Protection of National Minorities, minorities should have their own media to “promote tolerance and permit cultural pluralism,” while the European Charter for Regional or Minority Languages proposes

that media must be available in minority languages.³²² A 1997 Law on Education decreed that the state must offer primary and secondary education in those languages.³²³

The OSCE High Commissioner on National Minorities (HCNM) made recommendations that programming begin to improve minorities’ participation and education by introducing the teaching of their languages in schools.³²⁴ This is consistent with the Hague Recommendations and the Lund Recommendations, nonbinding resolutions from the OSCE. They also propose that there be greater facilitation of the use of minority languages in media, as per OSCE’s Minority Languages in the Broadcast Media.³²⁵

There is also an International Labor Convention pertaining to discrimination, which states that:

- (a) Any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- (b) Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organizations, where such exist, and with other appropriate bodies.³²⁶

320 *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.

321 *Ibid*, Preamble.

322 CoE “Framework Convention for the Protection of National Minorities” 1998 <https://www.coe.int/en/web/minorities/at-a-glance>; CoE “European Charter for Regional or Minority Languages” 1998. [coe.int/en/web/european-charter-regional-or-minority-languages](https://www.coe.int/en/web/european-charter-regional-or-minority-languages).

323 The Coalition for Equality, “The Right to Non-discrimination in Practice for Various Groups in Georgia - 2016” 2017. www.osgf.ge/files/2017/Publications/Diskriminacia_ENG_WEB.pdf.

324 “OSCE High Commissioner on National Minorities, in Georgia, discusses implementation of integration strategy for minority participation,” OSCE, April 20, 2016, <https://www.osce.org/hcnm/234786>.

325 “OSCE High Commissioner on National Minorities, in Georgia, discusses implementation of integration strategy for minority participation,” OSCE

326 International Labor Organization, *Discrimination (Employment and Occupation) Convention*, No. 111, 1958, <https://www.ilo.org/dyn/>

Under Georgian law, international treaties are directly applicable internally unless otherwise specified.³²⁷ Furthermore, according to the Georgian Constitution, “the legislation of Georgia shall comply with the universally recognized principles and norms of international law. An international treaty of Georgia shall take precedence over domestic normative acts unless it comes into conflict with the Constitution or the Constitutional Agreement of Georgia.”³²⁸ Therefore, Georgian legislation automatically incorporates the anti-discrimination norms that are contained in, or that follow from, the treaties to which the country is a party.

According to a Council of Europe study, a slight majority of Georgians surveyed think that diversity is a positive goal for society. Religious diversity draws slightly more suspicion. The CoE in Georgia also presented the findings of its study regarding hate crimes, hate speech and discrimination in Georgia on the International Day for Tolerance, which is marked worldwide today. Hate speech is speech justifying or attempting to incite violence against minority groups, while hate crimes are crimes based upon the group membership of the victim. The results of the study show that 56 percent of people think diversity is positive for the country, while 36 percent see diversity in a negative light, sensing that it “threatens our culture and traditions.” The CoE in Georgia reports that one in three Georgians think that hate crime is a problem, while one in two think hate

speech is. Respondents consider that LGBTQ+ people are the most common victims of hate crime and hate speech, followed by Jehovah’s Witnesses and migrants from outside Europe, the survey revealed.³²⁹

The attitudes that many Georgians have towards minorities, and the level of tolerance those groups might expect in society are likely reflected in whether they are protected from hate crimes and hate speech. The CoE in Georgia, working with the CRRC Georgia on the project “Fight against Discrimination, Hate Crimes and Hate Speech in Georgia,” conducted an in-depth survey that found that in general, people are only moderately informed about Georgian legislation against hate crimes. Only an estimated 23 percent of the population reported they were aware of the Law on the Elimination of All Forms of Discrimination, and knew that there are enhanced penalties for crimes motivated by the fact that the victim was a minority, while 41 percent believed that there is no additional criminal penalty.³³⁰

In general, then, Georgians do not seem well-educated on minority rights or protections, and, in some cases, are skeptical of diversity, which means that enforcement of human rights norms are all the more important to ensure that minorities receive equal treatment in all aspects of society. Given a generally conservative orientation, and the power of institutions like the Orthodox Church, workplace discrimination cases are

normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111.

327 Art. 6. 3: “Provisions of the gazetted treaties determining the specific rights and obligations and not requiring transposition in domestic legislation by adopting specific acts, shall be directly applicable in Georgia.” Parliament of Georgia, *Law of Georgia on International Treaties of Georgia*, 16 October 1997, Art. 6.3, <https://matsne.gov.ge/en/document/view/33442?publication=10>.

328 Parliament of Georgia. Constitution of Georgia, Art 4.5, 24 August 1995. Accessed March 15, 2020. <https://matsne.gov.ge/en/document/view/30346?publication=35>.

329 “Georgia-Fight against discrimination, hate crimes and hate speech in Georgia,” Council of Europe, 2018, <https://www.coe.int/en/web/national-implementation/georgia-fight-against-discrimination-hate-crimes-and-hate-speech-in-georgia>.

330 Parliament of Georgia, *Law on the Elimination of All Forms of Discrimination*, 2 May 2014, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_361984.pdf; “Georgia-Fight against discrimination, hate crimes and hate speech in Georgia.”

not often reported, especially for LGBTQ+ people and religious and ethnic groups, while sexual harassment has only recently become a well-known issue. We include background material on hate speech, hate crimes, systemic barriers, and persecution, as well as general attitudes towards minority groups, in our analysis, because minorities' experience in these areas may reflect discrimination within the workplace as well.

ON PAPER

1. Georgia's Legal Framework

The Constitution of Georgia enshrines the principle of equality. Article 14 stipulates that everyone is equal before the law, regardless of race, skin color, language, sex, religion, political and other beliefs, national, ethnic and social origin, property and title status or place of residence. Article 38 declares that all Georgian citizens are equal in social, economic, cultural and political life regardless of national, ethnic, religious or language origin. In conformity with universally recognized principles and norms of international law including the ICCPR and CERD, all have the right to develop their culture freely without any discrimination and interference.

To realize this objective of equality in different aspects of societal relations, a number of provisions of criminal, civil, and administrative law have been developed to help identify and combat discrimination.

The Criminal Code of Georgia explicitly prohibits any violation of human equality on the grounds of "language, sex, age, citizenship, origin, place of birth or residence, financial or official position, religion or faith, social or professional affiliation, family status, health, sexual orientation, gender identity and expression, political or other views." A violation that has substantially prejudiced the human rights of its victim may constitute a crime under the Criminal Code, punishable by a fine or by corrective labor or imprisonment of up to three years, depending on the circumstances of each case.³³¹

The relevant administrative framework is contained in the Law on Elimination of all Forms of Discrimination (hereinafter the

331 Parliament of Georgia, *Criminal Code of Georgia*, 22 July 1999, Art. 142, <https://matsne.gov.ge/en/document/view/16426?publica->

Anti-Discrimination Law), which entered into force on May 7, 2014. The aim of the Anti-Discrimination Law is to ensure the equal rights of every natural person under the laws of Georgia regardless of race, color, language, sex, age, nationality, origin, place of birth, residence, property or title, religion or faith, national, ethnic or social membership, profession, marital status, health condition, disability, sexual orientation, gender identity and expression, political or other beliefs or other basis.³³² The grounds listed in the Anti-Discrimination Law are not intended as a closed set. The Law's open-ended nature leaves room for judicial interpretation in specific cases. It applies in both the public and private sectors.³³³

To facilitate implementation, the Anti-Discrimination Law entitles the Public Defender of Georgia to monitor and to promote the elimination of discrimination and the process of ensuring equality, to publish an annual report on the topic, to examine acts of alleged discrimination based on applications or complaints, and to make appropriate recommendations.³³⁴ The Anti-Discrimination Law is in accordance with OSCE guidelines, while it and the Civil Code comply with international conventions including ICESCR, ICCPR, CERD, and ECHR.

In addition to the Anti-Discrimination Law, Georgian labor law reflects the principle of equality mandated by ILO Conventions. According to Article 2.3 of the Labor Code, discrimination on the basis of language,

ethnic or social group is prohibited in employment and pre-contractual relations. The Labor Code does not, however, set out measures that employers should take in creating, for example, reporting mechanisms, trainings, and human resource departments responsive to discrimination concerns.³³⁵

Huge progress has been made within the anti-discrimination legal regime in recent years. Sexual harassment was clearly defined and finally recognized as a form of discrimination when both the Anti-Discrimination Law and the Labor Code were amended in 2019.³³⁶ According to Article 4.4.1 of the Labor Code, sexual harassment is behavior of a sexual nature toward a person, which is meant to humiliate him/her and which creates an intimidating, hostile, humiliating or offensive environment. Article 2.3.2 of the Anti-Discrimination Law contains a similar definition. Thus, on paper, the Georgian Constitution, the Anti-Discrimination Law, and civil and criminal law generally align with the applicable international conventions. The Labor Code is in accordance with ILO Conventions, while its Anti-Discrimination Law meets OSCE guidelines regarding minority groups and languages, but there are gaps in legislation protecting LGBTQ+ rights, particularly with respect to marriage.

2. Institutional Response to Discrimination

The Anti-Discrimination Law designated the Public Defender, a constitutional institution,

tion=209.

332 *Anti-Discrimination Law*, Art. 1.

333 *Ibid*, Art.3.

334 *Ibid*, Arts. 6-10.

335 Tatuli Chubabaria, Lela Gvishiani, and Salome Jokhadze, "An Assessment of the Labour Inspection Mechanism and a Study of Labour Rights Conditions in Georgia" (Tbilisi: Human Rights Education and Monitoring Center, 2017), <https://emcrights.files.wordpress.com/2017/01/research-labour-rights.pdf>; Parliament of Georgia, *Labour Code of Georgia*, 17 December 2010, Art. 2.3, <https://matsne.gov.ge/en/document/view/1155567?publication=12>.

336 Inga Kakulia "The Parliament of Georgia adopts the Law on Sexual Harassment," *The Messenger Online*, May 6, 2019, https://www.messenger.com.ge/issues/4388_may_6_2019/4388_edit.html.

to oversee the protection of human rights and freedoms.³³⁷ Specifically, the Equality department has the primary responsibility to act on the violation of the Anti-Discrimination Law. It is a unique characteristic of the Public Defender of Georgia that it can work at both macro and micro levels to promote implementation of the Anti-Discrimination Law, including:

- Examination of applications/complaints of violations of equality and issuing recommendations;
- Preparation of constitutional challenges to legislation on issues within its competence;
- Development of drafts of relevant sections of an annual report;
- Monitoring compliance with its recommendations;
- Planning and conducting educational activities in the human equality sphere;
- Analysis of legislation and draft laws; and
- Performing other functions that naturally stem from the specific work of the department.³³⁸

According to its mandate, the Public Defender of Georgia may review claims of discrimination received from a person or group of persons, or it may initiate its own cases without a complaint, as it has done, for example, in investigating the media sector. After receiving a complaint, the Public Defender determines whether the case comes within Art. 1 of the Anti-Discrimination Law. Assuming that it does, processing the case may include oral hearings, evidence collection, mediation, and the issuance of a proposed resolution. Any person or company

so requested, in particular the respondent charged with wrongdoing, is under a legal obligation to provide information and evidence to the Ombudsman within 10 days. After a recommendation is issued by the Public Defender, the respondent must advise the office about its compliance within 20 days.

The failure to act in accordance with requests of the Public Defender is an administrative offense under the Administrative Offenses Code. If a legal person found to have been a perpetrator of discrimination fails to respond and/or to comply with the Public Defender's recommendation on measures to eliminate the violation, the Public Defender is empowered to lodge an enforcement complaint before the national courts. This mechanism as it applies to legal persons is relatively new to Georgia, and so its effectiveness cannot yet be accurately measured. In the event that the Public Defender elects not to take those steps, the complainant may proceed to court on his or her own, using the Ombudsman's report as evidence in support.

The Public Defender is the institution most actively involved in anti-discrimination work, though there are also agencies within the Ministry of Internal Affairs meant to address these issues. Within the Ministry of Internal Affairs, the Human Rights Protection Department is meant to act against discrimination, while the Labor Conditions Inspection Department can only issue suggestions. The Human Rights Protection Department, as noted in the police section, focuses primarily on investigation of crimes, including hate crimes, and sensitizing police to discrimination issues.

337 "Mandate," Public Defender (Ombudsman) of Georgia, 2013, <http://ombudsman.ge/eng/mandati>; "Public Defender (Ombudsman) of Georgia," European Network of National Human Rights Institution, 2019, ennhri.org/our-members/georgia/.

338 "About The Department," Public Defender (Ombudsman) of Georgia, 2010, <http://www.ombudsman.ge/eng/190307081557departamentis-shesakheb>.

IN PRACTICE

1. Gender Discrimination

a. Sexual Harassment

According to a nationwide survey on violence against women conducted by UN Women and GEOSTAT twenty percent of Georgian women claimed to have experienced sexual harassment.³³⁹ Though sexual harassment is a major and widespread problem in Georgian society, the number of reported cases was relatively low and many victims were unaware that sexual harassment is a form of violence and discrimination.³⁴⁰

The Public Defender has always played a leading role in combatting sexual harassment. It receives applications or complaints from people who claimed themselves victims of sexual harassment, schedules oral hearings if necessary and submits the recommendations to both parties after investigation. In one case in 2017, at the supermarket chain Fresco, video cameras were installed in women's changing rooms and the company's male employees had access to those videos. The Public Defender concluded that such a practice resulted in an insulting and humiliating environment for female employees, and directed the company to make the necessary changes to ensure an appropriate working environment in which the dignity of its employees is respected.³⁴¹ investigation results and recommendations for the company online, the Public Defender could force the company to take sexual

harassment issue seriously through the "name and shame" approach and encourage more victims to ask for help when they suffered the discrimination in workplace. The Chief Specialist of the Equality Department of the Public Defender's Office told us that the number of individuals complaining of incidents of sexual harassment has increased significantly since the changes in the legislation in 2019.³⁴²

If victims choose to institute legal proceedings in the courts, the Public Defender can assist them by presenting an amicus curiae brief explaining its position on the matter. The Public Defender considered this to be a significant opportunity, because the relevant law is quite new and its participation may help to develop a strong body of jurisprudence.³⁴³

In recent years, the Public Defender's office has launched broad awareness-raising campaigns aiming to disseminate information about sexual harassment with the goal of prevention. Since early 2017, the Public Defender's website has posted online sexual harassment courses to increase knowledge and understanding among the public.

It is, however, not always easy for the Public Defender to assess allegations of harassment on the job. Two main factors exacerbate the problem. First, very few victims turn to the Public Defender for help immediately after an incident of alleged sexual harassment. Many fail to recognize that they have suffered an actionable wrong, out of a lack of knowledge of the laws prohibiting such conduct.

339 "National study on Violence against Women in Georgia 2017 (Summary report)," UN Women, 9, <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2018/national%20study%20on%20violence%20against%20women%202017.pdf>.

340 "Sexual harassment – Georgia's public defenders' office takes a stand," UN Georgia, http://www.ungeorgia.ge/eng/news_center/media_releases?info_id=512#.XsAuPWhKg2w.

341 Public Defender of Georgia, "Special report on the fights against discrimination, its prevention, and the situation of equality," (Public Defender of Georgia, 2018), 7, <http://www.ombudsman.ge/res/docs/2019042317142950340.pdf>.

342 The Office of the Public Defender in discussion with the authors, January 2020.

343 "Public Defender Submits Amicus Curiae Brief on Alleged Sexual Harassment in Private Company," Public Defender of Georgia, October 30, 2019, <http://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-kerdzo-kompaniashi-savaraudo-seksualuri-shevitsroebis-shemtkhvevastan-dakavshirebit-sasamartlos-megobris-mosazreba-tsaradgina>.

Second, some victims are reported to have destroyed the evidence in order to put the “shameful” experience behind them. These problems cannot be solved by the Public Defender alone because they are deeply rooted in Georgian culture and shaped by the public ideas. The Government, Parliament, public agencies, and the private sector should work together to create an environment where people can openly discuss the problem and find the effective countermeasures.

In recent years, some private companies have begun to address sexual harassment in the workplace. For example, the entertainment company GEPRA and the construction company M2 have introduced internal complaint mechanisms, and the Bank of Georgia has adopted policies to combat the problem.³⁴⁴ We inquired about these mechanisms at the Bank of Georgia, but the Bank’s Human Resources Department would not provide more information.³⁴⁵ However, as establishing internal policies is voluntary, whether more companies will join in remains to be seen. We believe that widespread adoption of such procedures, paired with the Public Defender’s investigations, could be useful to alleviating sexual harassment in Georgia.

b. Gender Pay Gap, Pregnancy Guarantees & Maternity Leave

Women in the workplace also experience gender-based discrimination, specifically due to the gender pay gap and violations of pregnancy guarantees and maternity leave.³⁴⁶ The gender pay gap, although present in almost every country worldwide, is a long-standing problem in Georgia, with major implications.³⁴⁷ According to the 2020 rankings of the Global Gender Gap Index by the World Economic Forum, Georgia ranks 74th out of a total of 153 countries. Georgia’s gender differential per hour is estimated at 24.8 percent, more than 6 points below the world average of 31.4 percent.³⁴⁸ However, its improvement in the past decade has been minimal, nearly imperceptible.³⁴⁹ The failure to reduce the inequality is due to several factors, such as limited access to economic resources for women, categorization of male and female sector jobs, with the former usually better paid, and heavier responsibilities for household and care work for working women. Unpaid household chores suggest another variable: namely the difference in employment rates between men and women. As reported by UN Women, almost 44.5 percent of Georgian women are economically inactive, meaning that they are out of the workforce. This is almost twice the proportion of men who are

344 “Private sector increasingly involved in addressing sexual harassment in the workplace,” UN Women, October 1, 2018, <https://georgia.unwomen.org/en/news/stories/2018/10/private-sector-increasingly-involved-in-addressing-sexual-harassment-in-the-workplace>.

345 Bank of Georgia in discussion with the authors, March 2020.

346 UN Women, “Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia” (Tbilisi: UN Women, March 2020), https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/gender%20pay%20gap_georgia_eng.pdf?la=en&vs=636; Council of Europe, “Barriers, Remedies and Good Practices for Women’s Access to Justice in Georgia” (Council of Europe: August 2017), <https://rm.coe.int/georgia-barriers-remedies-and-good-practices/168075fd52>; Babutsa Pataraiia, “Maternity and Parenting – Georgia’s Forgotten Obligations” (Tbilisi: Open Society Georgia Foundation, October 2016), [https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Equality_ENG_Cor_\(2\).pdf](https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Equality_ENG_Cor_(2).pdf).

347 In the EU the gender pay gap stands at 16 percent (EUROSTAT). Moreover, in this report we decided to use data provided by UN Women and WEF, but during our interviews our interlocutors denounced a generalized lack of data and of a clear methodology on how difference in salary is measured.

348 Adjusted pay gap takes into account factors such as education, experience and other personal characteristics, and is therefore a more accurate indicator compared to raw pay gap. UN Women, “Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia.”

349 World Economic Forum, “Global Gender Gap Report 2020” (WEF, December 17, 2019), http://www3.weforum.org/docs/WEF_GGGR_2020.pdf.

not working or looking for work.

Despite the absence of explicit legislation on narrowing the gender pay gap, the Law of Georgia on Gender Equality in Article 4.g and Article 6.2 grants women equal career opportunities – “free choice of profession or career, promotion, vocational training/retraining” – and equal employment opportunities in general. As noted by UN Women and various human rights organizations, however, Georgian women are not given equal opportunities once they are in the workforce.

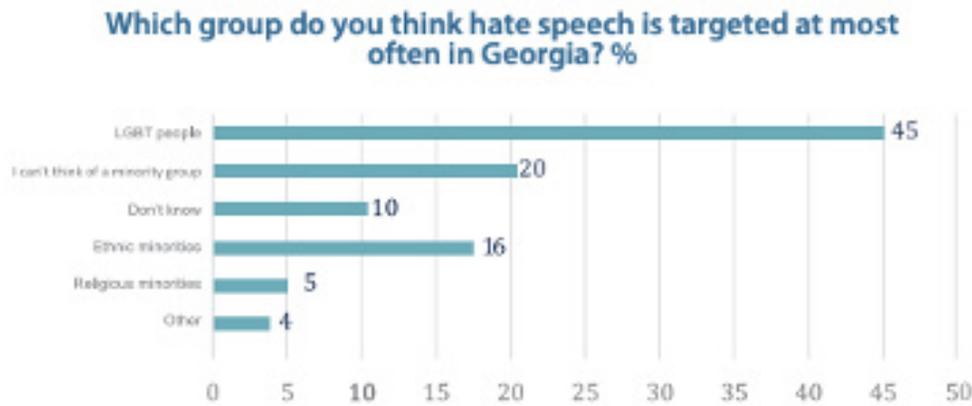
The Georgian Labor Code and the Law on Gender Equality provide pregnancy guarantees, and maternity and parenting leave in the private sector. Under Chapter VI of the Labor Code, pregnant women working in the private sector who ask for maternity leave, are allowed 183 days off – above the EU minimum required – although they receive only 1000 GEL (less than 300€) as maternity leave compensation from the Health Ministry of Georgia. According to Article 29, “Employer and employee may agree on additional compensation.” In other words, the employer has no obligation to financially compensate an employee for maternity leave. Thus, women in the private sector are treated worse than those in the public sector, who receive their salary in addition to the statutory maternity pay. Moreover, when returning from the leave, privately-employed women often do not get their contracts renewed.³⁵⁰ Hence, even though the Labor Code and its Amendments prohibit gender discrimination in contractual relations, in some instances legal guarantees are not being borne out in the private sector.

In addition, contrary to European standards and legislation, pregnant women in the private sector cannot get time off for antenatal medical examinations – which are usually required at least four times – without loss of pay.

When women undergo discrimination in the workplace and decide to report it, they have two options. They may bring their case in front of a court, or the Public Defender’s Office. Court cases alleging discrimination proceed like any other civil cases: the plaintiff has the burden of producing evidence establishing a prima facie case, and if that is accomplished, then the defendant must provide a factual and legal basis for its position. The functioning of the Public Defender is similar, as discussed above. However, as the Public Defender is concerned only with harassment and discrimination, office does not concern itself with alleged violations of labor rights.

Besides, it is worthwhile to reiterate the non-binding nature of the Public Defender’s decisions. Thus, if alleged victims of discrimination in the workplace are more interested in pecuniary compensation and are willing to take their chances in a public trial which could expose them, courts may be the more effective remedy. However, often cases dealing with discrimination in the private sector employ both mechanisms: the Public Defender and the courts. The added value of this mixed approach is twofold. On the one hand, thanks to the timeframe that each process requires, efficiency can be maximized. In fact, since the Public Defender must conclude cases within six months, alleged victims may first address the Office and collect evidence through it, and then bring the case to court within the limit of

350 The Coalition for Equality. “The Right to Non-discrimination in Practice for Various Groups in Georgia” (2016) www.osgf.ge/files/2017/Publications/Diskriminacia_ENG_WEB.pdf



© Image: “Hate Crime, Hate Speech, and Discrimination in Georgia: Attitudes and Awareness”, Council of Europe, November 2018

one year. On the other, the Public Defender has the overarching goal of bringing changes on an institutional level, recognizing bad practices and condemning them before Georgian society, which achieves the same result as class actions, something Georgian legislation does not permit.³⁵¹

Though the Public Defender and the courts offer a method of addressing discrimination against women in the workplace, this process of recourse is difficult and highly stigmatized for women who have experienced gender-based discrimination.

2. LGBTQ+ Rights

Although sexual orientation is one of the categories protected by the Anti-Discrimination Law and the Labor Code, LGBTQ+ people still face discrimination in various situations, including employment. The Public Defender’s 2019 “Special Report on Equality in Georgia” states that 14

percent of the complaints it pursued alleged discrimination on the grounds of sexual orientation or gender identity.³⁵² They have to reveal their sexual orientation during the process to seek protections, and this may bring severe attacks from conservative groups, which impedes both their work and their personal life.

Even when confronted with allegations of discrimination in hiring, employers are not obliged to justify their decisions in practice. Article 5.8 of the Labor Code provides that “an employer shall not be liable to substantiate his/her decision on not recruiting an applicant.”³⁵³ This means that an employer has the right to refuse an applicant without stating any reason.³⁵⁴ Thus, discrimination in recruitment is not addressed by the Code, increasing the difficulty for minority, female, or LGBTQ employment applicants to prove that their rights were infringed.

Hate-motivated crimes may also threaten the safety of people with different sexual

351 The Office of the Public Defender in discussion with the authors, January 2020.

352 “Public Defender Presents 2019 Special Report on Equality,” ombudsman.ge, 2019. <http://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-tanastorobis-mdgomareobis-sheesakheb-2019-tslis-spetsialuri-angarishi-tsarmoadgina>.

353 *Labour Code of Georgia*, Ch. I.

354 COWI, “Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Georgia.” *Council of Europe*, 2010. https://www.coe.int/t/Commissioner/Source/LGBT/GeorgiaSociological_E.pdf.

orientation and gender identity in the workplace. Law enforcement agencies, however, rarely qualify such crimes as motivated by discrimination or intolerance, a specific prohibition under the Criminal Code.³⁵⁵ According to a study published by Council of Europe, when asked which group is most targeted by hate crimes in Georgia, respondents most commonly identified LGBTQ+ people, as the graph above shows.³⁵⁶

Furthermore, some public officials have been known to use hate speech in public comments aimed at sexual minorities, which creates a threatening atmosphere for LGBTQ+ people both within and outside of the workplace. Those speeches usually contain homophobic text and vocabularies, and build “election campaigns on intolerance and encouraging direct or indirect incitement of hatred among different groups of the society.”³⁵⁷ The 2019 Georgian Democracy Initiative report “Hate Speech in Public Service” examined nine different cases in this nature, including elected officials using words that have discriminatory meaning, such as “poofs,” “faggots,” and “sodomist formations,” in their social media posts.³⁵⁸ However, these officials were able to get away by claiming the third party hacking or ending their employment in the government before the internal investigation.

Considering the sensitivity of this group in Georgia, LGBTQ+ persons are less motivated to file complaints against the perpetrators of discrimination against them. Instead, many affected individuals prefer to keep a low profile

and not to draw attention from society.³⁵⁹ The lack of studies and official data on LGBTQ+ issues and rights violations in Georgia reflects the low awareness of this issue as a challenge to the law implementation process.

3. Religious and Ethnic Minorities

Ethnic and religious minorities also experience forms of discrimination both generally and in the workplace. Georgia is fairly homogeneous, and there was a sharp decline in ethnic minority populations following independence. According to the 2014 census, the largest ethnic minorities are as follows:

“Azerbaijanis 233,000 (6.3 percent) and Armenians 168,100 (4.5 percent). Other ethnic groups include Russians 26,500 (0.7 percent), Ossetians 14,400 (0.4 percent), Yezidis 12,200 (0.3 percent), Greeks 5,500 (0.1 percent), Kists 5,700 (0.2 percent), Assyrians 2,400 (0.1 percent), Ukrainians 6,000 (0.2 percent), and small Roma, Jewish and Polish communities. In addition, some Meskhetians, a Georgian Muslim population deported by the Stalin regime in 1944 and currently dispersed amongst several

countries, including surrounding states, are now seeking repatriation. Azerbaijanis and Armenians are concentrated in the regions of

355 “Transgender Employee Attacked in Spar Supermarket in Tbilisi,” *OC Media*, February 5, 2020, oc-media.org/transgender-employee-attacked-in-spar-supermarket-in-tbilisi/.

356 CRRC-Georgia, “Hate Crime, Hate Speech, and Discrimination in Georgia: Attitudes and Awareness,” *Council of Europe*, November 2018, <https://rm.coe.int/hate-crime-hate-speech-and-discrimination-in-attitudes-and-awareness-e/16808ef62a>.

357 Marine Kapanadze, “Hate Speech in Public Service Analysis of the Response Mechanism to Violations of Ethical Norms,” *Georgian Democracy Initiative*, 2019, <https://www.gdi.ge/uploads/other/1/1055.pdf>.

358 *Ibid.*

359 The Danish Institute for Human Rights, “Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity,” *Employment*, 2010, https://www.coe.int/t/Commissioner/Source/LGBT/GeorgiaSociological_E.pdf.

Kvemo Kartli and Samtskhe-Javakheti, respectively, where they constitute local majorities.”³⁶⁰

These communities are generally more concentrated and not well integrated, and lack social services and literacy in the Georgian language, so they lose out on opportunities. A report published by Minority Rights Group International in 2014 stated that the Roma ethnic group also experiences severe marginalization and discrimination, leading to unemployment, poverty, and poor access to education, health care and social benefits. This group is especially vulnerable because many do not have valid Georgian ID documents.

Minority religions make up only about 14 percent of the citizens of Georgia. Of the total population, 83.4 percent self-identify as Eastern Orthodox Christian, 10.7 percent as Muslim, 3.9 percent Armenian Apostolic, and 0.5 percent Catholic, with small clusters of Jews.³⁶¹

According to an international fact-finding mission by the Fédération Internationale des Ligues des Droits de l’Homme, the perception among some Georgians was that independence was an opportunity for ethnic Georgians to achieve sovereignty as the primary objective, focusing less on minorities’ rights.³⁶² The ongoing conflicts in the Abkhazian and South Ossetian regions reinforce for some the idea that minorities are a threat. A citizen’s ethnic group was once included on identity cards, but that

requirement was dropped: some Georgian political parties have advocated for ethnic groups to be shown on identity cards again.³⁶³ Due to pressure from international organizations and a handful of civil society groups, within the Ministry of Internal Affairs the Human Rights Protection Department was created to tackle discrimination issues.³⁶⁴

Minority communities, especially racial minorities, experience discrimination in many aspects of life, including in the state policies that apply to them. For instance, immigrants from Asian and African countries report difficulty in obtaining residency permits. As a result of unequal treatment, such minorities are often reluctant to come forward because they distrust the state. The Public Defender’s Office has a Tolerance Center that deals with these issues through the Tolerance and Diversity Institute (TDI), one of the few domestic NGOs that focus on minority rights. TDI conducts research on this topic, has offered recommendations, and conducts strategic litigation in partnership with the Public Defender’s Office in the Constitutional Court and the ECtHR. Many rights groups have also been created by minorities themselves, particularly at the initiative of faith leaders.³⁶⁵

The Office of the Public Defender as well as the NGOs Multinational Georgia and Transparency International have all flagged the issues facing most minority group members: lack of representation and marginalization in Georgian society. This includes lack of equal opportunities, leading to unemployment,

360 “World Directory of Minorities and Indigenous Peoples: Georgia,” Minority Rights Group International, 2014, <https://minorityrights.org/country/georgia/>.

361 Ibid.

362 Fédération Internationale des Ligues des Droits de l’Homme, “International Fact-finding Mission: Ethnic minorities in Georgia” (FIDH, April 2005), <https://www.fidh.org/IMG/pdf/ge412ang.pdf>.

363 Ibid.

364 Public Movement Multinational Georgia, “Ethnic Minorities in Georgia: Current Situation,” October 1, 2008, <https://www.osce.org/odihr/33813?download=true>.

365 Tolerance and Diversity Institute in discussion with the authors, January 2020.

poverty, and an inability to access education, healthcare, or social services.³⁶⁶

Improving integration of minorities in Georgia has been a long-standing issue, and the OSCE's Council on National Minorities has taken on a prominent role in suggesting comprehensive policies to address it. Often, minorities do not have adequate access to education in remote areas, and some do not achieve fluency in the Georgian language when it is not their mother tongue, which limits their integration and increases their isolation from Georgian society. NGOs and international organizations have intervened where there are gaps in government services. Minority children often do not attend school due to issues like early employment, isolation, poor security, discrimination, and lack of awareness among local authorities.

TDI conducts educational programming on tolerance in public schools, where the Orthodox Church often influences educational programs, and has addressed the Ministry of Education and publishers about religious bias in textbooks. According to the OSCE/ODIHR report "Ethnic Minorities in Georgia," school textbooks include "intolerant" language towards minority groups.³⁶⁷ Often, in educational materials, TDI also reports that narratives differing from the "true Orthodox identity of Georgia" are omitted.³⁶⁸

There are two major reasons in which ethnic minorities suffer employment discrimination. The first is the systemic disadvantages, such as segregation, education, poverty, and lack of opportunity. Lack of education is a large contributor to employment discrimination

because many minority groups are disadvantaged by their lack of proficiency in the Georgian language, which, of course, limits their employment prospects.

Despite the constitutional protections, and the campaign by the Public Defender's Office on this and related issues, obstacles persist for religious and ethnic minority groups. There is also a problem with the framing of religious belief as defined by belonging to a religious organization, as this often is a subjective category. Though reasonable accommodation is required in the Labor Code it is limited to those with disabilities.³⁶⁹ Sometimes, accommodation is needed by religious minorities, who may wear specific kinds of clothing, or must pray at specific times, or mark holidays on certain days. However, the Labor Code does not require that these requirements be accommodated.

Under the Labor Code and other legislation, legislation on minorities and religious groups in the workplace is forward-thinking but requires better implementation. According to a study conducted at Tbilisi State University in partnership with the German IZA Institute of Labor Economics Employment, about 13 percent of ethnic Georgians got a call back when sending in a resume in connection with a job application, but only about 6 percent of ethnic minorities did (in this case, the report focused on Azerbaijanis and Armenians). The study concludes that: "The single most important variable that employers consider in hiring is ethnicity.... We finally note that differentials in callbacks, and thus discrimination, tend to increase during

366 Public Movement Multinational Georgia, "Ethnic Minorities in Georgia: Current Situation"

367 OSCE/ODIHR Election Observation Mission Georgia, Extraordinary Presidential Election 2008, Interim Report No.2, December 14-28, 2007, <https://www.osce.org/odihr/elections/georgia/30097?download=true>.

368 Ibid; Tolerance and Diversity Institute in discussion with the authors, January 2020.

369 *Labour Code of Georgia*, Section 1.

economic busts.”³⁷⁰

TDI has brought several cases to court involving Muslim women who had been asked to take off headscarves in the workplace.³⁷¹ The reported cases were resolved through mediation. However, such challenges are infrequent and are not often reported. Cases alleging workplace harassment based on religion are also rare, because members of minority religious communities often do not feel empowered to come forward.³⁷²

PERCEPTION

1. Gender Discrimination

a. Sexual Harassment

As the new legislation on sexual harassment is still in the early stages of implementation, it is too soon to tell whether the situation has improved significantly.³⁷³ Problems remain as many victims feel ashamed to speak about their experience and some even do not know whether what happened to them constitutes sexual harassment under the law.³⁷⁴

Sexual harassment in the workplace was a taboo topic in Georgia for a long time. Influenced by the deep-rooted patriarchal mentality and culture, many women prefer not to disclose the humiliation they face for fear of being blamed by their families, colleagues, and society at large for having provoked the undesirable behavior. The majority of Georgians simply lack an awareness of the concept of sexual harassment. Incidents that occur frequently in the workplace, such as “jokes” of a sexual nature and offensive questions regarding private life, are actionable under the current legislation. Yet female employees may regard those kinds of behavior as not serious enough to justify a complaint. According to the Special Report published by the Public Defender, many victims need to hear similar stories from others, or to consult people with relevant knowledge, before plucking up the courage to allege sexual harassment.

370 Muhammad Asali, Norberto Pignatti, and Sophiko Skhirtladze, “Discrimination in a Former Soviet Union Republic: Evidence from a Field Experiment” (IZA Institute of Labor Economics Employment, September 2017), <http://ftp.iza.org/dp11056.pdf>.

371 Ibid; Tolerance and Diversity Institute in Discussion with the Authors, January 2020.

372 Tolerance and Diversity Institute, “Racism and Xenophobia in Georgia The State’s Policy towards Foreign Nationals” (TDI, March 2019), https://tdi.ge/sites/default/files/racism_and_xenophobia_jan-march_2019_english.pdf.

373 Article 4.4.1 of Labor Code of Georgia, article 4 stipulates that: “Sexual harassment shall be defined as a behavior of a sexual nature towards a person, which is meant to humiliate him/her and/or causes his/her humiliation and which creates an intimidating, hostile, humiliating or offensive environment for him/her.”

374 Public Defender of Georgia, “Special report on the fights against discrimination, its prevention, and the situation of equality,” (Public Defender of Georgia, 2018), 7-8, <http://www.ombudsman.ge/res/docs/2019042317142950340.pdf>.

Until that happens, the Public Defender and the courts cannot collect enough evidence consider systemic problems.³⁷⁵

Additionally, some female employees who suffer humiliation and insults from their superiors choose to tolerate such behaviors because they do not want to escalate the situation and risk losing their jobs. In this regard, private employers could play a significant role by creating and implementing policies clarifying that they do not tolerate sexual harassment and establishing a complaint mechanism to protect employees from it. However, in private labor relations, employers are not legally obliged to do this. The lack of the legal requirement makes employees vulnerable and increases difficulties for victims seeking timely help.³⁷⁶

b. Gender Pay Gap, Pregnancy Guarantees & Maternity Leave

In Georgia, gender discrimination in the private sector is rooted in the dominant Orthodox culture. The highly patriarchal values fostered by the Georgian Orthodox Church proliferate in every layer and each sector of society, from the household to the workplace. These values are so pervasive that not even 70 years of the Soviet regime, when, at least on paper, women were granted more rights, were able to eradicate them.³⁷⁷ Such a gendered tradition has two consequences. First, women often are not able to detect when they have suffered gender-based discrimination, as they do not know what qualifies under the law. Second, when they do recognize it, they are often afraid of backlash

and negative repercussions and therefore do not report it. Georgian NGOs, the Trade Unions Confederation, and the government recognize such challenges, and awareness raising campaigns are being organized both at the private and public level, with the attempt to break down gender stereotypes.

After the 2014 EU Association Agreement, one of the primary areas of focus has been on gender issues and discrimination. Since then, progress has been made: regulations have conformed to European standards, and practice among private and public actors is improving. The issue of gender is on top of the government's agenda, highlighted in its Action Plan and National Strategy. However, six years is a short time frame, too short to allow judgments on the effectiveness of the regulations, which are solid and highly adequate on paper, but whose translation into the real world is not yet assured.

2. LGBTQ+ Rights

The LGBTQ+ community still faces serious stigma and prejudice from wider Georgian society. Socially constructed ideas not only generate discrimination against the group, which greatly impedes LGBTQ+ people's access to their rights, but have also led to violence, as evidenced by the number of hate crimes increasing more than four times from 2017 to 2018.³⁷⁸

Awareness of LGBTQ+ issues remains relatively low in Georgia. According to National Democratic Institute (NDI) and CRRC-Georgia polling in 2019, even in the 18-35 age group, only 38% of respondents thought the rights of

375 Ibid.

376 Nino Kashakashvili, "Equality in Labor Relations (Georgian Legislation in the Context of EU Equality Directives)" (Tbilisi: EMC, 2018), 19, https://emc.org.ge/uploads/products/pdf/Equality_in_labour_1530521485.pdf.

377 Ministry of Internal Affairs in discussion with the authors, January 2020; Pascall G. and Manning N., Gender and social policy: comparing welfare states in Central and Eastern Europe and the former Soviet Union, *Journal of European Social Policy*, Vol. 10, N. 3, 2000.

378 OSCE ODIHR Hate Crime Reporting, "Georgia Official Data," OSCE, 2018, <https://hatecrime.osce.org/georgia>.

“sexual minorities” are important, while 36% disagreed, and the remainder had no opinion either way.³⁷⁹ When asked whether the rights of sexual minorities should be protected, 27% of respondents of all ages agreed, but 44% did not, which corresponds with high rates of homophobia reported by local NGOs.³⁸⁰

As the Partnership for Human Rights (PHR), a legal nonprofit closely affiliated with the Public Defender, shared in the interview, the number of claims that related to the discrimination on the ground of sexual orientation is scarce. Given the anti-LGBTQ+ atmosphere frequently observed in Georgia, it is a concerning issue, and it suggests that workplace discrimination is often underreported or not addressed.³⁸¹

As one of the most respected institutions in the country, the Church has a significant impact on people’s opinions, and it has been open and even aggressive in its objection to “non-traditional sexual relations.”³⁸² The vehement clash between the Church and the LGBTQ+ community over Tbilisi Pride Day in June 2019, an event that Georgian LGBTQ+ activists, including Tbilisi Pride, tried for years to hold, illustrated this tension. Before the rally planned by the LGBTQ community in Georgia for the International Day Against Homophobia on May 17, the Prime Minister made the following statement:

“I have said multiple times previously that sexual minorities

are the same citizens as we are... The society will gradually get used to it. I know there is part of the society which fails to accept it. There are law enforcement agencies in our state, and we will do everything in order to protect rights of any minority group and that will be the case in this situation too.”³⁸³

On the day of the Pride Parade, the Orthodox Church announced that it was “family day,” and far-right groups protested the event. The activists received threats from radical groups that the event might turn violent, as had happened at a similar occasion in 2013.³⁸⁴ Under pressure, the organizers cancelled Georgia’s first Pride Day parade. A similar incident occurred when people protested against the Swedish-Georgian “And Then We Danced” in Tbilisi in 2019, which features a love story between two male performers of traditional Georgian dance. The Orthodox Church pronounced the film “an affront to the traditional Georgian values,” and far-right protestors publicly burned the rainbow flag, a symbol of gay pride.³⁸⁵

Russia’s information warfare inside Georgia has also fostered a negative and intolerant public attitude toward LGBTQ+ rights. Russia uses mass media, social media, and other online platforms to spread the message that pro-Western values are actually damaging

379 Robin Fabbro, “More Young Georgians Say Queer Rights Are Important than Not, Poll Finds,” OC Media, September 20, 2019, oc-media.org/more-young-georgians-say-queer-rights-are-important-than-not-poll-finds/.

380 Ibid.

381 Partnership for Human Rights in discussion with the authors. January 2020.

382 Kornely Kakachia, “Is Georgia’s Orthodox Church an Obstacle to European Values?,” *PonarsEurasia - Policy Memos*, June 6, 2014, www.ponarseurasia.org/memo/georgia%E2%80%99s-orthodox-church-obstacle-european-values#_ftn6.

383 Molly Corso, “Georgian Priests Lead Mob on Homophobia Rampage,” *BNE Intellinews*, May 17, 2013, <https://www.intellinews.com/georgian-priests-lead-mob-on-homophobic-rampage-500017627/?archive=bne>.

384 Yana Kazmirenko, “Tbilisi Pride: Conference and Non-Festive March - AFEW International,” *AFEW International*, May 9, 2019, afew.org/headlines/tbilisi-pride-eng/.

385 William Cole, “Far-Right Activists in Georgia Protest Gay-Themed Film Premiere,” Mail Online, *Daily Mail*, November 9, 2019, <https://www.dailymail.co.uk/news/article-7667475/Far-right-activists-Georgia-protest-gay-themed-film-premiere.html>.

Georgian's traditions, including Orthodox Christianity. LGBTQ+ issues are exploited as among their top targets. In efforts to wean Georgia away from Europe, Russia has also encouraged formation of a far-right group named Georgian March, which actively links the anti-LGBTQ+ and anti-Western narratives.³⁸⁶ These activities not only cause great fear in the LGBTQ+ community, but further hinder its members in claiming their legal rights. The battle to advance LGBTQ+ rights in Georgia is not only an internal struggle, but also brings a larger political conflict in its wake.

3. Religious and Ethnic Minorities

Though our focus is on workplace discrimination, we have included some information on hate crimes and persecution to provide cultural context, noting that data on discrimination in the workplace is not well reported. The fear that such incidents cause is likely to affect minorities in many contexts. According to the OSCE, in 2018, 344 hate crimes were recorded by police. Of those, 151 were prosecuted, and 58 led to convictions and sentencing. An additional 66 hate crimes were recorded by other sources including local NGOs such as TDI, the Center for Participation and Development, and the Human Rights Center in Tbilisi. Within the Ministry of Internal Affairs, the Human Rights Protection and Investigation Quality Monitoring Department has just begun a program to investigate hate crimes.³⁸⁷

According to the Minority Rights Group International:

Georgia's Orthodox Church has a dominant influence on the religious and cultural landscape, which could feel suffocating to minority groups. There is a small but vibrant Jewish community that generally seems to have good relations with other groups. The Jewish community in Tbilisi has a community welfare program and an academy for Jewish studies. Some Western groups more recently have included Jehovah's Witnesses, Pentecostals, and Seventh Day Adventists.³⁸⁸

Historically, there was discrimination against Jews during Soviet times, but independence saw an understanding between the Church and the Jewish community. Occasional discrimination against members of the Jewish faith persists, and some Jews have emigrated to Israel for this reason. However, there are Jewish grocery stores, a newspaper, and several civic organizations.³⁸⁹

The U.S. Department of State tracks hate crimes relating to freedom of religion, including an anti-Semitic attack, beatings of Jehovah's Witnesses, and the vandalism of a Kingdom Hall.³⁹⁰ Investigations were ended without further action in eight cases, while another eight were sent to court for prosecution. Five cases actually proceeded through judicial decisions, although unfortunately the decisions are not available. The rest are still being investigated. These were mostly based on alleged violations of Criminal Code Articles 142 (the equality

386 Irakli Jgharkava, "Russia's Information Warfare: A Menace to Georgian National Security" Georgian Institute of Politics, December 18, 2018, gip.ge/russias-information-warfare-a-menace-to-georgian-national-security/.

387 OSCE ODIHR Hate Crime Reporting, "Georgia Official Data"

388 Minority Rights International. "World Directory of Minorities and Indigenous Peoples: Minorities and Indigenous People" <https://minority-rights.org/country/georgia/>

389 Ibid.

390 U.S. Department of State, "International Religious Freedom Report 2010" (November 17, 2010), <https://2009-2017.state.gov/j/drl/rls/irf/2010/148936.htm>.

clause), 155 (interfering in religious rites), and 156 (religious persecution). In 2002, an Orthodox priest led a mob in attacks against Jehovah's Witnesses, but in 2004 he was arrested, and there was a decrease in hate crimes in ensuing years. There was a resurgence of hate crimes against religious minorities in 2013, most notably, Jehovah's Witnesses, against whom 16 hate crimes were reported. In 2018, the Office of the Prosecutor reported an increased number of hate crime cases.³⁹¹

Some cases of violent attacks, including alleged attacks by government officials against Jehovah's Witnesses, were considered inadmissible by the Supreme Court, and the Jehovah's Witnesses were deregistered as a legal entity. Other cases were delayed in local courts. Within the Prosecutor General's Office, the Human Rights Protection Unit is meant to protect human rights, including religious freedom, but some minority religious groups, including Jehovah's Witnesses, have stated that their investigative methods are insufficient.³⁹²

A 2002 agreement between the government and the Orthodox Church ensures that the Church has certain privileges. These include tax exemptions, ownership of certain assets seized during the Soviet era, access to state property, and military exemptions. However, the state does not give equal privileges to other religious groups.³⁹³ There are ongoing disputes between the Armenian Apostolic Church and the Orthodox Church concerning

57 properties. The Public Defender's Office and Tolerance and Diversity Institute have allege that building permits have been denied to religious communities for discriminatory reasons. For instance, there is little transparency over decisions to deny several Muslim communities permits to build mosques in Kvemo Kartli, Adigeni.³⁹⁴ In the region with the largest Muslim population, Adjara, a community in the town of Batumi was seeking to build a mosque but the permit was not granted, and TDI filed suit and won when they showed that there churches had been granted building permits nearby. In prisons, there are chapels for Orthodox Church members to worship, but not for other denominations, though it is reported that these are available upon request.³⁹⁵

TDI suggests that punishment of hate speech is not useful, and that inclusive education is a better tool.³⁹⁶ Currently, hate speech can be limited only if it affects the rights of others, according to the Georgian Constitution. In 2017, the Georgian Dream party proposed an amendment to the Constitution to authorize "national security," "prevention of crime," and "implementation of justice" as justifications for limiting religious expression, but the Council of Europe, among others, objected, and the change was never made.³⁹⁷

The Georgian NGO Center for Development and Democracy has a partnership with Orthodox Church members to create groups

391 Ibid.

392 Ibid.

393 Tolerance and Diversity Institute. "Racism and Xenophobia in Georgia: The State's Policy towards Foreign Nationals."

394 Ibid.

395 Ibid.

396 Ibid; Tolerance and Diversity Institute in discussion with the authors, January 2020.

397 Mariam Gavtadze, "Georgia: Constitutional changes to impose impermissible freedom restrictions?," (Forum 18, September 21, 2017), <https://www.refworld.org/docid/59c3b79a4.html>.

in schools, to build greater trust with civil society, and to establish avenues for economic empowerment.³⁹⁸ Meetings among Orthodox, Muslim, Catholic, and Armenian Church representatives and international authorities have fostered greater integration and interfaith approaches with civil society, and more such interfaith cooperation would be helpful to promote a more inclusive society.³⁹⁹

A more proactive approach by the government could reduce dangers for religious minorities at risk of hate crimes. The Human Rights Education and Monitoring Center (EMC) writes that “Local municipalities, due to resistance from the dominant religious group, often refuse to issue a permit and a license to minority religious organizations for construction of a place of worship or delay and complicate the construction process in other forms.”⁴⁰⁰ TDI has noted this phenomenon as well. Tension between Muslims and Christians has flared in the context of land-use disputes in which construction permits for houses of worship have been denied. There have been tensions with other minority religious groups as well: an issue arose when the building of a Catholic Church in Rustavi was blocked. EMC, on behalf of the Latin Catholic Apostolic Administration of the Caucasus, filed an administrative claim against the Rustavi Municipality, after it had been denied a license to build a Church on a plot of land it owned in the 9th micro-district of Rustavi City.⁴⁰¹

Jehovah’s Witnesses have likewise had difficulty in attaining access to halls large enough to seat over 200 people. An attempt to build a community center in the Avlabari region of Tbilisi was stopped by municipal authorities who alleged that the property was “illegally obtained:” however, this was settled in the Jehovah’s Witnesses’ favor by the courts, and they were allowed to build.⁴⁰² When the local Muslim community was unable to obtain a permit for a mosque in Mokhe Village mosque, and they protested, TDI and the Office of Public Defender reported that they were met with force by Ministry of Internal Affairs representatives and police, who were responsible for verbal abuse and violence when detaining the protesters. The mosque’s construction remains suspended, while the protestors face administrative penalties for protesting, which ten of them have appealed. Numerous NGOs, including TDI, note that the prejudice demonstrated by the police and municipal authorities against the protestors is particularly concerning, and the U.S. Department of State has flagged this incident in its report on religious freedom in Georgia.⁴⁰³

There is vibrant religious diversity in Georgia, but it requires the promotion of greater tolerance and human rights protection. Hate crimes as well as limitations on minority communities’ ability to gather, worship, and protest can generate systemic disempowerment, which has an effect both within and out of the workplace.

398 Ibid; Tolerance and Diversity Institute in discussion with the authors, January 2020

399 Ibid.

400 Human Rights Education and Monitoring Center. “Overview of Cases on Restriction of Religious Freedoms and Discrimination” 2017. <https://emc.org.ge/uploads/products/pdf/Overview-of-Cases-on-Cestriction-of-Religious-Freedoms-and-Discrimination-in-Georgia.pdf>

401 The Coalition for Equality. “The Right to Non-discrimination in Practice for Various Groups in Georgia”

402 U.S. Department of State, “International Religious Freedom Report 2010.”

403 Ibid.

RECOMMENDATIONS

In the following sections, we issue recommendations on how discrimination against women, LGBTQ+ people, and ethnic and religious minorities can be better addressed in order to increase their workplace opportunity so that they may attain equality in society, both on paper, and in reality.

1. Gender Discrimination

a. Sexual Harassment

The urgent and fundamental remaining tasks for Georgia relating to sexual harassment in employment are to remove taboos and to raise public awareness. The Public Defender has launched a series of campaigns and training courses to educate various groups regarding the prevention of sexual harassment. The media can also contribute by disclosing the names of companies with bad records of harassment incidents, sharing the real cases with the public, and providing an environment where people can openly discuss this problem, to facilitate reporting and redress. One example is that Tatia Samkharadzeo - the former journalist for the TV channel Imedi, sued her boss for sexual harassment and won the case in 2016. As Samkharadze said, she was aimed to make a personal story a policy problem and raise awareness among public, which eventually triggered government to take the voice in consideration and inspired more women to realize the important of their own rights.⁴⁰⁴

In addition, the critical role of private business in eliminating sexual harassment

has long been ignored. As Dimitri Tskitishvili, a member of the Gender Equality Council, noted, "Prevention of and effective response to sexual harassment greatly depend on the policy and approach of each company."⁴⁰⁵ The introduction and deployment of internal response mechanisms by employers is much less costly and more efficient than recourse to legal means. Employers should be encouraged to declare that they do not tolerate sexual harassment, take preventive measures against it in the workplace, and set up documented complaint procedures. The Parliament could make it a legal obligation for private companies to establish such mechanisms. Georgia could follow the example set by Irish legislation, which assigns legal liability to employers if employees suffer harassment on the job, when steps could have been taken to prevent it.⁴⁰⁶ NGOs in Georgia and international organizations can also help companies to make progress by systematically informing them of the best practices of the world's leading corporations, which generally do an excellent job in addressing sexual harassment at workplaces.

b. Gender Pay Gap, Pregnancy Guarantees & Maternity Leave

In order to reduce the gender pay gap, it is necessary to implement existing laws and principles consistently. The Labor Code should explicitly prohibit wage discrimination by including the equal pay principle. Moreover, a more comprehensive and transparent data collection system could help monitor the gender pay gap in the country. Harmonizing

404 Sushmita Roy, "Sexual Harassment Is Now Illegal in the Country of Georgia," May 2019, <https://www.globalcitizen.org/en/content/georgia-sexual-harassment-law-passes/>.

405 UN Women, "Private sector increasingly involved in addressing sexual harassment in the workplace," 2018, <https://georgia.unwomen.org/en/news/stories/2018/10/private-sector-increasingly-involved-in-addressing-sexual-harassment-in-the-workplace>.

406 Ireland, *Employment Equality Act*, Art. 14A(4), 1998, http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/EN_ACT_1998_0021.PDF

pay transparency to European standards, through individuals' entitlement to request information on pay levels, company-level reporting, pay audits, and equal pay addressed in collective bargaining could contribute to the same objective.⁴⁰⁷

To address pregnancy, maternity and parenting issues in the private sector, it is recommended that private companies be required to provide specific guarantees, such as time off to pregnant women to attend antenatal medical examinations without loss of pay; a minimum compensation of 70 percent of women's salary during maternity leave – alternatively, the state budget for maternity leave should be increased; and the right of workers to return to work after parental leave.

Broader and more general measures should also be adopted, such as awareness campaigns within the private sector, to inform men and especially women about regulation in place, available services and protection mechanisms, as well as professional development programs.

During our interviews, we perceived a general opposition toward the introduction of a new monitoring body specifically addressing discrimination in the workplace or expanding the authority of the Labor Inspector to include discrimination issues. The common perception is that there is no need to create new institutions, but instead efforts should be devoted to the improvement, refinement, and expanded functioning of pre-existing anti-discrimination bodies, namely courts and the Public Defender's Office. However, because its decisions are nonbinding and labor law is out of its scope, the Public Defender does not have a primary role

in the resolution of these cases. Instead, strengthening the judicial system seems to be the fundamental request of human rights NGOs and women's rights defenders fighting against discrimination in the private sector.

In conclusion, significant and laudable advancements have been made by the Georgian government in terms of harmonizing legislation on gender discrimination in the private sector with international standards. As a result of this regulatory push from above, and a progressive attitude of part of the population – especially youth, the deeply patriarchal nature of society is slowly changing and moving towards the creation of a more equitable environment in the workplace.

2. LGBTQ+ Rights

For the Government of Georgia, it is important to conduct more awareness raising campaigns and to work with NGOs to reduce the existing negative stereotypes of LGBTQ+ groups. While protecting conservative groups' rights of peaceful expression, the government should not tolerate the incitement of violence against LGBTQ people regardless of its source.

It would be helpful for the Public Defender of Georgia to develop special mechanisms for the processing of LGBTQ+ grievances to protect the identities of complainants, such as by permitting these complainants to pursue cases anonymously if they so wish. The Public Defender should also hold education programs and information campaign in universities and companies to raise public awareness of the LGBTQ+ rights and educate people as to how to protect and defend those rights.

⁴⁰⁷ European Commission, *Report on the implementation of the Commission Recommendation on strengthening the principle of equal pay between men and women through transparency*, 20 November 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017D-C0671&from=en>.



A woman worshipping in a Georgian Orthodox church.
©Adobe Stock

The Ministry of Internal Affairs should be tasked with training law enforcement personnel to identify discriminatory behaviors and crimes. This should be made a priority, and it would have the beneficial effect of empowering individuals to protest, and if necessary, to seek legal recourse against, illegal activity targeting the LGBTQ+ community in Georgia. Finally, the Parliament should enact more detailed laws addressing discrimination against LGBTQ+ persons. For example, there should be more specific criteria and detailed procedures to identify discriminatory behaviors focused on those individuals at work, particularly given the lack of reporting on these issues.

3. Religious and Ethnic Minorities

On paper, Georgia's legal system provides the proper protections of minority rights, but its implementation has been insufficient. There is tension between far-right parties espousing nationalistic cultural and traditionalist religious views, and youth and other pro-Western, liberal populations. As the ruling party attempts to cater to a factionalized public, it is, at times, a balance between traditional, accepted views and more progressive Western values. Some within government have been vocal in their support of minorities (such as within the Public Defender's Office), while others contribute to systemic disenfranchisement, especially in local areas, as noted by numerous

instances where religious communities have struggled to retain permits to religious spaces. Although the laws as written are responsive to international and EU pressure, further proactive measures could be taken, as outlined below.

EMC notes that the Labor Code of Georgia, in its latest revision, still focuses on responding after violations have been committed, rather than on preventing the violations in the first place. Further, recruitment could be protected as part of the employment process protected by the Labor Code to prevent discrimination in hiring. Though of course the Public Defender is useful in investigating discrimination cases and issuing recommendations, it too can pursue cases only after the fact, and so is not a preventative mechanism aside from its awareness-raising campaigns. The Public Defender's information campaigns and its Strategy for Civic Equality and Integration have been useful in empowering minorities and fighting discrimination, although vulnerable groups are still targeted and there is unequal treatment in areas like education and employment which require more institutional response.

Given the inequalities noted in education, the Ministry of Education and Science could take more measures to ensure that textbooks include inclusive narratives, that teachers are trained on diversity, and that the Georgian language and minority languages are both taught. Human rights information campaigns could be disseminated more widely to and through the media. The Human Rights Protection Department within the Ministry of Internal Affairs was created to investigate hate crimes and discrimination, but it could also issue guidelines on preventing discrimination and inequality in employment,

education and other sectors, concurrent with the Public Defender's awareness campaigns on these issues.

If the Labor Inspection Department within the MIA were to issue guidelines on how to implement the anti-discrimination sections of the Labor Code, they could request that companies create compliance manuals in accordance with those regulations, pertaining to both the recruitment and employment process. Companies would then qualify for accreditation from the Ministry for having created proper anti-discrimination measures.

Civil society and international actors have attempted to persuade the government to be more involved in detecting and addressing systemic problems, as well as initiating prevention strategies, rather than reacting to issues after they occur. EMC recommends more specific legislative frameworks, concrete proactive action by the government, which could include more widespread anti-discrimination campaigns: "As the good practice demonstrates, a number of countries in relation to equality institutions and other interested persons go beyond the minimum standard set by the directives and take into account the component of a popular appeal."

408

Another option is to ensure that local governments are more receptive to minority issues. Given that local NGOs and the Public Defender noted the violent response to the Muslims' protest in Adjara as religious discrimination, local government authorities seem to be culpable for some level of discrimination. Human rights trainings could take place to ensure that anti-discrimination laws are interpreted with inclusivity with respect to all groups listed in the Labor

408 Human Rights Education and Monitoring Center. "Overview of Cases on Restriction of Religious Freedoms and Discrimination"

Code and the Constitution. International organizations could monitor judicial proceedings to note such biases. Further, given the backlash against protests regarding the mosque site, this oversight might be complemented by improved oversight of policing practices within the Ministry of Internal Affairs, perhaps by the Human Rights Protection Department. Given that some religious minority groups have stated that the Human Rights Protection Unit's investigative methods are insufficient, changes could be made within that department as well to ensure more scrupulous investigative methods.

Creating more awareness campaigns, and more reporting mechanisms both within companies and through government regulation, as well expanding oversight by the Public Defender, should permit authorities to investigate and address more cases of workplace discrimination while educating and empowering minority groups to report, therefore encouraging attitude shifts in society as a whole.

Our recommendations are, in general, consistent with those of many Georgian NGOs. There should be more focused legislation addressing discriminatory practices in employment, with specific attention to different groups' needs. This would include accommodation for cultural and religious practices and clothing, maternity leave for pregnant women, and efforts to address the gender pay gap. There should be expanded engagement with minority communities, to allow members to lodge complaints about discrimination and hate crimes, sufficient resources to promote integration and equality, and improved educational, occupational, and accessibility programs for minority populations. Within the Ministry of Internal

Affairs, more oversight should be exercised to ensure that law enforcement and the courts are sensitized to diversity. Finally, because the Public Defender does a scrupulous job of investigating discrimination cases and enjoys credibility for its activities, its awareness campaigns could be expanded further.

ANTI-WESTERN PROPAGANDA



Freedom of the Media

INTRODUCTION

1. Georgia: Protecting a Free and Pluralistic Media Landscape

a. International Law and the Freedom of Expression: International Agreements

The definition of freedom of expression under international law has evolved and expanded thanks to the adoption of international human rights treaties. In January 1946, the United Nations General Assembly adopted Resolution 59 (I), recognizing freedom of information as a fundamental human right and “the touchstone of all the freedom to which the United Nations is consecrated.”⁴⁰⁹ It defined freedom of expression as:

“... the right to gather, transmit and publish news anywhere and everywhere without fetters. As such it is an essential factor in any serious effort to promote the peace and progress of the world.”⁴¹⁰

Two years later, the General Assembly adopted the Universal Declaration of Human Rights (UDHR), the flagship human rights document that protects freedom of expression under Article 19:

“Everyone has the right to freedom

of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”⁴¹¹

This is now customary international law, and it is further elaborated in the International Covenant on Civil and Political Rights (ICCPR). Concluded in 1966 and ratified by 173 states, the ICCPR provides a more detailed protection of freedom of expression at the international level by guaranteeing that everyone must have the right to “hold opinions without interference”⁴¹² and by promising that the freedom of expression include the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁴¹³

The ICCPR imposes positive obligations on its signatories to take the necessary steps to ensure its enforcement, including adopting “laws or other measures as may be necessary” and providing “an effective remedy” to those whose freedom of expression has been violated.⁴¹⁴ To provide oversight to these obligations, the ICCPR established the United Nations Human Rights Committee.⁴¹⁵

409 General Assembly, United Nations. “Calling of an International Conference on Freedom of Information.” Refworld, December 14, 1946. <https://www.refworld.org/docid/3b00f0975f.html>.

410 Ibid.

411 Universal Declaration of Human Rights, Article 19, 1948. <https://www.un.org/en/universal-declaration-human-rights/>

412 OHCHR, “International Covenant on Civil and Political Rights”, 1966. Art. 19.

413 Ibid, Art. 19.

414 Ibid, Arts. 2 and 3.

415 Ibid, Art. 28.1.

Although other treaties also recognize the right of freedom of expression, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in Article 15 (3), and the International Convention on the Elimination of All Forms of Racial Discrimination ICERD, at Article 5, ICCPR Article 19 remains the preeminent articulation of this right in international law.

b. Europe: The European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR)

The right to freedom of expression is also protected in regional human rights instruments. In Europe, the ECHR, which currently has 47 states parties including Georgia, provides in Article 10 that:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety,

for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.⁴¹⁶

As discussed in the report's introduction, the ECHR is overseen by the ECtHR based in Strasbourg, France. The ECtHR can issue binding rulings for member States and its rulings and case law have important bearing on freedom of expression in Europe. For instance, the Court's decisions have been important in strengthening the relationship between freedom of expression and democracy. In one emblematic case, *Handyside v. The United Kingdom*, the Court states that:

“one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man. It is applicable not only to ‘information’ or ‘ideas’ that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no ‘democratic society.’”⁴¹⁷

This case and others, such as *Sunday Times (No. 1) v. UK*, *Lingens v. Austria*, and *Castells v. Spain*, are some of the hundreds of

416 “European Convention on Human Rights.” European Convention on Human Rights - Official texts, Convention and Protocols. Council of Europe. Accessed April 17, 2020. <https://www.echr.coe.int/pages/home.aspx?p=basictexts>.

417 European Court on Human Rights. “Fact Sheet: Hate Speech.” European Court of Human Rights, March 2020. https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf.

decisions that have reiterated that freedom of expression is key in empowering people. A free media in this regard is vital to ensure that people have access to sources of information on which to base their ideas and opinions.

c. Restrictions to Freedom of Expression

Freedom of expression can be limited. It is not an absolute right – both international law and national constitutions recognize this. Nevertheless, any restriction must be justified within strict parameters. For instance, the ECHR explains the permissible legal restrictions under Article 10 (2) in the following terms:

“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”⁴¹⁸

Other treaties and regional bodies also recognize that certain limitations are permissible. The American Convention on Human Rights, for example, provides in

Article 13(2) that “the exercise of the right provided for in the foregoing paragraph [freedom of expression] shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals.”⁴¹⁹ The International Covenant on Civil and Political Rights provides the same framework to evaluate restrictions of freedom of speech in Article 19(3).⁴²⁰

The Human Rights Committee elaborated on these limitations in General Comment No. 34: “when a State party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself...the relation between right and restriction and between norm and exception must not be reversed.”⁴²¹ Article 19(3) thus requires that limitations on freedom of speech meet formal requirements to be legal. As the HRC noted in General Comment No. 34, the restricting law must be developed with precision to “enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public.”⁴²² Ultimately, vague laws that grant States too much power in limiting the freedom of expression do not meet this standard. Restrictions on basic freedoms must be accessible and clear to the citizens they intend to affect. In *Hashman and Harrup v. The United Kingdom*, the ECtHR applied this principle, declaring that a statutory mandate “to be of good behavior” was unacceptably imprecise.⁴²³ Any law that seeks to limit

418 European Convention on Human Rights, Article 10 (2).

419 OAS. “Organization of American States: Democracy for Peace, Security, and Development.” OAS, August 1, 2009. <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=25&IID=1>.

420 ICCPR, Art. 19 (3).

421 OHCHR, General Comment No. 34, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

422 Ibid, 6.

423 Case Law Concerning Article 10 Of The European Convention On Human Rights, pg. 8, <http://global.asc.upenn.edu/fileLibrary/PDFs/>

freedom of expression must be clear, specific, and easily understood.

Legitimate Aim

ICCPR Article 19 (3) also requires that restrictions on freedom of speech have a legitimate aim. The Article enumerates aims that qualify as legitimate: respect for the rights and reputations of others, and protection of national security, public order, public health, or morals. This list of legitimate aims under Article 10 (2) is exhaustive, and although its range is wide, courts have ruled that a rule satisfying this restriction must have specific objectives.

The United Nations Human Rights Committee has held that “restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.”⁴²⁴

Proportionality

General Comment No. 34 also requires that a restriction must be proportional:

Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected...The principle of proportionality has to be respected not only in the law that frames the restrictions but also

by the administrative and judicial authorities in applying the law.⁴²⁵

A minor threat to a legitimate aim does not pass the threshold for a restriction to the freedom of the press to be permissible. The law must be “the least intrusive instrument” to achieve its goal.⁴²⁶

If the restriction imposes a burden that outweighs the benefits, it cannot be justified. The European Court of Human Rights has held that “Freedom of expression, as enshrined in Article 10, is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restrictions must be convincingly established.”⁴²⁷

2. History of the Media in Georgia

After the fall of the Soviet Union, the newly independent Republic of Georgia allowed an independent media landscape to take shape. Over its 28 years of existence, the Georgian government has generally – although not always – encouraged freedom of thought, diversity of opinions and pluralism. To understand what protections have been created for journalists and private media outlets, we first examine the history of the media in Georgia up until the Georgian Dream took office in 2013. More recent events such as the Rustavi 2 case, the June 20th protests, and the Facebook troll factory case will be explored in greater detail in Section 4: In Practice.

Shevardnadze Era: 1991-2003

When the Soviet Union fell, the centrally governed information space, control

CaseLawArt10.pdf

424 General Comment No. 34, 6.

425 Ibid, 8.

426 Centre for Law and Democracy. “Briefing Note 2: Restrictions on Freedom of Expression.” Centre for Law and Democracy International Media Support (IMS). Accessed April 1, 2020. <http://www.law-democracy.org/live/wp-content/uploads/2015/02/foe-briefingnotes-2.pdf>.

427 Ibid, 3.

mechanisms, and state financing collapsed, permitting the development of a new media environment in Georgia.⁴²⁸ The new Constitution upheld the freedom and independence of the media. Article 24 declared that “the mass media is free; censorship is impermissible,” and that “citizens of [the Republic of] Georgia have the right to express, distribute, and defend their opinions via any media, and to receive information on questions of social and state life.” Media is regulated by the Law on the Press and Other Mass Media, enacted in 1991 and amended in 1994 and 1997. These statutes allowed print publications to grow as much as 10% from the Soviet era.⁴²⁹ New competition from independent broadcasters pushed state owned media to be less biased, although it still acted as de facto government propaganda. But the new independent broadcasters were not free from influence either, with the reporting of some independent broadcasters skewed towards pleasing the “interests of specific oligarchic groups.”⁴³⁰ For a newly democratic country with a struggling economy, it was difficult to form a media landscape free from outside influence, complicating the work of journalists who found it difficult to be totally independent.⁴³¹ Still, during this time journalists doggedly reported on transgressions by the police and the Ministry of Interior.

Despite general protections for journalists during Shevardnadze’s tenure, criticism of the media began in earnest as the 2003

elections approached. The Central Election Commission proposed a ban on broadcasting televised political debates 50 days before the election, which was unsuccessful.⁴³² Three new broadcasters were launched: Imedi TV, TV Mze, and TV 202 (only Imedi TV survives today). The station Rustavi 2 emerged as an opposition outlet in 1994 with coverage critical of the government, showcasing poverty and exposing corruption. Gaining popularity throughout the years, it played a pivotal role in the lead up to the Rose Revolution, and after Shevardnadze’s removal Rustavi 2 cheekily deemed itself the television channel “of the victorious people.”⁴³³ Although it was still far from firmly rooted, the beginnings of a free and pluralistic media landscape in Georgia could not have been achieved without critical government support during the Shevardnadze period.

Saakashvili Era: 2003-2012

Following the Rose Revolution and Saakashvili taking power, there was an initial effort to demonstrate a more robust commitment to media independence and pluralism. In 2004, the Law on Broadcasting was adopted, establishing the Georgia Public Broadcaster (GPB) and expanding public broadcasting reforms. This was followed by the Law on Freedom of Speech and Expression, which enshrined “the State shall recognize freedom of speech and expression as eternal and supreme human values”⁴³⁴ and forbade censorship, also abolishing defamation as a criminal offense. Other improvements

428 Kokashvili, Marina. “The Role of the Media in Georgia’s Transition to Democracy.” From Revolution to Reform: Georgia’s Struggle with Democratic Institution Building and Security Sector Reform,; 2005; 211

429 Ibid, 221.

430 Ibid, 221.

431 Ibid, 220.

432 Ibid, 223.

433 “The fall and rise of Georgia’s most watched TV channel – Rustavi 2,” JAM News, 21.08.2019 <https://jam-news.net/the-fall-and-rise-of-georgias-most-watched-tv-channel-rustavi-2/>

434 “Law of Georgia on Freedom of Speech and Expression.” სსიპ “საქართველოს საკანონმდებლო მაცნე”. Legislative Herald of Georgia , July 15, 2015. <https://matsne.gov.ge/en/document/view/33208?publication=5>.

included a comprehensive freedom of expression law in Chapter 3 of the General Administration Code, including tax benefits for the print media, and the adoption of professional standards accepted by members of major print and electronic media.⁴³⁵

These legislative efforts showcased Saakashvili's intent to keep the media environment in Georgia free and diverse. But with the change in power, the formerly opposition outlets were now supporting the administration, leaving very few media vocally critical of the government.⁴³⁶ As his term went on, Saakashvili became more repressive towards opposition media outlets, such as Imedi TV. An alleged coup plot in 2007 prompted Saakashvili's government to raid and close Imedi TV for its apparent intent to overthrow the government. The police's raid and closure of the station led to protests against the attempt to restrict freedom of expression.⁴³⁷ A few small outlets were able to report more or less freely in Tbilisi, but provincial newspapers and broadcast stations were increasingly subject to government control. In 2012, some advocacy groups launched a campaign called "This Affects You Too," ahead of the parliamentary elections, demanding the introduction of 'must carry/must offer' rules and obligating cable operators to carry television feeds without selectively removing any of the news channels.⁴³⁸ But the overall situation was not healthy for free media: a 2012 Reporters without Borders survey of global press freedom, Georgia scored 104th out of 179 countries surveyed.⁴³⁹

435 Kevanishvili, Eka;Papuashvili, Simon. "Putinization of Georgia: Georgian Media after the Rose Revolution: Media in Georgia 2003-2007"; Human Rights Centre (HRIDC); Edited by: Wieteke Daniëls Ucha Nanuashvili (2007) https://www.ecoi.net/en/file/local/1003359/1227_1206540712_media-georgia.pdf

436 Kokashvili, 227.

437 "Crossing the Line Georgia's Violent Dispersal of Protestors and Raid on Imedi Television," *Human Rights Watch*. December 19, 2007. <https://www.hrw.org/report/2007/12/19/crossing-line/georgias-violent-dispersal-protestors-and-raid-imerdi-television>

438 "Media Profiles: Maestro," *Media Development Fund*. 2020. <http://mediameter.ge/en/media-profiles/maestro>

439 Caryl, Christian. "The Georgian Paradox" *Foreign Policy*, January 31, 2012; <https://foreignpolicy-com./2012/01/31/the-georgian-paradox/>

ON PAPER

To understand how well Georgia has implemented the applicable principles and standards on paper, we examine Georgia's Constitution and domestic legislation upholding the freedom of speech and expression, as well as specific guidelines for broadcasting. We find that on paper Georgia's Constitution and legislation meets international standards. The country protects freedom of expression, but also internalizes international norms by giving international treaties an important position in the hierarchy of its legal system.

Georgia and Freedom of Expression

a. The Constitution of Georgia and Freedom of Expression

Georgia's Constitution is clear about protecting freedom of expression. Article 17 of the Constitution address freedom of expression by stating that:

1. Freedom of opinion and the expression of opinion shall be protected. No one shall be persecuted because of his/her opinion or for expressing his/her opinion.
2. Every person has the right to receive and impart information freely.
3. Mass media shall be free. Censorship shall be inadmissible. Neither the State nor individuals

shall have the right to monopolize mass media or the means of dissemination of information.

4. Everyone has the right to access and freely use the internet.

5. The restriction of these rights may be allowed only in accordance with law, insofar as is necessary in a democratic society for ensuring national security, public safety or territorial integrity, for the protection of the rights of others, for the prevention of the disclosure of information recognized as confidential, or for ensuring the independence and impartiality of the judiciary.

6. The independence of the public broadcaster from state agencies and its freedom from political and substantial commercial influence shall be ensured by law.

7. The institutional and financial independence of the national regulatory body – established to protect media pluralism and the exercise of freedom of expression in mass media, prevent the monopolization of mass media or means of dissemination of information, and protect the rights of consumers and entrepreneurs in the field of broadcasting and electronic communications – shall be guaranteed by law.⁴⁴⁰

As described in the introduction of this report, Georgia’s Constitution grants international

law an important place in the hierarchy. In 2009, the Constitutional Court was explicit in respecting the prominence of international law by citing the standards of freedom of expression set by the ECtHR in *Handyside v. the United Kingdom*. Quoting the ECtHR, the Constitutional Court decided in *Kipiani and Ungiadze v. The Parliament of Georgia* that the lack of acceptance of values and ideas cannot be the basis for restricting the freedom of expression.⁴⁴¹

Further, in the 2007 ruling of *Natadze and others v. The Parliament and the President of Georgia*, Georgia’s Constitutional Court stressed the importance of the right to freedom of expression:

Free society consists of free individuals, who live in free informational sphere, reason freely, have independent views and participate in democratic processes, which means free exchange and competition of viewpoints. Each individual has right to express his/her views or restrain from expressing. The Constitution is categorical in this sense – it prohibits prosecution of an individual because of his/her viewpoints as well as forcing him/her to express views. This is a strict rule which does not allow for exceptions. Democratic process is driven by a force, spiritual influence, which is characteristic to an idea. The Constitution protects process of expression and dissemination of views, its content and forms, however at the same time it

440 “Constitution of Georgia.” სსიპ “საქართველოს საკანონმდებლო მაცნე”. Accessed April 16, 2020. <https://matsne.gov.ge/en/document/view/30346?publication=35>.

441 Marikashvili, Eduard, Teimuraz Svanidze, and Shota Qobalia. “Freedom of Expression in Georgia.” Georgia Democracy Initiative, January 2020. <https://gdi.ge/uploads/other/1/1091.pdf>.

establishes formal and substantive conditions of its restriction.⁴⁴²

By bringing the ECtHR into the interpretation of the law, Georgian legislation has incorporated strong human rights values. Most importantly, it provides the hundreds of judgments of the Court with domestic force, thus enriching the applicable legal authorities within Georgia.

b. Law of Georgia on Freedom of Speech and Expression

In 2004, Georgia passed a comprehensive law addressing freedom of speech and expression. It elaborates on the rights protected under the Constitution, and under the human rights treaties to which Georgia is a party. It also includes provisions governing the permissible restriction freedom of speech in conformity with international law.

The Law is divided into five chapters. The first outlines definitions, guidance, and the protections extended to the freedom of expression. Article 2 explains that the “Law shall be interpreted according to the Constitution of Georgia, international legal obligations undertaken by Georgia, including the European Convention on Human Rights and Fundamental Freedoms and case law of the European Court of Human Rights.”⁴⁴³

Article 3(1) provides that the “State shall recognize freedom of speech and expression as eternal and supreme human values. The people and the State shall be bound by these rights and freedoms, as well as by the applicable legislation, during the execution

of authority.”⁴⁴⁴ This Article further explains that:

Everyone, except an administrative body, shall have the freedom of expression, which shall imply:

- (a) absolute freedom of thought
- (b) freedom of political speech and debate
- (c) the right to look for, receive, create, keep, develop, and disseminate information and ideas in any form
- (d) unacceptability of censorship, editorial independence and pluralism of the media, the right of a journalist to protect the secret of information source and to make editorial decisions based on his/her conscience
- (e) academic freedom to learn, teach, and research
- (f) freedom of arts, artistic creativity and invention
- (g) the right to speak any language and to use any script
- (h) the right to charity
- (i) freedom of exposure and protection of expositors
- (j) freedom from compulsion to express his/her own opinion on faith, religion, conscience, ideology, ethnic, cultural or social belonging, origin, family, property

442 “Constitutional Court of Georgia.” Judicial Acts, 2007. <https://www.constscourt.ge/en/judicial-acts?legal=301>.

443 Law of Georgia on Freedom of Speech and Expression, Art. 2.

444 Ibid, Art. 3.

and rank status, as well as on all other circumstances, which may become the basis for violation of the persons' rights and freedoms.⁴⁴⁵

Lastly, Chapter 1 of the Law includes "Court Guarantees." Article 6 (1) ensures that "A person shall have the right to file a request with the court demanding to avoid or prevent violation of the rights recognized and protected by this Law, as well as to restore the rights violated as a result of unlawful impact and intervention."

Chapter 2, Articles 8 through 10, permits limited restriction on the freedom of expression. This chapter elaborates on the restrictions outlined under Article 17 of the Constitution. Article 8 (2) imposes strict rules that must be satisfied to restrict speech:

1. Any restriction of the rights recognized and protected by this Law may be established only if it is prescribed by a clear and comprehensive, narrowly tailored law and the benefit protected by the restriction exceeds the damage caused by the restriction.
2. A law restricting the rights recognized and protected by this Law shall be:
 - a. directly intended to attain legitimate aims;
 - b. critically needed for the existence of a democratic society;
 - c. non-discriminatory;
 - d. proportionally restrictive.⁴⁴⁶

Article 8 makes clear that speech may be restricted only by precise, limited, and proportionate laws, whose legitimate aims are consonant with a democratic society.

Article 9 of the Law provides a specific list of substantive grounds which restrictions must serve, such as addressing defamation, obscenity, and threats.⁴⁴⁷ While Article 10 insists that restrictions be content-neutral, such as limitations on the place, time and form in which people may express themselves.⁴⁴⁸ The NGO named Article 19 explains in its 2004 report on the Law that this section "draws on U.S. Supreme Court jurisprudence for the distinguish between 'content-based' and 'content-neutral' regulation, providing that limitations may not be aimed at "restricting particular points of view or strands of opinion that are unpopular."⁴⁴⁹

Chapter 3 of the legislation establishes liability for disclosure of confidential information. Articles 11 and 12 are particularly important to journalists since they deal with the identification of sources. Article 11 states that:

1. The sources of professional secrets shall be protected by an absolute privilege, and nobody shall have the right to require disclosure of the source. In litigation on the restriction of the freedom of speech, the respondent shall not be obliged to disclose the source of confidential information.
2. Disclosure of confidential information without the consent of its owner or, in cases determined

445 Ibid, Art. 3.

446 Ibid, Art 8.

447 Ibid, Art 9.

448 Ibid, Art 10.

449 OSCE Representative on Freedom of the Media. "Guide to the Law of Georgia on Freedom of Speech and Expression." Organization for Security and Co-operation in Europe, June 1, 2005. <https://www.osce.org/fom/15214?download=true>.

by the law, without a grounded decision of the court, shall be unacceptable.

3. The court shall be authorized to make a ruling on providing proof with relation to disclosure of only that part of confidential information, whose necessity for disclosure had been approved.

4. The confidential information received as a result of disclosure shall be used only for the purpose for which it was disclosed.⁴⁵⁰

Sources of “professional secrets” include information divulged to doctors, lawyers, clergy, members of parliament and journalists among others.⁴⁵¹ This means that no individual may be compelled to disclose the source of the information regardless of the importance of any countervailing interest.

Chapter 4 contains specific definitions and rules on defamation. Under Article 1, defamation is “a statement containing a substantially false fact inflicting harm on a person; a statement damaging a person’s reputation”⁴⁵² Articles 13-19 differentiate between defamation of a private and public person, and the qualified privileges applicable to defamation. It is important to note that when the Law was introduced in 2004, criminal laws on defamation were abolished.

Article 6 provides protections to journalists accused of defamation. For instance, under Article 6 (2), “The owner of a media outlet

shall be the respondent in the litigation on defamation published in the media outlet by a journalist.”⁴⁵³ This protects individual reporters from extensive and costly legal battles or settlements.

Article 15 lays out a number of defenses against unfounded defamation suits against the media. As the ECtHR noted in *The Sunday Times v. the United Kingdom (No. 2)* news is a “perishable commodity and to delay its publication, even for a short period, may well deprive it of all its value and interest.”⁴⁵⁴ Thus, because the rush to meet the public’s right to information, particularly if it is related to public interest, at times may lead to the dissemination of inaccuracies or falsehoods, such instances will not be the subject of defamation actions.

c. Law of Georgia on Public Broadcasting

Adopted by the Parliament in 2004, the Public Broadcasting Law “determines the procedures for carrying out broadcasting in accordance with the principles of freedom of speech free expression and free enterprise; defines the rules of establishment of an independent regulatory authority in the broadcasting sector and determines the terms and procedures for issuing licenses and reviewing complaints.”⁴⁵⁵ The Law additionally laid the foundation for the creation of Georgian Public Broadcaster (GPB).

Article 3 of the Law specifies that its interpretation must be in accordance with the “European Court of Human Rights, and

450 Law of Georgia on Freedom of Speech and Expression, Art 11.

451 Ibid, Art 11 (1).

452 Ibid, Art 1.

453 Ibid, Art 6.

454 Guide to the Law of Georgia on Freedom of Speech and Expression, 29.

455 “Law of Georgia on Broadcasting.” Legislative Herald of Georgia, December 23, 2004. <https://matsne.gov.ge/en/document/download/32866/39/en/pdf>.

other international legal norms having legal effect in Georgia.”⁴⁵⁶ The Law details rules for obtaining licenses and authorizations for air frequencies from the GNCC. Since the digital switchover in 2015, television companies no longer require licenses, but rather authorization from the same authority. Nevertheless, radio stations still must have licenses, as must multiplexes.

In 2009, the Broadcaster’s Code of Conduct was adopted as part of the Law on Broadcasting for all television and radio stations. The Code of Conduct obliges broadcasters to have their own code of ethics and internal review mechanisms essential for self-regulation.⁴⁵⁷ Under Article 14, complaints filed against a television or radio station will be processed through the self-regulation mechanism developed on the basis of the Code of Conduct.

With numerous amendments since its adoption, the Law has improved access to information through its “must-carry” and “must-offer” regulations. This was considered necessary to compel all cable operators to carry all television stations, preventing politically motivated suppression of certain channels.⁴⁵⁸

However, other recently proposed amendments have been heavily criticized by civil society. The most recent, the 2018 draft amendment N.21080 on the Law on Broadcasting was brought forward by the Georgian National Communication Commission (GNCC) in December 2018.⁴⁵⁹ According to the GNCC, the proposed

amendment will fix the legislation by doing two things. First, it will harmonize the law with the requirements of the European Commission Directive 2010/13/EU on Audiovisual Media Services, which allows member states to co-regulate and intervene on issues of hate speech.⁴⁶⁰ Second, it would provide the GNCC and the courts the ability to review hate speech created by television and radio networks. Members of civil society are concerned about the effects that a politicized review system may have on freedom of expression. The amendment is under discussion in Parliament.

456 Ibid, Art. 3

457 Ibid, Art 2.

458 Mikashavidze, Maia. “Media Landscape: Georgia 2018.” Research Gate , 2018, www.researchgate.net/profile/Maia_Mikashavidze/publication/327765429_Media_Landscape_-_Georgia_2018/links/5ba3579ca6fdccd3cb64c238/Media-Landscape-Georgia-2018.pdf.

459 GNCC. “საქართველოს პარლამენტი.” მოქმედებ კანონმდებლობა, December 2018. <https://info.parliament.ge/#law-drafting/17006>.

460 “Directive 2010/13/EU of the European Parliament and of the Council.” EUR-Lex, March 10, 2010. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32010L0013>.

IN PRACTICE

Since independence, the government of Georgia has adopted protective laws, institutions, and protocols that prevent media censorship. The creation of a public news broadcaster, the Georgian Public Broadcaster (GPB), represents direct government participation in the media landscape. Regulation is handled both institutionally through the Georgia National Communications Commission (GNCC) and through journalists themselves by the Charter of Journalistic Ethics organization. A vibrant group of civil society organizations and international actors continue to advocate for media freedom and pluralism by creating programming that addresses disinformation, media literacy, polarization, and equitable financing of media. However, in practice, freedom of expression and pluralism in the media continue to be gravely affected by polarization and growing disinformation.

1. Creation of Public News Broadcaster: Georgian Public Broadcaster

Public radio first started broadcasting in 1925 with television following in 1956 as part of the Soviet state media. In 2004, the Georgian Public Broadcaster was created, modeled on the European style with the mandate to be “a state-owned, publicly-funded television broadcasting service, free of political and commercial influence.” It was intended to present matters “of public interest, of a variety of public programs,” and to be a “legal entity... accountable to the public, which is not subject

to any [other] state agency.”⁴⁶¹ Currently, the GPB operates three TV platforms—Georgia’s First Channel (broadcast since 1956), the Second Channel (since 1991) and (since 2013) Adjara TV, as well as three radio channels: Georgia FM 102.3 (since 1925), Georgia Radio Music FM 100.9 (since 1995), and Adjara Radio (since 2013).⁴⁶²

The GPB is led by a Director General elected by a Board of Trustees, who are approved by Parliament and serve for six-year terms, with one-third of the members rotated every two years. Board of Trustees candidates must have an advanced degree and at least ten years of work experience, including five in journalism, human rights, finance, electronic communications, art, writing and/or science-pedagogy. They are chosen through a democratic process, with some nominated on recommendation of the Public Defender and some by the majority in Parliament.⁴⁶³ Funding for the GPB was fixed by law at a percentage (0.14%) of Georgian GDP annually, and every year Board members make recommendations to the Director General and submit a report to Parliament.

The Trustees are meant to act as a check on the Director General, who has final editorial power. Not one of the five Directors General since the founding of the GPB has served a full five-year term, and several have chosen to resign before being dismissed. The current Director General, Vasil Maglaparidze, has been in office since 2017.⁴⁶⁴ Transparency International (TI) highlighted his political connections as a former politician and head of programming at Georgia Dream Studio

461 Law of Georgia on Broadcasting, Art. 15

462 “Who we are: Georgian Public Broadcaster” 2020. <https://1tv.ge/organizatsia/vin-vart-chven/>

463 “Leadership: Georgia Public Broadcaster” 2020. <https://1tv.ge/organizatsia/vin-vart-chven/khelmdzghvaneloba/>

464 “New Director General elected for Georgia’s state-funded television,” *Agenda.ge*. January 6, 2017. <https://agenda.ge/en/news/2017/27>

("GDS"), an Ivanishvili-affiliated entertainment network.^{465, 466}

In selecting programming, the Georgia Public Broadcaster's self-described mission is to "promote democratic values, raise the level of public education, promote the value of diversity and social cohesion, as well as deliver cultural values to the community."⁴⁶⁷ However, political news and foreign and cultural affairs reports have not escaped bias. Opposition members of Parliament have raised the issue of maintaining neutrality of the GPB, but it is not a legislative priority, as it is not a service that reaches much of the general public (it achieved only 3.63% of total viewership in 2017).^{468, 469} The GPB also asserts that its biggest challenges are competition with commercial broadcasters, as well as establishing itself as an efficient and transparent public service. Some Trustees have called for the establishment of an impartial media ombudsman, separate from the current regulatory body, the Georgia National Communications Commission.⁴⁷⁰

Some members of civil society have expressed concerns about the GPB's growing politization. In 2017, a series of proposed legislative amendments to lift restrictions on commercial advertising on GPB, and to allow the network to forgo strict public

procurement rules for equipment and content purchases were vetoed by the President.^{471, 472} These amendments were condemned by civil society and competing television networks as incentivizing corrupt practices and unfair competition, given that the GPB already received funding from the state in addition to its new commercial advertising revenue. Nevertheless, the veto was overridden by legislators in February of 2018.⁴⁷³

2. Regulation

a. Institutional regulation – Georgia National Communications Commission (GNCC)

The regulatory authority of the Georgia National Communications Commission (GNCC) was created in 1999, the result of the Law on Post and Telecommunications and later revised under the Law on Broadcasting in 2004 and the Law on Electronic Communications in 2005.⁴⁷⁴ The mandate of the GNCC is to regulate technical, legal and economic issues related to electronic communications network operators, to protect the interests of customers, and to ensure service opportunities for all operators.⁴⁷⁵ The GNCC is accountable to the President, the government, and the Parliament, and submits its annual report to

465 "The election of Vasil Maglaperidze indicates the intensification of political influence on the Georgian Public Broadcaster," *Transparency International Georgia*, January 11, 2017. <https://transparency.ge/post/general-announcement/vasil-maghlaperidzis-archeva-sazogadobrив-mautsqebelze-politikuri-zegavlenis-gadzlierebaze-miutitebs>

466 See Section V: Perception; 3: Cronyism; Ivanishvili and media connections

467 "Mission: Georgia Public Broadcaster", 2020. <https://1tv.ge/organizatsia/vin-vart-chven/khelmdzghvaneloba/>

468 Interview with GPB Board Member: January 22, 2020.

469 Mikashavidze, Maia, 1.

470 Georgia Public Broadcaster (GPB) Board Member: Interview with authors, January 22, 2020.

471 "Changes to Law of Georgia on Public Broadcaster. Overview of the Process of Initiating and Hearing the Changes." საქართველოს გამჭვირვალობა - საქართველო, Apr. 2017, www.transparency.ge/en/blog/changes-law-georgia-public-broadcaster-overview-process-initiating-and-hearing-changes.

472 Fuller, Liz. "Georgian President Vetoes Controversial Changes To Broadcasting Law." RadioFreeEurope/RadioLiberty, Radio Free Europe / Radio Liberty, 16 Jan. 2018, www.rferl.org/a/georgia-public-broadcaster-bill-vetoed-margvelashvili/28978727.html.

473 OC Media. "Parliament Overrides President's Veto on Controversial GPB Law." OC Media, 20 Dec. 2019, oc-media.org/parliament-overrides-presidents-veto-on-controversial-gpb-law/.

474 "The Commission: Georgia National Communications Commission." 2020. <https://www.gncc.ge/en/the-commission>

475 Ibid.

all three, but is not financed from the state budget.⁴⁷⁶ The GNCC consists of a Chairman and four commissioners. The current Chairman is Kakhi Bekauri, who before joining the GNCC was with the GPB and the private television channel, Maestro.⁴⁷⁷ Before 2012, the GNCC oversaw only four national broadcasters including the GPB and no community broadcasters for ethnic minorities. Today, there are 21 national broadcasters (five serving minorities) and 50+ radio stations: large numbers considering the size of the country.⁴⁷⁸

Since 2007, Georgia has been a full member of the European Telecommunications Standards Institute.⁴⁷⁹ Currently, the GNCC is also working to meet the standards of the European Association Agreement which requires approximation to the EU regulations, particularly in regard to hate speech. A bill was introduced in Parliament in December 2018,⁴⁸⁰ that would amend the 2004 Law on Broadcasting, to expand the mandate of the GNCC to include regulation of content. The bill has been shelved by Parliament for the moment but still remains a pressing topic for many who are concerned with maintaining the freedom of the media in Georgia.

Today, media content in Georgia is regulated by journalists themselves, who adhere to a professional ethics organization, and by private broadcasting organizations. Formal regulatory authority is held by the GNCC when grievances are brought against

broadcasters. Some civil society actors and journalists have expressed fear that the Draft Amendment on the Law on Broadcasting (N.21080) could lead to censorship of the media.⁴⁸¹ Government allies claim that the bill would only enhance the powers that the GNCC already has to sanction a broadcaster disseminating hate speech, which is the only content it can regulate.

When the GNCC receives an allegation of hate speech being used by a broadcaster, they have primarily financially punitive tools at their disposal. The tools available to the GNCC are (1) a letter of warning, (2) a fine of 0.05% of the outlet's income or 2050 Georgia lari (GEL) – around \$639 – whichever is more, and (3) suspension of the authorization to broadcast. In extreme cases, such as when Imedi TV called for the overthrow of the government in 2007, the GNCC imposed these three measures over two days.^{482, 483} Currently, complaints may be filed with the broadcaster, the GNCC or the Court. Resolution of disputes referred to broadcasters is subject to their discretion, and often takes longer than review by the GNCC (around a 21-day turnaround). The court often refers cases back to the GNCC, for punitive measures.⁴⁸⁴

The GNCC introduced Media Critics on December 23, 2019, an online platform to “scrutinize and guide Georgia’s media content.” It was intended to rival other institutions such as Myth Detector run by the non-governmental organization Media Development Fund (MDF). This was proposed

476 Ibid.

477 See Section IV: In Practice; 3: Private media networks; Maestro

478 Ivan Makharadze, Georgian National Communications Commission (GNCC), in Discussion with the Authors, January 2020.

479 Ibid.

480 See Section III. On Paper, c. Law on Broadcasting.

481 See Section III. On Paper; C. Law on Broadcasting.

482 OSCE/ODIHR Election Observation Mission Georgia, Extraordinary Presidential Election 2008, Interim Report No.2, December 14-28, 2007; <https://www.osce.org/odihr/elections/georgia/30097?download=true>.

483 See Section IV. In Practice; 3: Private media networks; Imedi TV.

484 Ivan Makharadze, Georgian National Communications Commission (GNCC), in Discussion with the Authors, January 2020.

as part of the 2017 Law on Broadcasting Amendment which granted the GNCC new powers to promote media literacy.⁴⁸⁵ While the GNCC has argued that the platform will be used for “independent watchdogging” purposes, some civil society actors see it as a way of wading into censorship.

b. Self-regulation by journalists: Georgian Charter of Journalistic Ethics

The majority of journalists in Georgia are not freelancers, or reporters for foreign news outlets: they work for networks and papers based in Tbilisi. As part of an effort to self-regulate, Georgian journalists came together on December 4, 2009, to sign an agreement to observe general professional standards as part of the Georgian Charter of Journalistic Ethics. The Charter is based on Article 10 of the ECHR and the Declaration of Principles of the International Federation of Journalists (IFJ).⁴⁸⁶ It declares that freedom of speech and expression are fundamental rights of any person, and the group works to uphold standards befitting those rights by regulating and monitoring the activities of its members. Some of the Charter’s fundamental tenants regard respecting the truth and commitment to accuracy, using only confirmed sources and relying on “scrupulous and fair methods” when collecting information, and the grave offense of coercing a journalist to “express an opinion against his/her conscience.”⁴⁸⁷

Additionally, it declares that the media carries the weight of liability “to correct substantially incorrect information which misleads society,”⁴⁸⁸ and must make a clear distinction between editorial materials that are related to advertising or “financed by a sponsor.”⁴⁸⁹ Bribery is explicitly stated as a grave professional offense for any journalist.⁴⁹⁰

Currently, the Charter counts 320 members managed by a nine-member Council. The group is run by an Executive Director, chosen by the Council, and is the only independent media self-regulatory body in Georgia.⁴⁹¹ Like the GNCC, the Charter can sanction members in response to complaints regarding their professional ethics. The Council of Europe, among others, has helped connect the Charter with experts on issues affecting the media, including an initiative on monitoring coverage of violence against women. After a six-month period of review and analysis, the CoE hopes to help the Charter draft a reference guide for gender-related reporting.⁴⁹²

The Charter on Journalistic Ethics is spearheading a few projects on media literacy and education, to help further journalistic integrity and free speech in Georgia. One such project, MediaChecker (www.mediachecker.ge), is a media criticism platform (partially funded by the National Endowment for Democracy) to promote analysis of TV, online, and print media.⁴⁹³ It also offers a discussion space, Mediawriter, on professional standards,

485 “Friendly Brother is Watching You? Georgia’s New, State-sponsored Media Critic,” *Civil.ge.*, January 16, 2020 <https://civil.ge/archives/334746>

486 The Georgian Charter of Journalistic Ethics, “About Us.” სიახლეები, November 10, 2017. <https://www.qartia.ge/en/about-us>.

487 Accountable Journalism, Donald W. Reynolds Journalism Institute at University of Missouri School of Journalism, “Europe – Georgia: The Georgian Charter of Journalistic Ethics: The Charter of Journalistic Ethics,” 2020. <https://accountablejournalism.org/ethics-codes/code-of-ethics-georgian-charter-of-journalistic-ethics>.

488 Ibid, Art 5

489 Ibid, Art 1, Art 4, Art 2.

490 Ibid, Art 11.

491 The Georgian Charter of Journalistic Ethics.

492 Tamar Kobakhidze, Council of Europe (COE), in Discussion with the Authors, January 2020.

493 See Section 4. Civil Society organizations

and ethics, where journalists who are part of the Charter can exchange ideas. Editors and reporters monitor broadcasters, the press, online media, and trends on a daily basis, carrying out product analysis based on guidelines and codes of conduct. The Charter often circulates petitions to protest government policies towards the media, gaining signatories from member journalists and the outlets they work for, which include both private as well as public outlets.

3. Private media outlets in Georgia: Press, digital media, and television

The landscape of private media companies is diverse, providing consumers freedom of choice of outlets for Georgians outside of public broadcasting. Although television is the dominant medium for access to the news, print, digital, and social media all play important roles. Polarization of media outlets along political lines has been an issue in the past and is currently seen most strongly in television coverage from private outlets.

a. Print Press

Newspapers and magazines enjoy great freedom, and unlike the broadcast media are not regulated. But despite this independence, press journalism has low readership among Georgians: NDI polls reveal that for only 1% is it the primary source of news.⁴⁹⁴ However, print media does play an important role

in agenda setting with political elites and spreading news stories to the more widely viewed television stations.⁴⁹⁵

In Tbilisi, the most popular newspapers covering public and political affairs are the daily Resonance and weekly Kviris Palitra, which tend to occupy the political center. There were 317 newspapers registered in Georgia in 2016.⁴⁹⁶ Most are weeklies (51); 14 are dailies. Tabloid-style magazines with a mainstream readership include Alia, Versia, and PrimeTime. Others cater to a small and specific audience, such as the Asaval-Dasavali Gazeti, a popular ultra-right tabloid with xenophobic, homophobic, and ethno-nationalist sentiments.⁴⁹⁷ Some 34 newspapers, mostly regional monthly publications, are funded by municipalities to carry public information, including announcements in the languages of ethnic minorities.⁴⁹⁸

b. Social media and digital news

According to Freedom House, in 2017, 60.49% of Georgians had access to the internet, with about 42% connecting daily, primarily in Tbilisi.⁴⁹⁹ With a growing level of mobile penetration (59%), Georgians access news through social and digital media sites, and blogs. After television news, Facebook has been cited as the second biggest source of news for Georgians, and as of December 2019, there were 2.73 million Facebook users in the country.⁵⁰⁰ An International Republican

494 Mikashavidze, Maia. "Georgia: Print" *Media Landscapes*, <https://medialandscapes.org/country/georgia/media/print>

495 Ibid, 4.

496 Ibid, 4.

497 "Asaval Dasavali," Myth Detector, *Media Development Fund*, 2020. <https://www.mythdetector.ge/en/profile/asaval-dasavali>

498 Mikashavidze, Maia, 5.

499 "Freedom House: Internet access and usage continues to grow in Georgia," Agenda.ge, Nov 1, 2018 <https://agenda.ge/en/news/2018/2292>

500 J. Johnson, "Georgia: Facebook users from 2018 to 2019," Feb 14, 2020. <https://www.statista.com/statistics/1029753/facebook-users-georgia/>

Table: Private Television Broadcasters

Pro government	Year established:	Owner:	Pro opposition	Year established:	Owner:
Imedi TV	2001	Imedi Media Holding (Inna Gudavadze)	TV Pirveli	2015	Avtandil Tsereteli
Rustavi 2	1994	Kiber Khalvashi	Mtavari Arkhi	2019	Nika Gvaramia
Maestro	1995	Imedi Media Holding (Giorgi Gachechiladze)	Kavkasia TV	1996	Nino Jangirashvili
GDS (Georgia Dream Studio)	2012	Imedi Media Holding (Ina Gudavadze)	Formula TV	2019	LTD Formula (Davit Kezerashvili)

Pro-government and pro-opposition designations are based on the authors' opinions after several interviews. Owners designated above have been claimed as those who are the majority stakeholder or those who have the controlling shares of the company. ©Media Meter

Institute (IRI) 2017 poll showed that Facebook was the most preferred social network (87%) followed by Odnoklasniki (16%), Twitter (3%), V Kontakte (1%) and LinkedIn (1%). There is no government control or censorship over social media sites, however there have been calls for regulation to deter disinformation. “Watchdog” sites such as MediaChecker, Fact Check, and Myth Detector run by civil society organizations,⁵⁰¹ and the government produced program MediaCritics, offer criticism and analysis and promote general awareness to what is being reported.

For digital news, several outlets operate primarily as online sources for Georgia and the greater Caucasus, and all television platforms have accompanying websites. Civil.ge is one of the oldest quality online news outlets operating in Georgia, and Netgazeti.ge, founded by the newspaper Batumelebi in

2010, is also quite popular.⁵⁰² Eurasianet.org, originally a project run by the Central Eurasia Project of the Open Society Foundation, became independent in 2016 and is one of the oldest websites with quality public affairs content from the region, in English and Russian. Jamnews.com is a multilingual website reporting on the South Caucasus, and provides content in Georgian, Azerbaijani, Armenian, Russian and English. Codastory.com, a relatively recent startup by a team of internationally recognized reporters, provides in-depth reporting from Europe and Eurasia.⁵⁰³ Some digital news platforms have been tagged by MDF as promoting Russian propaganda and xenophobic content, such as Geworld.ge and Sakinform.ge.⁵⁰⁴

501 See Section 4: Civil Society Organizations

502 Mikashavidze, Maia, 9.

503 Ibid, 9.

504 Ibid, 10.

c. Private television broadcasting, pro-government and pro-opposition outlets:

Television news has continued to be the leading medium for news dissemination, a legacy that has continued since the Soviet era. It acts as both an informant and a source of entertainment, and political talk shows are some of the most popular programming. Table 4.1 shows channels by their designations as “pro-government” or “pro-opposition” based on their coverage, the year they were established, and their owner or primary stakeholder.

Not mentioned in the table is TV Iberia, a Tbilisi-based station that was shut down by the government in 2004. The license was later restored by the government in 2013, and TV Iberia has been able to broadcast since then. Charges were brought in Tbilisi city court in 2018 against the former Prosecutor-General, Zurab Adeishvili, in absentia (he fled the country in 2012), for attempting to “assert government control over the [station] by seizing the broadcasting license during the Saakashvili administration.”⁵⁰⁵ The owner of TV Iberia is Zaza Okuashvili, who also owns the Omega Group, including cigarette manufacturing and distribution companies, among other entities, whose profits largely funded the television station.⁵⁰⁶ In December 2018, TV Iberia issued a statement accusing the government of “artificially creating financial problems” for Omega Group Tobacco,⁵⁰⁷ and Okuashvili declared “the

mission to protect independent media is indispensable to everyone, each Georgian, each citizen.”⁵⁰⁸ The news station went off air in December 2018 and has since only posted on its Facebook page.

Pro-government outlets:

Imedi TV, Maestro, and GDS all joined together to form Imedi Media Holding in 2017 and all share current business links or direct connections to Bidzina Ivanishvili, a former Prime Minister and founder of the Georgia Dream Party. Imedi TV and Maestro cover news, as well as social and political issues, and their coverage is generally sympathetic to the government. GDS is an entertainment network. Today, Imedi TV is the highest rated television station in terms of viewership.

Imedi TV was created by the media tycoon Badri Patarkatsishvili, who like Ivanishvili made his money as an executive in many Russian companies during the 1990s. He was initially a supporter of the United National Movement (UNM) and the leading financial benefactor for Saakashvili.⁵⁰⁹ He has turned critical over time, and Imedi TV’s coverage reflected that. In 2007, Imedi TV was at the center of a police raid and political protests when a Tbilisi court ruled that its coverage “amounted to incitement to overthrow the government.”⁵¹⁰

In 2008, Patarkatsishvili challenged his one-time ally for the presidency. From 2007-2009, Imedi TV’s ownership was transferred to

505 “Court Finds Ex-Chief Prosecutor Adeishvili Guilty over Iberia TV Case,” *Civil.ge*. March 5, 2020 <https://civil.ge/archives/341020>

506 “Who owns Georgia’s Media?” *Transparency International Georgia*. 2014 https://www.transparency.ge/sites/default/files/post_attachments/Who%20owns%20Georgia's%20media,%2016%20April%202014_0.pdf

507 “Iberia TV Stops Broadcasting,” *Civil.ge*. October 17, 2018 <https://civil.ge/archives/259244>

508 “Special statement by Iberia TV and Zaza Okuashvili,” Iberia TV Facebook page, September 7, 2018. <https://www.facebook.com/iberiatv/videos/853915208131271/?v=853915208131271>

509 Andrews, Suzanna. “The Widow and the Oligarchs,” *Vanity Fair*. September 9, 2009. <https://www.vanityfair.com/style/2009/10/oligarchs200910>

510 “Georgia: Imedi Opposition TV To Return to Airwaves,” *RadioFree Europe Radio Liberty*. December 4, 2007. <https://www.rferl.org/a/1079231.html>

NewsCorp Europe, part of Rupert Murdoch's media empire, and was returned to the Patarkatsishvili family in 2009 at a nominal price. In 2012, Imedi TV's favorable coverage helped Georgia Dream Party gain popularity, and it has continued to be a sympathetic promoter of the government.

Maestro started in 1995 as an entertainment channel, but in 2008 began to air political programs, becoming a voice of independent journalism during the later years of the Saakashvili presidency. In 2015-2016, major financial and ownership disputes resulted in Giorgi Gachechiladze becoming the majority shareholder (55%), buying out the other two co-owners, Giorgi Ebralidze and Levan Chikvaidze. In early 2016, Maestro ended its relationship with Studio Monitor, an independent investigative journalism unit, before merging in 2017 with Imedi TV and GDS.

GDS or Georgia Dream Studio, was founded in July 2012, initially named VTV. It was originally owned by Vladimer Shengelia (technical director of Bidzina Ivanishvili's TV Channel 9), but a month later was transferred to Bera Ivanishvili. In January 2017, ownership of the station was transferred again, to the Georgia Media Production Group Ltd., under Ina Gudavadze.⁵¹¹ According to the MDF's MediaMeter platform, GDS airs the third-most budget-funded ads, after Rustavi 2 TV and Imedi TV.

Rustavi 2, the channel that played such a pivotal role in the Rose Revolution as an outspoken critic of the Shevardnadze government, changed ownership 20 times between 2004 and 2012, including offshore ownership

through shell companies registered in the Marshall Islands and the British Virgin Islands. During the Saakashvili regime, the channel was seen as sympathetic to the UNM party and the government, with which it had direct links. In November 2006, current owner Kibar Khalvashi sold 78% of his shares to GeoTrans Ltd, but in 2015, filed suit to reclaim ownership claiming that his sale had been coerced. The case generated widespread discussion about media pluralism (we address the Rustavi 2 case in Section 6). After the 2019 decision of the European Court of Human Rights, many prominent journalists were fired or resigned from Rustavi 2, concerned that Khalvashi, as a close ally of the current administration, would influence the editorial direction to support the government.⁵¹²

Pro-opposition outlets:

Since 1991, pro-opposition channels and those critical of the government have developed and are an important element of a pluralistic media landscape. Rustavi 2 had been an opposition channel during the Shevardnadze years, became pro-government under Saakashvili, and then turned pro-opposition again until 2019. Mtavari Arkhi and Formula TV were both spinoff stations formed since that latest change. Currently, some opposition TV channels critical of the current government in their political news coverage have direct links with former members of the Saakashvili administration and the United National Movement.⁵¹³ Others founded independently do not consider themselves to be part of the opposition and try to present more balanced views of politics and public affairs.

511 "Media Profiles: GDS" *Mediameter*. 2020. <http://mediameter.ge/en/media-profiles/gds-tv>

512 "Prominent Journalists Fired At Georgia's Rustavi-2 TV Station," *Radio Free Europe, Radio Liberty*. August 20, 2019. <https://www.rferl.org/a/georgia-rustavi-2-journalists-/30119868.html>

513 See Section 6; a. Rustavi 2 ownership case

TV Pirveli was formed as a sports channel in 2015, but after switching to a general broadcasting license it grew popular as an alternative outlet for public and political news talk shows. Prominent journalists have moved to the station from Imedi TV, such as Inga Grigolia (whose Imedi talk show was shut down), and from Maestro, including anchors Vakho Sanaia and Nino Zhizhilashvili. TV Pirveli has received positive feedback from civil society and international actors as one of the most balanced, unbiased of the television news channels. It seeks to position itself as independent and not an opposition outlet.

Formula TV was created after the Rustavi 2 breakup, by the production company Formula Creative. It is owned primarily (51%) by Davit Kezerashvili, the former minister of defense and a close ally of ex-president Saakashvili (Kezerashvili has been out of the country since 2012 when a criminal case was launched against him). Formula Creative has released a number of well-known TV shows in Georgia, many of which had previously run on Rustavi 2. Formula TV has stated as its priority to counter the growing effects of Russian propaganda in the country.⁵¹⁴

Mtavari Arkhi (meaning “Main Channel”) was formed as a pro-opposition channel with many of the former editorial staff of Rustavi 2, as well as that station’s former general director, Nika Gvaramia. On August 9, 2019, the Prosecutor’s Office charged Gvaramia with abuse of authority in his Rustavi 2 position, claiming that the company had suffered a GEL 7.3 million loss in 2015 due to his negligence. Mtavari Arkhi received its broadcasting

license from the GNCC on September 5 and went on the air on September 9, reporting out of the headquarters of the recently closed Iberia TV.

4. Civil Society Role

a. Disinformation

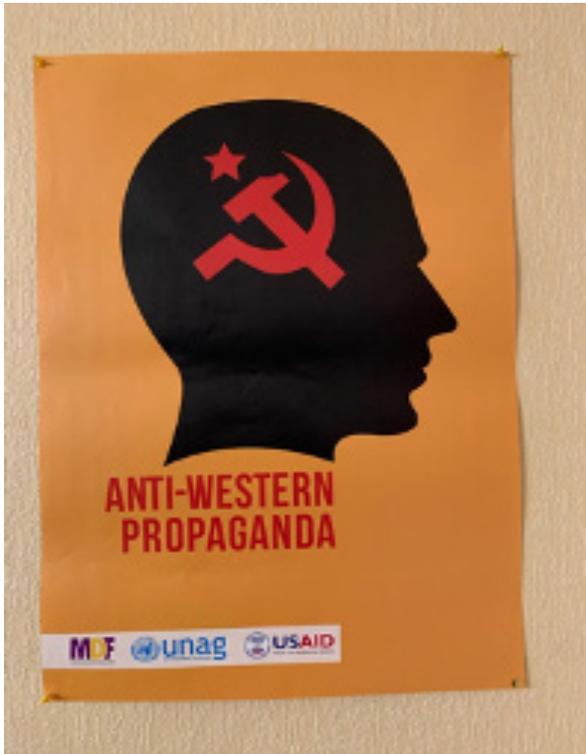
Since 2008 the Georgian NGO MDF has worked towards “protecting freedom of speech and expression, promoting ethical journalism and media accountability systems, and media literacy by conducting research and monitoring activities, advocacy, publishing educational and professional literature, [and] establishing self-regulation mechanisms.”⁵¹⁵ Monitoring the activities of mainstream and tabloid media to “study the typology of anti-Western messages, fake news, and their sources in Georgian media,”⁵¹⁶ the MDF tries to combat direct and indirect Russian propaganda in South Ossetia and Abkhazia and their surroundings, where messages are overt, as opposed to more indirect propaganda presented to wider audiences in the form of anti-Western messages. As Pro-Western trends increase in Georgia the Kremlin has sought to counter those trends by spreading negative messages, often through pro-Kremlin Georgian-speaking actors.

According to the Anti-Western Propaganda Report, published by the MDF, “in 2018, a total of 2,392 anti-Western comments were detected in 18 monitored media outlets, up by 21.6% as compared to a corresponding indicator of the previous year (1,967). Anti-Americanism remained a dominant topic with

514 “New Georgian opposition TV channel announced – ‘Formula’ to launch in October,” *JAM news*. August 14, 2019 <https://jam-news.net/new-georgian-opposition-tv-channel-announced-formula-to-launch-in-october/>

515 “About Us: Media Development Fund (MDF).” მედიის განვითარების ფონდი. Media Development Fund (MDF), 2014. <http://www.mdfgeorgia.ge/eng/page/1>.

516 Kintsurashvili, Tamar. “Anti-Western Propaganda Report 2018,” Media Development Foundation. 2019. pg. 3. http://mdfgeorgia.ge/uploads/library/119/file/eng/Anti_West-2018-ENG.pdf



A poster from Media Development Fund, as part of the disinformation campaigns they manage.
© Image: Authors.

anti-US messages showing increase in 2018 (26.4%). The second anti-western comments were against NATO (16.3%) and in general, the West (14.2%)⁵¹⁷. Often messages are meant to promote homophobia and xenophobia, arguing that the West is meddling in the country's societal values and decision-making process, for instance, by promoting same-sex marriage, assimilation with migrants, and loss of territory once NATO membership is acquired.⁵¹⁸

In efforts to combat propaganda and fake news, civil society conducts a highly selective process of reviewing content via platforms including Media Checker, Fact Check (an independent non-partisan website piloted by Georgia's Reforms Associates), and Myth Detector (established by the MDF). Nevertheless, the government has established an alternative platform called

Media Critics which, according to MDF, was built with taxpayer money, yet access is not available to minorities who do not speak Georgian.⁵¹⁹

b. Polarization

Ownership transparency is a significant issue in Georgia's media environment. Prior to several amendments to the 2011 Law on Broadcasting mandating that owners of media outlets must be registered at least to a P.O. box; ownership was often hard to identify. As is further explained in the Private Media section, companies that owned TV channels were often based overseas and their financing has been suspected of originating from political groups. One of the amendments enforces transparency to track the sources of core funding.

517 Ibid, 11.

518 Ibid, 12.

519 Media Development Foundation (MDF), in Discussion with the Authors, January 2020.

To analyze this politicized media environment Transparency International (TI) released a report in 2018, “Who Owns Georgia’s Media,” studying information about owners, business links, and alleged political affiliations of various television channels – Georgia’s most popular medium. TI found that although the government and the GNCC argue that the increase in television channels has promoted pluralism in Georgia’s media environment, it actually reflects nothing more than “the country’s movement to digital broadcasting in 2015 and liberalization of legislation.”⁵²⁰ As power continues to be highly concentrated in the hands of pro-government outlets, legislative changes have failed to de-politicize media in Georgia.⁵²¹

Founded in 1993 to combat global corruption and promote openness in government, business and civil society,⁵²² TI defines corruption as, “the abuse of entrusted power for private gain,” to be “classified as grand, petty, and political, depending on the amounts of money lost and the sector where it occurs.”⁵²³ This year, TI published its latest Corruption Perceptions Index (CPI) based on 2019 findings. Georgia received a score of 56 out of 100,⁵²⁴ a two-point drop from 2018. Nevertheless, Georgia has the highest grade in the Eastern Europe and Central Asian region and was rated significantly above the global average of 43.⁵²⁵ According to the Index, a

factor that negatively affected Georgia’s rating was that “the ruling party ... exerts significant control over the country’s leading media outlets, including public and private outlets,” observing that “in order to control corruption, governments need to...support a free and independent media.”⁵²⁶ Lack of ownership transparency, political affiliations, and a corrupt media environment all contribute to polarization. TI recommended ceasing political interference in the activities of TV media and promoting journalists’ knowledge about ethical standards to ensure media diversity.⁵²⁷

c. Safety of Journalists

Protests held on June 20, 2019 in opposition to the appearance of Russian MP Sergei Garilov⁵²⁸ in the Georgian Parliament soon became a series of cases of “violations of the rights of media professionals, including the right to freedom of expression, the right to be protected against inhuman treatment, and the right to property...”⁵²⁹

The non-governmental organization Georgian Young Lawyers Association (GYLA), founded to “establish the rule of law and protect human rights in all of its projects and activities, both at the individual and institutional levels,”⁵³⁰ published a legal assessment called *Beyond the Lost Eye* to

520 Who Owns Georgia’s Media, 27.

521 Ibid, 6.

522 Transparency International, “Overview,” Transparency International, n.d. <https://www.transparency.org/whoweare/organisation>.

523 Ibid.

524 “Corruption Perceptions Index 2019 Report,” Transparency International, 2020, pg. 16. file:///run/arc/sdcard/write/emulated/0/Documents/HR%20Clinic/Report/2019_CPI_Report_EN.pdf

525 Corruption Perceptions Index, 21.

526 “From Concentrated Power to State Capture: Georgia’s Backsliding Anti-Corruption Reforms,” Transparency International, March 27, 2019. <https://voices.transparency.org/from-concentrated-power-to-state-capture-georgias-backsliding-anti-corruption-reforms-c94d76bb2b21>.

527 Who Owns Georgia’s Media, 30.

528 See Introduction II. Background; c. Current Political Situation for more information about the June 20 protests

529 “Beyond the Lost Eye – Legal Assessment of June 20-21 Events.” Georgian Young Lawyers Association. 2019. pg. 6

530 “History - Georgian Young Lawyers’ Association.” Georgian Young Lawyers’ Association. <https://gyla.ge/en/page/history>.

“analyze systematic and individual cases of violations of human rights”⁵³¹ during the June 20 protests in which 40 journalists were injured and one⁵³² was arrested “on the grounds of disobedience and resistance to a police officer’s lawful demands.”⁵³³

The report included significant analysis on law enforcement’s treatment of journalists who were present at the protests and covering the event as media professionals. According to the report, the results of the protests bespoke “serious cases of violations of [the rights of] media professionals, including the right to freedom of expression...as well as the cases of preventing media professionals from carrying out journalistic activities,”⁵³⁴ – acts punishable under the Criminal Code of Georgia.

To evaluate “the cases of excessive force against journalists and interference with journalistic activities,” GYLA requested footage from television outlets that broadcast the events. TV Pirveli, and GPB complied with the request, but Imedi TV, Maestro, and the new Rustavi 2 demanded cash payments. The authors of the report obtained the footage from open sources.⁵³⁵ A journalist from the GPB recounted events from that day, stating that “police officers used excessive force against him when he refused to delete the video footage depicting the arrest of protestors.”⁵³⁶ A reporter from TV Pirveli also alleged to have been blocked, by police officers, from recording the protests.

GYLA’s review of the recordings showed that during the demonstration media representatives were clearly identifiable as differentiated from protestors, wearing t-shirts, holding equipment, and presenting documentation of their accreditation as journalists.⁵³⁷ Based on its research, GYLA concluded that there was no “necessity for using force against media professionals as they were not posing any danger to life and health of law enforcement officials...were not armed...were not acting aggressively, nor were they resisting police in any form.”⁵³⁸

According to the case-law of the ECtHR “in the course of carrying out professional activities, ill-treatment of a journalist by public officials seriously impedes the exercise of the right to receive and impart information which results in the interference of journalistic activities.”⁵³⁹ The unjustified actions against media representatives were not only in violation of the right to freedom of expression and the Criminal Code of Georgia, but also of international standards.

d. Financing of the Media

Analyzing the current state of the country, the Georgian Democracy Initiative (GDI) published a report Freedom of Expression in Georgia, in 2020, summarizing cases GDI brought before the Constitutional Court of Georgia on behalf of broadcasters.⁵⁴⁰ The authors of the report found state policy,

531 Ibid, 5.

532 Ibid, 51.

533 Ibid, 56.

534 Ibid, 6.

535 Ibid, 11.

536 Ibid, 54.

537 Ibid, 52.

538 Ibid, 52.

539 Ibid, 52.

540 Marikashvili, Eduard, Teimuraz Svanidze, and Shota Qobalia. “Freedom of Expression in Georgia.” Georgian Democracy Initiative, 2020. <https://www.gdi.ge/uploads/other/1/1091.pdf>.

particularly tax policies, to be antagonistic toward independent and critical media.

In 2019 controversy arose after the Ministry of Finance demanded immediate encashment orders of overdue taxes for Rustavi 2, TV Pirveli, TV Kavkasia. Months before the government had provided Imedi and Maestro – the companies with the largest outstanding debt – with flexible repayments. None of these companies are among the most critical of the government. According to GDI, the alleged politically motivated encashment orders gave “rise to the valid suspicion that the state follows the principle of selective justice and treats more favorably the television companies affiliated with the authorities.”⁵⁴¹

The Ministry of Finance has agreed to postpone the collection of debt owed by Rustavi-2 but continues to pressure small, critical broadcasters.⁵⁴² Most recently, tax authorities have imposed tax collection on the accounts of TV Pirveli and Mtavari⁵⁴³ which would undermine the functioning of those two independent stations.⁵⁴⁴ They have been unable to raise the necessary funds to continue making payments towards their debt due to COVID-19 outbreak. According to TI, “the state has decided to suspend operation of some businesses due to the virus outbreak, focusing on the businesses that are the main source of income for the media, as well as their main customer for TV advertisements.”⁵⁴⁵ Various organizations have urged the government to remove the collection orders and exempt the channels

from making payments during the pandemic because of the “invaluable role and functions that the independent media plays in such extraordinary times and [for authorities] to take the respective measures to ensure the unhindered work of said media.”⁵⁴⁶

Unlike leading news stations that receive financial support from patrons, many journalists and media outlets struggle to gather the necessary financing. These small operations are not established enough to generate substantial advertisement revenue. Most rely on donor support, which makes up 20-40% of their revenue. In Georgia, there is no ‘subscription’ culture. Consequently, the Open Society Georgia Foundation (OSGF) which “aims at empowering public interest and political influence free media in order to make quality journalism accessible for citizens,”⁵⁴⁷ partners with startups with limited resources and tracks their development. Although the majority of these startups work in Tbilisi, OSGF has expanded to other regions in the country and works with ethnic minority media, to produce content in the populations’ local languages, such as Armenian or Azerbaijani.

5. International Organizations

a. Disinformation

In efforts to provide education and training for journalists on how to distinguish correct from false information, the Council of Europe (CoE) has provided financial assistance for a booklet

541 Ibid, 15.

542 “Georgian TV Channel’s Deputy Director Resigns under Pressure: Reporters without Borders,” RSF, February 14, 2020. <https://rsf.org/en/news/georgian-tv-channels-deputy-director-resigns-under-pressure>

543 See section on Pro-opposition Media

544 “NGOs: Collection Imposed on TV Pirveli & Mtavari Accounts Should Be Removed,” Georgia Today, March 20, 2020. <http://georgiatoday.ge/news/20137/NGOs:-Collection-Imposed-on-TV-Pirveli-&-Mtavari-Accounts-Should-Be-Removed>.

545 Ibid.

546 Ibid.

547 “About Us.” Open Society Georgia Foundation. <https://osgf.ge/en/about-us/>

collecting cases and standards championed by the Charter of Journalistic Ethics. Once completed, the booklet will be available to journalists and the greater public. This project has prompted the idea to develop a university level handbook on journalistic ethics. While the CoE and the Charter continue to try to support the objectivity of journalists, the CoE does not have the resources necessary to tackle the matter of editorial control. As an international organization, the CoE can do no more than promote and encourage ethical journalism and professionalism, with a special focus on countering extremism and misinformation in the media.⁵⁴⁸

In response to disinformation, the USAID has partnered with the Westminster Foundation of Democracy and the Thematic Inquiry Group on Disinformation and Propaganda of the Foreign Affairs Committee of Parliament. A report, characterized as “the first document of anti-Western disinformation and propaganda, developed within the Parliamentary activity and serving as a real starting stage for opening of a Parliamentary corner for these issues,”⁵⁴⁹ was published in February of this year. The goal will be to analyze the results, evaluate current policy, and issue recommendations for legislation.

b. Polarization

Media sustainability - the development of independent media - has been a great challenge in the fight against polarization. Although this is not always the case, the

owners of media outlets typically have a strong influence over the work of their journalists. To tackle editorial interference, according to the CoE, it would be necessary for media outlet owners to submit to management training, which many Georgian media analysts think is unlikely to happen.

c. Safety of Journalists

Controversy over injuries suffered at the hands of police during the June 20th protests sparked initiatives to discuss and raise awareness regarding the safety of journalists. As a result, the Committee of Ministers (the CoE decision-making body), issued recommendations on this issue through various projects that the CoE finances, such as Supporting Freedom of Media and Internet in Georgia – a joint project with the GNCC to tackle remaining challenges in the field of media in order to continue aligning national legislation and practices to European standards.⁵⁵⁰

A roundtable under Supporting Freedom of Media and Internet in Georgia was hosted by the CoE on December 13, 2019 with the Ministry of Internal Affairs, the Ombudsman, international and national experts, law enforcement, and civil society.⁵⁵¹ Such discussions gave CoE member states, as well as the Georgian Ministry of Interior, the opportunity to respond to civil society actors after the June 20th protests. The initial results of the roundtable were promising. All participants agreed that the protection of reporters must be a priority.

548 Office of the Directorate General for Programs, Council of Europe. “Action Plan for Georgia 2020-2023.” https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168097fe8f

549 “The Presentation of the Report by the Thematic Inquiry Group on Disinformation and Propaganda.” Parliament of Georgia. February 3, 2020. <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi/sagareo-urtiertobata-komiteti-147/sagareo-komitetis-axali-ambebi/dezinformaciis-da-propagandis-sakitxebze-tematuri-mokvlevis-djgufma-angarishis-prezentacia-gamarta.page>.

550 Office of the Directorate General for Programs. “Council of Europe Action Plan for Georgia 2020-2023,” Council of Europe. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168097fe8f.

551 Council of Europe, “First Roundtable on Safety of Journalists in Georgia Organized on 13 December,” Freedom of Expression. Council of Europe, December 15, 2019. <https://www.coe.int/en/web/freedom-expression/-/first-roundtable-on-safety-of-journalists-in-georgia-organized-on-13-december>

The Minister of Internal Affairs is committed to implement changes and to work with legal academics and law enforcement. The CoE is continuing to work on carrying out a needs assessment report identifying areas of improvement for ensuring journalist protection which will be published sometime in 2020. The report is being written by national experts, and depending on its outcome, the CoE will work with law enforcement, especially educational centers, to provide training, guidelines, handbooks, and courses on protection of journalists.

6. Polarization and Disinformation: Two Important Cases

Over the course of our research, we found that since gaining independence, Georgia has created in practice a robust, free media landscape with both private and government actors. However, the two biggest challenges facing media freedom and pluralism are: polarization of the media, contributing to a feeling of censorship against opposition outlets, and the lack of “media literacy” among the Georgian population, creating vulnerability to disinformation campaigns which are often linked to Russia, but also the Georgian government. The Rustavi 2 ownership case was seen by some Georgians as an attempt to neutralize a pro-opposition voice, while others a simple case of ownership in a company. Nonetheless, the news around the case resulting in its eventual rise to the European Court of Human Rights (ECHR) reflects a deepening polarization of the media in Georgia and the case itself raises many questions about the extent to which this polarization is harmful to a fair and

free media landscape. The Facebook Troll factory case was a disinformation campaign to discredit various international and non-governmental organizations, as well as pro-opposition media which has been linked, by civil society, back to the government.

a. Rustavi 2 Ownership Case

Background on Rustavi 2

Rustavi 2 has been a popular station since the days of Shevardnadze.⁵⁵² Set up in the town of Rustavi by three friends in 1994, the provincial television outlet grew in popularity and power, making it an important tool of political influence. Rustavi 2 changed owners 20 times between 2004 and 2012, when the channel enjoyed close ties to the UNM government and reflected the interests of President Saakashvili.

The three original owners – Jarji Akimidze, Davit Dvali, and Erosi Kitsmarishvil – each held a third of the company’s shares from 1994 to 2004, when Akimidze and Dvali allege that they were approached by representatives of UNM and asked to hand over control. During this time, their shareholdings were reduced to 30% each, with Rustavi 2 director Nika Tabatadze holding 10%. Both Kitsmarishvil and Tabatadze entered government, straining their relationships with the other two partners (Kitsmarishvil was elected President of the Chamber of Commerce and Tabatadze became Deputy Foreign Minister).⁵⁵³ Rustavi 2 had taken out a loan from the Media Development Loan Fund, which the owners secured by their personal assets. On June 11, 2004 Kitsmarishvili filed for bankruptcy, although the government had offered to reschedule the outstanding debt of 4.6

552 See Section II: History of media in Georgia.

553 Dabrundashvili, Ana. “The TV station of ‘victorious people’: The story of Rustavi 2.” *Transparency International Georgia*. 02 August, 2013. <https://transparency.ge/en/blog/tv-station-%E2%80%98victorious-people-story-rustavi-2>



Protestors gather outside of the Supreme Court after the Rustavi 2 ownership case verdict.
© Image: Rustavi 2 Facebook Page via Agenda.ge

million GEL. With this public announcement, the other two owners felt that they had to sell the station to protect their personal funds.

Rustavi 2 then switched hands in a one-day transfer to Kibar Khalvashi, who as mentioned earlier, filed suit in 2012 to reacquire his shares. Khalvashi then purchased the remaining 40% of the equity and transferred it to his company, Panorama Ltd. Khalvashi had ties to Saakashvili, and in 2005, sold 22% of his stock to Robert Bezhuashvili, father of MP Davit Bezhuashvili (UNM) and Gela Bezhuashvili (Foreign Minister from 2005-2008).

Opaque Ownership - Offshore Regulations

Rustavi 2 then entered a period of offshore ownership in which stakes rotated through various parties, including shell companies that further blurred the identities of the real owners of the popular channel. In 2006,

Bezhuashvili's company, Holding Georgian Industrial Group (GIG), owned by Chemexim International registered in the Marshall Islands, bought 22% of the shares. Later, Khalvashi and Panorama Ltd. sold the rest of the stock to GeoTrans, (owned by Bidzina Nizharadze) who in turn sold 55% of the shares to Delgado Resources Ltd, registered in the British Virgin Islands. Then, on February 7, 2007 the group Geomedia (also incorporated in the Marshalls), represented by Bidzina Nizharadze, bought the 55% portion owned by Delgado: the beneficial owners of the two Marshall Islands companies are still unknown.

Irakli Chikovani served as Rustavi 2's director from 2007 to 2009, and then as chairman of the GNCC from 2009 to 2013. According to Transparency International Georgia, he acquired 30% of the company in 2008, although there is no record of this transaction in the Georgian Public Registry. He ultimately

sold his shares back to GIG and Geomedia Group, and his business partner Giorgi Gegeshidze became Rustavi 2's new director, representing the BVI shell company Degson Limited, which acquired the other 70% of the channel. The remaining 30% of shares stayed in the Bezhuashvili family through their company, Chemexim International.

These opaque business dealings kept Rustavi 2 close to the UNM party, and dependent on sympathetic government voices, hobbling its objectivity. In 2011, as a result of public sentiment and local as well as international pressure, Parliament banned offshore ownership of TV and radio stations and mandated the public disclosure of beneficial owners of broadcasting license holders. Shortly before the decision to ban offshore ownership, Levan Karamanishvili bought 60% of Rustavi 2 from Degson Limited, and 30% from Chemexim International, making him the 90% owner.

Before the Parliamentary elections in 2012, Rustavi 2 founders and former owners Davit Dvali and Jarji Akimidze issued a statement about what they called "violence from the State machine," complaining that "as a result of severe psychological pressure, chasing, bugging, and an artificially designed bankruptcy," they had been forced to sell their controlling shares back in 2004.⁵⁵⁴ This allegation expressed a long rumored connection the state had indirectly over the media outlet, direct from the creators of the station.

In the October 2012 elections, Georgia Dream won the majority in Parliament.

Since November 2012, Levan Karamanishvili and his brother Giorgi own 90% of Rustavi 2, with the remaining 9% owned by Giorgi Geshidze (Degson Limited). The Karamanishvili brothers share close ties with former President Saakashvili.⁵⁵⁵ The former Minister of Education, Minister of Justice and Deputy General Prosecutor in the Saakashvili government, Nika Gvaramia, became Rustavi 2's director.

2015 Tbilisi Court case — 2017 Georgia Supreme Court Ruling

In 2015, former owner Kibar Khalvashi filed suit seeking to have the ownership of his shares reinstated, claiming he had been forced to sell them in December 2006 under improper pressure from the Saakashvili government. Khalvashi had emigrated to Germany in 2009, where he was granted political asylum. The Tbilisi City Court ruled on November 3, 2015 that Khalvashi was entitled to recover 100% of the equity in Rustavi 2 (60% of his shares had been held by him directly, with the other 40% in the name of his company Panorama Ltd.). Rustavi 2 representatives alleged that the trial Judge, Tamaz Urtmelidze, was biased against them.⁵⁵⁶ The Court of Appeals affirmed the ruling in Khalvashi's favor on June 10, 2016. The Rustavi 2 owners again complained that the outcome was politically motivated, stating publicly that they "did not expect more" from "judges controlled by Georgia's ex-Prime Minister Bidzina Ivanishvili and the current Government of Georgia."⁵⁵⁷ Representatives of the government insisted that the dispute was a purely private one between the current

554 Mchelidze, David. "Statement by Rustavi 2 Founders and Former Owners," *Media.ge*, September 29, 2012 <http://www.media.ge/en/portal/news/50057/>

555 "Rustavi 2 and Mze owned by the family of Saakashvili's friend" *Netgazeti.ge*. December 28, 2011. <https://netgazeti.ge/news/12147/>

556 "Verdict delivered: Court says owner of Rustavi 2 is ex-owner Qibar Khalvashi," *Agenda.ge* November 3, 2015 <https://agenda.ge/en/news/2015/2463>

557 "Court of Appeal announces Qibar Khalvashi is legal owner of Rustavi 2," *Agenda.ge* June 10, 2016 <https://agenda.ge/en/news/2016/1427>

and former owners of the TV station, and the government had no influence or involvement in the court's "independent verdict."⁵⁵⁸

The Georgia Supreme Court delivered its unanimous judgment on March 2, 2017, affirming the lower court's decisions in favor of Khalvashi, who announced that his resumption of ownership would not impact current jobs or editorial independence. The judgment was delivered at 10:00 p.m. on the night before a public holiday, with the ownership transfer already recorded in the Public Registry. The decision was greeted by protests outside of the Court, which denounced it as "a blow to free speech."⁵⁵⁹

European Court of Human Rights Decision

Rustavi 2 lawyer Tamta Muradashvili acted quickly to file a petition with the European Court of Human Rights the following day, arguing that the decision of the Supreme Court would cause "irreparable harm" to Georgian democracy and free speech, within the meaning of the European Convention on Human Rights. The owners claimed in particular that the judges examining the ownership row lacked independence and impartiality, and that a fair judicial process was impossible in the polarized, pressure-filled environment. They sought the equivalent of an injunction against finalizing the ownership transfer, and to the surprise of the Rustavi 2 legal team, the Strasbourg Court granted that relief immediately, preserving the status quo and freezing all corporate assets and all shareholdings pending a ruling on the merits.

The interim measure in itself was

unprecedented; Muradashvili said that she did not expect the case to be accepted by the court at all.⁵⁶⁰ But the record showed that disciplinary proceedings had been brought against the President of the Supreme Court some years previously, leading to her dismissal from her judicial post at the time, and this provided an arguable claim of her lack of impartiality.⁵⁶¹

The European Court of Human Rights issued its decision on the merits on July 18, 2019, styled *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia* (application no. 16812/17). By six votes to one, the Court rejected the petition, concluding that "there had been no violation of Article 6.1 (right to a fair trial before an independent and impartial tribunal) of the European Convention on Human Rights. It went on to hold unanimously that there had also been no violation of Article 6.1 as concerned the appellate court, and by six votes to one, no violation in the proceedings before the Supreme Court. The Court rejected all but one of the allegations of bias as either "unsubstantiated or unconvincing."⁵⁶² Most importantly, the Court rejected as inadmissible the other claims brought by Rustavi 2's owners, including the allegation that the proceedings against them in the Georgian courts had been a State-led campaign to silence the television channel, and thereby to infringe rights protected under the ECHR and Georgian law.

The Court lifted the interim measure (even before the expiration of time permitted for a petition for review by the Grand Chamber). While Rustavi 2 felt that this hasty disposition

558 Ibid.

559 "Verdict delivered: Court says owner of Rustavi 2 is ex-owner Qibar Khalvashi,"

560 Tamta Muradashvili (Mtvvari) in Discussion with the Authors, January 2020

561 "No judge bias or other breach of fair trial guarantees in television channel ownership row," press release issued by the Registrar of the Court. ECHR 270 (2019), July 18, 2019. *European Court of Human Rights*

562 Ibid.

violated their ability to seek further review, the owners nevertheless appealed to the Grand Chamber in October, but their petition was summarily rejected.⁵⁶³

b. Facebook Trolls Case

In 2019, 100 fake Facebook accounts were opened by trolls.⁵⁶⁴ According to the Myth Detector, a troll is “a person who acts online without revealing a true identity in order to obstruct healthy discussions between users on various websites, forums and social networks”⁵⁶⁵ to spread disinformation and pro-government narratives. With the aim of “informing the public on the campaigns carried out” by the trolls,⁵⁶⁶ the MDF investigated these accounts using open-source software to analyze profiles and to determine whether the account users were real persons. The MDF published its findings in the report Trolls Factory.

The accounts mainly promoted the spread of content supporting the Georgia Dream Party, in particular Bidzina Ivanishvili. They justified government actions, questioned information published by opposition parties, civil society, journalists and critical media outlets, and targeted Mamuka Khazaradze, the former chairman of the Supervisory Board of TBC Bank.⁵⁶⁷ Findings disclosed that nine Facebook accounts were associated with a campaign to discredit that bank, and 15 accounts stealing

identities, 11 were linked to Russian social network services.⁵⁶⁸

After monitoring these fake profiles for a month, the MDF discovered certain patterns suggesting the accounts were government trolls. For instance, posts and messages were identical across user profiles whether they were supporting the ruling party (typically in line with the party’s position on current issues) and its members, or opposing the TBC bank, NGOs, and media.⁵⁶⁹ According to the report, “9 out of 15 trolls have most frequently liked photos depicting official events held by the Ministry of Environment Protection and Agriculture, and many of them have shared the Ministry’s posts.”⁵⁷⁰ Lastly, account users shared the same posts from Facebook pages, linked with the Georgia Dream Party, and involved in various campaigns.⁵⁷¹

Highlighted in the report were cases of trolls questioning the reliability of sources published by opposition parties, NGO representatives, journalists and other Facebook users, even blaming Rustavi 2 for releasing questionable information. In a thread of posts, trolls were “quoting pro-government expert Gia Abashidze,⁵⁷² who said that the majority of news stories aired by Rustavi 2 were fake or misrepresented.”⁵⁷³ Many civil society actors argue that trolls only refuted the pro-government broadcaster to dissuade allegations connecting the fake Facebook accounts to the government.

563 See Section V. Perception; 4. Perceived attacks against opposition outlets

564 Interview with representative from MDF

565 “Troll Factory against - TBC, NGOs and Media (Government Trolls in Georgia): Myth Detector,” Myth Detector, April 8, 2019. <https://www.mythdetector.ge/en/myth/troll-factory-against-tbc-ngos-and-media-government-trolls-georgia>.

566 “Trolls Factory against TBC, NGO, and Media Report,” Media Development Foundation, 2019, pg.2 http://mdfgeorgia.ge/uploads/library/109/file/eng/government_trolls_new_eng.pdf

567 Ibid, 3.

568 Ibid, 3.

569 Ibid, 15.

570 Ibid, 15.

571 Ibid, 15.

572 Ibid, 48.

573 Ibid, 48.

Aside from trying to discredit media outlets, trolls campaigned against the TBC Bank.⁵⁷⁴ In March 2019, Khazaradze publicly announced that, prior to the second round of presidential elections in 2018, he had received threatening notes from Interior Minister Giorgi Gakharia.⁵⁷⁵ While Khazaradze was delivering his speech, various Facebook accounts began posting identical messages mocking him and the address.⁵⁷⁶

Other campaigns championed by trolls denigrated public opinion polls which had included questions about the trustworthiness of the GPB, and a study on Informing Ethnic Minorities on Georgia's Euro-Atlantic Integration released by the OSGF and MDF. Campaigns against these non-governmental organizations were launched after they were the targets of backlash from pro-government media. In one scenario, the GPB accused the OSGF of launching an attack against them after the NGO released survey results showing that 47% of respondents had never watched GPB.⁵⁷⁷ Dissatisfied with the results, the broadcaster aired false facts to discredit the organizations and their work. Throughout both campaigns, trolls actively spread this disinformation and publish discrediting posts against the OSGF and MDF.

These are just a few of the many examples detailing the apparent interference of the government in social media. The proliferation of anti-civil society and anti-opposition messages became especially pernicious when trolls sponsored false information aired

by pro-government broadcasters. Content via online platforms (e.g., Facebook, Twitter, etc.) spreads faster, exacerbating an already grave issue in the realm of disinformation,⁵⁷⁸ as well as the greatest problem the media in Georgia faces today: a highly polarized and politicized media landscape. Since their discovery, troll profiles have been shut down.

Promoting media literacy

In response to the troll activities, as well as the continuous spread of anti-Western Russian propaganda, one of MDF's initiatives is media literacy. Media literacy, as defined by the CoE, "enables the identification and countering of false or misleading information and harmful and illegal online content contributing to media pluralism by facilitating informed decision making, especially in respect of political and public affairs and commercial content."⁵⁷⁹

To test how media literate the population is, MDF developed an online game where various hoax headlines are displayed, and the player must determine which is the fake one (typically the headlines presented on Russian news stories are real). The MDF reported that most participants identify the Russian story as false and the Western ones as true - thus being more inclined to believe false stories about the United States, rather than true stories about Russia.⁵⁸⁰ By offering students internships and allowing them to author their own articles —later published on their website— the

574 See Section V: In Perception; Sections 3 and 4.

575 Ibid, 29.

576 Ibid, 29.

577 Ibid, 39.

578 "Center for Media Transition: The Impact of Digital Platforms on News and Journalistic Content," *Center for Media Transition*, 2018, pg. 31. <https://www.acc.gov.au/system/files/ACCC%20commissioned%20report%20-%20The%20impact%20of%20digital%20platforms%20on%20news%20and%20journalistic%20content%2C%20Centre%20for%20Media%20Transition%20%282%29.pdf>

579 "Recommendation CM/Rec (2018)1[1] of the Committee of Ministers to Member States on Media Pluralism and Transparency of Media Ownership," *Council of Europe*. March 7, 2018. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680790e13

580 Representative from Media Development Fund in Discussion with the Authors, January 2020.

organization continues its work educating youth on how to differentiate fake news from the real thing. The MDF has also collaborated with the CoE on a handbook on media literacy. Most such projects are supported by the U.S. Embassy or USAID, but there has not been a lot of cooperation from other international organizations or from the Georgian government.

The CoE has also launched other media literacy initiatives. After a successful partnership in 2015, it agreed to assist in a project styled Supporting Freedom of Media and Internet in Georgia,⁵⁸¹ led by the GNCC. The regulatory body set up a department with the goal of expanding media literacy throughout the country, and the CoE recruited and funded consultants to develop a needs assessment and mapping of media literacy projects. Roundtable discussions called Media Literacy: Georgian perspective,⁵⁸² were co-hosted with the GNCC in the summer of 2019, bringing together national stakeholders, civil society, donors, and the media to discuss future projects and other pertinent issues. Experts from the CoE presented European best practices and provided information on successful media literacy programs.⁵⁸³ Well received by participants, these discussions acted as a platform for actors to create and expand a media literacy network for continued cooperation.

However, the CoE suggested that tensions between the GNCC and civil society could be a potential risk in project collaborations.⁵⁸⁴ Civil society has not always approved of or supported actions taken by the regulatory

body, preferring a horizontal dialogue with the government. This poses a challenge to ongoing media literacy initiatives.

PERCEPTION

1. Polarization and Politicization of Media

It was clear from our visit that polarization defines the politics of Georgia. Extreme partisanship and black-and-white positioning are inherent characteristics of the political culture. The politics of polarization is equally reflected in the media. Those in power and those in the opposition have found media outlets that do more than just voice their opinions. Television channels are clearly aligned with political interests, deliberately presenting news that supports party platforms. Although not unique to Georgia, this type of polarization is especially concerning, given the web of political connections between television owners and political parties.

The 2016 parliamentary elections and the presidential election of 2018 were textbook demonstrations of the pernicious nature of polarization. Imedi and Rustavi 2 became blatant partisan loudspeakers for political parties. The information offered to the public during this electoral period from these two channels made no pretense of objectivity.

For instance, Imedi TV announced that the “pre-election period promises to be particularly heavy ahead of the second round, since on one side of the polls we have the UNM. Imedi TV and its owners have experienced what it means to have the

581 Council of Europe. “Establishing a Media Literacy Network,” Council of Europe Office in Georgia. June 6, 2019. <https://www.coe.int/en/web/tbilisi/-/establishing-a-media-literacy-network>

582 Ibid.

583 Ibid.

584 Representative from CoE in Discussion with the Authors, January 2020.

UNM govern the country. Therefore, Imedi is changing its regular broadcasting schedule, so that the [UNM] regime does not return.”⁵⁸⁵ The clearly partisan nature of this message utterly disregarded journalistic ethics. The radicalization of public opinion, verbal attacks and active media campaigns that defined the election period continue today.

Perhaps the best assessment of the current situation was provided by NDI’s review of the pre-2017 municipal elections. Although their appraisal of the situation did not primarily focus on the media, its outlines the sentiments our visit was able to sense from our own meetings. NDI reported that its delegation:

“encountered two divergent, parallel Georgias, a dichotomy that could undermine confidence in the political process. One, seen through the lens of the ruling Georgia Dream party, is characterized by very few democratic challenges: a free media and political environment; swift and unbiased justice; and reforms reflecting broad input. The other ... represents a stark contrast: it is characterized by a calculated consolidation of power; uneven and political application of the law; an uneven and unfair electoral playing field; reforms designed to benefit the ruling party; shrinking media space for alternative viewpoints; informal governance; and abuse of state resources, particularly the use

of state security services.”⁵⁸⁶

This rings true today. A clear example may be seen in Adjara TV, where journalists protested the new management’s involvement in editorial policy since February 2020.⁵⁸⁷ Removal of the network’s director Natia Kapanadze in 2019 left a vacant position then filled by Giorgi Kokhreidze, a pro-Georgia Dream figure. Since then, changes in the channel have led to an open storm in the newsroom, with key figures being dismissed or leaving in protest.⁵⁸⁸ The OSCE representative for media freedom expressed his concern about the situation by tweeting that “independent service public broadcaster plays a vital societal role and is key to media freedom.”⁵⁸⁹

Our discussions with a board member of the GPB also highlighted the growing politicization of public media. Programming was described as “not lying, but not telling full truth,”⁵⁹⁰ and a growing influx of politically connected producers to the network. Overall, the board member described an environment in the GPB where the Georgia Dream Party consolidated its presence through the appointment of Vasil Maghlaperidze as the Director of the GPB.

Our conversations at Mtavari and TV Pirveli also demonstrated the nature of the politicized and polarized environment. During our meeting at TV Pirveli, the network described the harassment leading journalist Inga Grigolia faced in 2017 while she was at

585 Financial, The. “Imedi TV Pledges to Fight Against Return of UNM ‘Regime’.” *The Financial, News & Multimedia*. <https://www.finchannel.com/~finchannel/world/georgia/76395-imeri-tv-pledges-to-fight-against-return-of-unm-regime>.

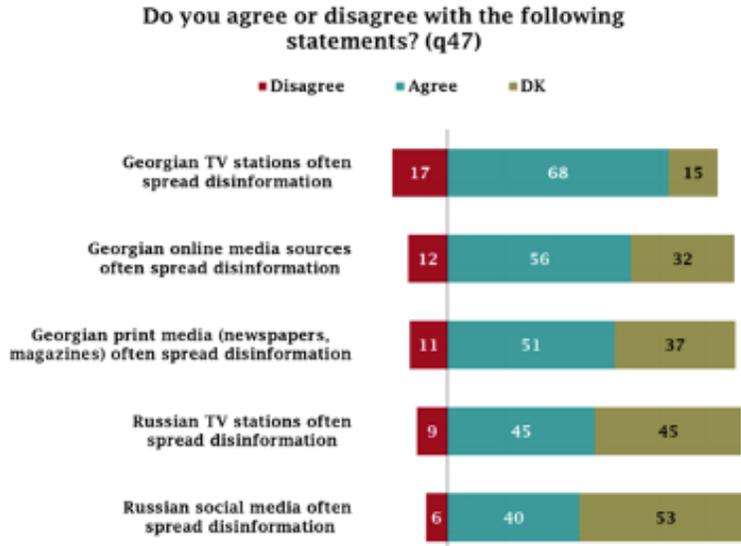
586 “Georgia’s Local Elections Demonstrate Challenges and Provide Opportunity to Renew Commitment to Democratic Processes.” NDI, National Democratic Institute, 15 Apr. 2019, www.ndi.org/publications/georgias-local-elections-demonstrate-challenges-and-provide-opportunity-renew.

587 “Adjara TV Journalists Protest Dismissal of Key Newsroom Figures.” *Civil.ge*, 29 Feb. 2020, civil.ge/archives/340559.

588 Ibid.

589 “OSCE Representative for Media Freedom Concerned by Developments in Adjara TV.” *Agenda.ge*, March 10, 2020. <https://agenda.ge/en/news/2020/730>.

590 Interview with GPB Board Member: January 22, 2020.



2018 NDI Poll results

Imedi TV following the publication of a sex tape. While the TV host was not in the video, it contained a threat that compromising footage of her would be released unless she resigned the network. According to the network, Grigolia refused to be intimidated and remained in TV Pirveli.

Despite the digital switch in 2015, there is a sense of a shrinking media space. The seemingly politically motivated legal storms brewing around Avatandil Tesereteli, father of the owner of TV Pirveli, and Zurab Gumbaridze Director General of Formula TV⁵⁹¹ – both opposition television networks – increase a sense of abuse of power by the governing party. The developments at Rustavi 2, although legally resolved in the ECtHR, left many in civil society firmly of the view that the changes in the outlet’s ownership were politically driven.

Polarization in the media environment threatens the diversity that the Georgian

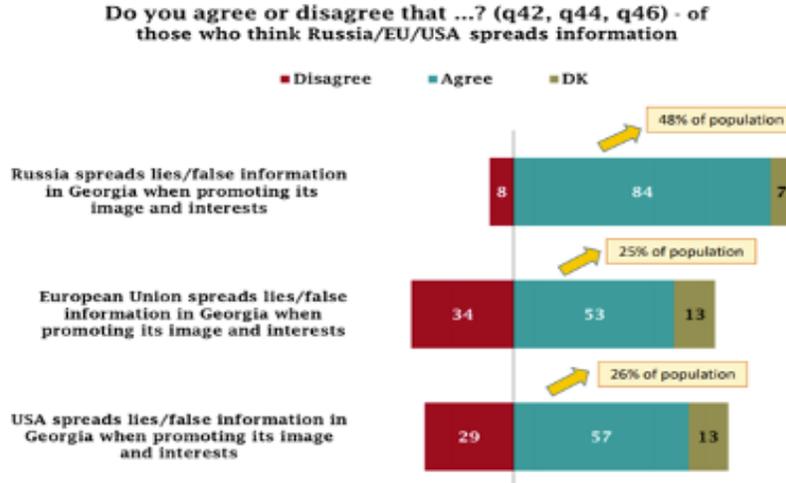
Constitution and legislation seek to protect. Media pluralism is the key that unlocks the door of freedom of information and freedom of speech. The rights guaranteed under Articles 19 of the UDHR and the ICCPR, and under Article 10 of ECHR, demand a multi-centered palette of media outlets. Polarization, rather than expanding that palette, reduces it to the common denominators of anti-government and pro-government perspectives.

2. Disinformation

Like any other country, Georgia is not free from the spread of “fake news” or unreliable and malicious content. Numerous effort have been put in place to combat disinformation and increase media literacy, but there has not been a significant abatement of disinformation, especially on social media.⁵⁹² This is particularly worrisome when most of the population trusts media more than the government or civil society. Disinformation in

591 See Section 4: Perceived Attacks Against Opposition Outlets.

592 “Disinformation in Georgia: A Threat and No Entertainment: Myth Detector,” *Myth Detector*, December 30, 2019. <http://mythdetector.ge/en/myth/disinformation-georgia-threat-and-no-entertainment>



2018 NDI Poll results

Georgia has heavy Russian influence, created to instill specific false beliefs and unjustified fears of the West. In a National Democratic Institute poll conducted in 2018, 48% of the population thought Russia spreads lies and false information in Georgia (See graph), while only half as many thoughts that about the EU or the United States.⁵⁹³

Clearly, the population is aware of the disinformation warfare conducted by Russia. Nevertheless, more Georgians believe that national media outlets spread disinformation than those who think Russia does so, as is shown in the graph below.⁵⁹⁴ Pro-Kremlin disinformation delivered in the 'offline space' (e.g., television, radio, newspapers, etc.) is usually spread by Georgian sources in the Georgian language.⁵⁹⁵ This could be a result of insufficient government action to decrease or

eliminate the spread of fake news, as most of the government's response to disinformation remains mostly on paper rather than in practice.

In its report on the subject, TI stated that "disinformation challenges the integrity of democratic processes, [and] the long-term effect of disinformation is the slow erosion of trust in society towards the media, politicians, and public institutions."⁵⁹⁶ These effects are highly noticeable in a poll conducted by the NDI in 2019, where 49% of Georgians believe that the country is headed in the wrong direction, an increase from 38% in 2018.⁵⁹⁷ Fake news spreads most easily among ethnic (e.g. Azeri and Armenian populations) populations, since they often do not speak Georgian and rely on Russian language broadcasters.⁵⁹⁸ And the success of

593 Thorton, Laura & Thurmanidze, Koba, "Public attitudes in Georgia," *National Democratic Institute and CRRG Georgia*, 2018, pg. 75. https://www.ndi.org/sites/default/files/NDI_March_2018_Public%20Presentation_English_final.pdf

594 Public attitudes in Georgia, 76.

595 Fighting Disinformation in Georgia, 6.

596 "Fighting Disinformation in Georgia," Transparency International, 2019, pg. 5 https://docs.google.com/viewerng/viewer?url=https://transparency.ge/sites/default/files/dezinpormaciis_cinaagmdeg_brzola_sakartveloshi-e-web_0.pdf

597 "Public Attitudes in NDI-Commissioned Opinion Survey," Civil.ge. September 19, 2019. <https://civil.ge/archives/320420>.

598 Fighting Disinformation in Georgia, 7.

Russian efforts may be seen in the differential approval rates on the issues of joining the EU and NATO. While 82% of Georgians approve EU integration (an increase from 78% in 2019) and 74% approve joining NATO (an increase from 71% in 2019, but a decrease from 78% in 2018),⁵⁹⁹ only 56% and 36% of minorities support these goals.⁶⁰⁰ Furthermore, 58% of minorities think the dissolution of the Soviet Union has negatively impacted Georgia.⁶⁰¹

3. “Cronyism”

Accusations of political corruption were rampant in the Shevardnadze period, as well as the end of Saakashvili’s term. But overall, Georgia has been a success story in implementing reforms during the post-Soviet transition.⁶⁰² Following the election of the Georgia Dream Party in 2012, however, Bidzina Ivanishvili promised to eliminate any vestige of the authoritarianism practiced by Saakashvili, to weed out corruption, and to normalize relations with Russia. Those initial promises appear to have lost their force as “cronyism” has pervaded state institutions under Ivanishvili and threatens the progress that Georgia has made. The June 20 protests⁶⁰³ and recent links to Russian trolls have raised concerns over connections between the Georgia Dream and Moscow, particularly at a time when Georgia is pursuing cases against Russia in the International Court of Justice and the European Court of Human Rights regarding the territories occupied since 2008.

Ivanishvili, a prominent businessman with an

immense fortune and no political experience, quickly exited the office of the Prime Minister after a year in November 2013 and appointed a series of friends and associates to fill his place and other cabinet positions. Many members of the former administration were investigated or turned out, despite their experience and time in their roles. Over time, he stayed out of the political spotlight, but his presence seems to linger: in 2016, 59% of Georgians said Ivanishvili still exerted influence over the government.⁶⁰⁴ He has been described as exercising inappropriate control in key areas like the appointment of judges and the structure of the Central Bank, allegations that Ivanishvili has consistently denied.⁶⁰⁵ Over the last two years, concern over Ivanishvili’s creeping influence has accelerated, and he is charged with everything from directing a shadow government to actually having subverted the power of the state. Organizations such as Transparency International have sounded the alarm over a failure of the government to fulfill its role as an institution for the people, not listening to its stakeholders, and instead acting on behalf of other interests. Protests in November 2019 against the unwillingness of the ruling party to go forward with the promised shift to proportional representation evidenced what many Georgians saw as a disturbing step backward for their democracy.

There is a perception that Ivanishvili’s cronyism and his influence over the government have also threatened a truly independent

599 “NDI Poll: 82% of Georgians Support EU, 74%- NATO Membership.” *Agenda.ge*, 16 Jan. 2020, agenda.ge/en/news/2020/146

600 “Public Attitudes in NDI-Commissioned Opinion Survey,” September 9, 2019. <https://civil.ge/archives/320420>.

601 Ibid.

602 Kupatadze, Alexander. “Informal Governance and Corruption –Transcending the Principal Agent and Collective Action Paradigms Georgia Country Report,” Basel Institute on Governance, July 2018; 5. https://www.baselgovernance.org/sites/default/files/2019-04/georgia.informalgovernance.country_report.pdf

603 Lomsadze, Giorgi. “Protests erupt in Georgia over Russian MP’s visit,” *Eurasianet*. June 20, 2019. <https://eurasianet.org/protests-erupt-in-georgia-over-russian-mps-visit>

604 Kupatadze, 15.

605 Ibid, 15.

and pluralist media landscape in Georgia. Although Ivanishvili's empire includes a bank (JSC Bank Cartu), and a construction firm (Elita Burji Ltd), he also owns a satellite broadcasting company (JSC Global Contact Consulting), and two private media networks, Channel Nine and GDS (in the latter case, until recently, through his son).⁶⁰⁶ In addition, his presence is felt at state-run media institutions like the GPB or the GNCC, which have been linked to him through business or personal connections. The Facebook troll farms have also been linked to the Georgia Dream party, but also to Russia, provoking fear in the minds of many Georgians that his interest trend to the East, rather than the West.⁶⁰⁷

a. Ivanishvili and connections to media

Ivanishvili's direct and indirect links to the media in Georgia, and his exertions of power in that space, include Channel Nine and GDS, which are directly owned by Ivanishvili or by his surrogates. Current GNCC Chairman Kakha Bekauri was appointed Commissioner in 2014 after acting as general manager at Channel Nine. His wife, Eka Beridze, is an anchor there.⁶⁰⁸ Another member of GNCC, Giorgi Pruidze also has a wife, Natia Lazashvili, who became a host on Channel Nine, before moving to Rustavi 2 in September 2019.^{609, 610}

Nor is the GPB, another state media institution, immune from Ivanishvili's reach.

Vasil Maglaperidze was appointed Director General of the GPB from a short list of candidates in January 2017. Prior to the GPB, Maglaperidze had worked at Channel Nine as Deputy Director, where he also presented a regular program. In 2015, he was the producer of the GDS TV program 2030.⁶¹¹ Several groups highlighted Maglaperidze's political connections to the ruling party.⁶¹² Many of the current producers at the Georgian Public Broadcaster also come from GDS. Maglaperidze chose to resign before being dismissed twice by the Board but was reinstated by the Court in 2018 prior to the autumn elections after defeating challenges in court. Some see this as undermining the control of the Board over the GPB Director General.

b. Connections to Russia

In addition to accusations that Ivanishvili is still involved in government decisions, there have been allegations of his connections to Russia, an area of deep concern for many Georgians. Ivanishvili made his fortune in Russia during the 1990's, and his Cartu Bank has financially supported Russian community organizations in Georgia.⁶¹³ During his term as Prime Minister, Ivanishvili tried to repair relations with Russia, in deep contrast to Saakashvili's combative stance. Though publicly he embraced Euro-Atlantic ambitions, his policies seemed to turn towards the East, reopening Russian

606 Who Owns Georgia's Media, 1.

607 Representative from Media Development Fund in Discussion with the Authors, January 2020.

608 "Ivanishvili's companies—officials' forge," *Transparency International Georgia*. April 22, 2015. <https://www.transparency.ge/ge/blog/ivanishvilis-kompaniebi-tanamdebobis-pirebis-samchedlo>

609 Ibid.

610 "Rustavi 2 TV's Main News Program Resumes Broadcasting," *Civil.ge*. September 26, 2019. <https://civil.ge/archives/321531>

611 "Vasil Maglaperidze appointed Director General of Georgian Public Broadcaster," European Broadcasting Union, January 11, 2017. <https://www.ebu.ch/news/2017/01/vasil-maglaperidze-appointed-director-general-of-georgian-public-broadcaster>

612 "Georgia's Public Broadcaster selects new head who has links to Ivanishvili," *Democracy and Freedom Watch*. January 7, 2017. <https://dfwatch.net/georgias-public-broadcaster-selects-new-head-who-has-links-to-ivanishvili-47186>

613 Pataridze, Mariam. "Russian World' in Georgia" *Media Development Fund*, 2014. ed. Tamar Kintsurashvili http://mdfgeorgia.ge/uploads/library/117/file/eng/rusuli_samyaro_saqarTveloSi_EN.pdf



Graffiti displaying the words #SHAME outside of a government building on Rustaveli Avenue in Tbilisi.

© Image: Authors

markets to Georgian produce.

Another troubling example of Ivanishvili's pro-Russia orientation has been in the Anaklia deepwater port project, which many accuse of thwarting progress in a move against political rivals, and possibly as a means of helping Russia. Anaklia sits on the shortest route from Asia to Europe—a critical route for improving Georgia's position in world trade. Through the work of the international enterprise ADC (Anaklia Development Consortium), including TBC Holding from Georgia, SSA Marine from the United States, Wondernet Express from the UK and G-Star LTD from Bulgaria,⁶¹⁴ and with the cooperation of the Georgian government, the construction of the Anaklia deepwater port began in December 2017. The project has become a geopolitical issue for both Russia and China. It has drawn ire from

the Kremlin as it is close to Abkhazia and only 320 km (200 miles) along the Black Sea coast from President Putin's residence in Sochi.⁶¹⁵ For China, it is seen as a major opportunity, with Georgia's strategic location and could be a component of the Belt and Road Initiative infrastructure projects in Central Asia and Eurasia.

The Anaklia port has hit several obstacles in its path to construction, including financing issues and legal troubles, which many see as Ivanishvili's doing, and in the Kremlin's interest.⁶¹⁶ In January, the chief prosecutor (who used to be Ivanishvili's lawyer) announced a money-laundering investigation involving two of the Anaklia consortium's bankers, citing transactions from more than a decade ago. The bank in question is TBC Bank, which is owned by Avatandil Tesereteli,

614 Anaklia Development Consortium. "Anaklia Port—About the Project," <http://anakliadevelopment.com/>

615 "Russia plays games with Georgia," *The Economist*. July 6, 2019. <https://www-economist-com.proxy1.library.jhu.edu/europe/2019/07/06/russia-plays-games-with-georgia>

616 Ibid.

the father of opposition channel TV Pirveli's founder Vahktang Tesereteli.⁶¹⁷ The timing of this investigation is suspect, causing some to allege that it is being used as a stalling tactic for the port construction, while also indirectly targeting a media outlet that has been critical of the government. Facebook troll activity (about 100 fake accounts) spreading false information about the Port project were traced to Russian sources.⁶¹⁸ Pro-Russian news outlets such as Sakinformi continue to spread misinformation about the project, linking it to the possibility of an American military base being placed there following Georgia's NATO accession.⁶¹⁹

Some perceive the Anaklia Port as a geopolitical battle, with Georgia in the middle—pitting the West with backing from the EU and the U.S., against the East with Chinese and Russian interests in play. Ivanishvili has pushed for Chinese involvement in the project, provoking U.S. Secretary of State Pompeo to react that Georgia should not be “falling prey to Russian or Chinese economic influence.”⁶²⁰ The port itself offers Georgia a strategic opportunity on a historic trade route of the Silk Road, connecting markets in Asia to those in Europe. Although the current Georgia Dream administration claims to have supported the port from its inception, the clouds hanging over its construction offer more questions than answers.

c. Public Reaction to “Cronyism”

Following the June 20th protests, protests in November led by the Shame Movement highlighted disillusionment with the government. The Shame Movement, a group of young, upper-middle-class intellectuals and professionals, has been fighting against Ivanishvili's grip and the Georgia Dream Party's vision for the country.⁶²¹ Uniting the opposition and organizing for the upcoming elections in 2020 are its primary goals. Protestors have announced a plan for peaceful demonstrations “until we free Georgia, which has been captured by an oligarch,”⁶²² as one protestor put it, apparently referring to Ivanishvili.

Despite his well-documented reach through government and media, Ivanishvili still denies that he wields influence over the country. Cronyism has placed several of his supporters, associates, and sympathizers in important positions of power, allowing them to make decisions that can affect a freely independent media. His connections to Russia have concerned Georgians. Whether he intends to affect the independence of the media remains to be seen. Eka Gigauri, executive director of TI Georgia, said that “practically all of Georgia's independent TV channels are under government pressure.”

Yet the ruling party insists that any media outlet is free to criticize the government.⁶²³ Nevertheless, legal investigations into opposition stations, and the controversial

617 See Section 4: Perceived Attacks against Opposition Outlets.

618 Representative from Media Development Fund in Discussion with the Authors, January 2020

619 Chitaladze, Ana and Sopho Gelava. “Russian and Pro-Russian Actors against Georgia's Deep Sea Ports and TBC Bank Case,” *Myth Detector*. March 13, 2019. <http://www.mythdetector.ge/en/myth/russian-and-pro-russian-actors-against-georgias-deep-sea-ports-and-tbc-bank-case>

620 Segal, David. “High in His ‘Glassle,’ Georgia's Richest Man Looms Over Country's Top Project,” *New York Times*. July 2, 2019. <https://www.nytimes.com/2019/07/02/business/georgia-oligarch-bidzina-ivanishvili.html?searchResultPosition=1>

621 Lomsadze, Giorgi. “Georgian protesters regroup, insist on cultured approach,” *Eurasianet*. Nov 22, 2019 <https://eurasianet.org/georgian-protesters-regroup-insist-on-cultured-approach>

622 Lomsadze, 1.

623 “Georgia's independent TV channels allege state pressure,” *AFP*. December 4, 2019. <https://www.france24.com/en/20191204-georgia-independent-tv-channels-allege-state-pressure>



The image of Saakashvili with the Georgian flag and the caption "I'll be back," was left on homepages of over 2,000 websites.

© Image: "Georgia hit by massive cyber-attack," *BBC News*. October 28, 2019. <https://www.bbc.com/news/technology-50207192>

resolution of the ownership dispute concerning Rustavi 2, continue to be cited as further examples of state capture, with the government's control creeping into independent media outlets: supporting and encouraging the editorial policies of those deemed friendly to the government, and threatening or harassing those that are not.

4. Perceived attacks against opposition media outlets

The highly polarized media environment and direct ties between the ruling Georgia Dream party and major media outlets have led to suspicions of foul play by the government against outlets that are openly critical, or that support the opposition. There are several ongoing investigations into people who are affiliated with opposition outlets such as Mtavari Arkhi, TV Pirveli and Formula TV. Although the authorities assert that these investigations are truly legitimate, many Georgians perceive them as politically motivated. Both the timing of the investigations and the substance of the allegations have been called into question. There have also been questions

around editorial policies dictated by pro-government interests, the firing of journalists who have not fallen in line with such policies, and alleged cyber-attacks against opposition media outlets, and legal actions against their owners.

a. Perception of the Rustavi 2 ECHR ruling

Many human rights advocates perceived that the European Court had effectively endorsed a threat to an opposition outlet's opportunity to be critical of the government. They argued that by effectively returning ownership to Khalvashi, the station's independent voice would be silenced. Tamar Kinturashvili of MDF described the situation as creating an imbalance in favor of the ruling party, as Rustavi 2 was the country's most watched channel.⁶²⁴ But some international observers commented that the decision had significance of a more positive kind: it demonstrated that Georgia's laws were working and that the judicial process was endorsed by the European Court as fair. The global NGO Reporters without Borders (RSF), prior to the decision, described Georgia's media landscape as "pluralist, but not yet independent" and "very

624 "Rustavi 2 case: is Georgia's media pluralism in peril?" *Civil.ge*. August 2, 2019. <https://civil.ge/archives/315595>



TV Pirveli's headquarters in Tbilisi.
© Image: Authors

polarized,” but opined that whether it could maintain that pluralism would depend upon the impact of the judgment.⁶²⁵

The Strasbourg court decision resulted in Nika Gvariam’s firing, and many Rustavi 2 journalists either were let go or decided to leave in anticipation of editorial changes. Two stations, Formula TV and Mtvvari Arkhi were formed by former staff from Rustavi 2. Gvariam became Director General of Mtvvari Arkhi, and brought many of the leadership from the network, including lawyer Tamta Muradashvili. This quick turnaround (less than two months from court decision to being on the air) in creating two new television stations required cooperation from GNCC in issuing broadcast licenses, and showed promise that Georgia was so easily able to allow new voices in the media landscape. Both networks have flourished, although they deal with the same struggles for resources as other television news outlets do, relying on advertising revenue as well as financial patrons.

The decision in the Rustavi 2 case was closely followed by those observing Georgia’s trajectory of supporting a free and independent media, as it was the first time an interim measure was issued by the

Strasbourg Court in a case claiming a threat of government censorship. However, the Strasbourg Court resolved that the case ultimately concerned not freedom of speech, but ownership of stock and the fairness of judicial procedures. The former Rustavi 2 owners could not provide sufficient evidence that the Georgian Courts (Tbilisi City, Court of Appeals, and Supreme Court) were biased, or that the return of the station to Khalvashi would result in censorship of the pro-opposition channel.

b. Cyber-attacks against opposition outlets

A troubling instance of perceived censorship against opposition outlets occurred when on August 13, 2019, TV Pirveli experienced a cyber-attack against its full digital archive. Executive Director Nana Aburjanidze admits that there had been loopholes in the station’s data security strategy, as the attackers were able to enter through an open computer with ransomware, then demanding payment in exchange for the return of the archive.⁶²⁶ The television channel went off the air for three hours, the authorities were contacted, and an investigation was opened, but nothing came of it. With the help of donors, the channel was

625 Ibid.

626 Nana Aburjarnadze, TV Pirveli, in Discussion with the Authors, January 2020.

able to reinstall a completely new system of servers and appropriate security protections, and ultimately recovered all of its production files that had been outsourced.

The timing of the cyber-attack was suspicious to Aburjanidze, since it happened just around the time when legal charges were filed against the father of the station's owner. The Georgian Public Broadcaster also suffered cyber-attacks, but Aburjanidze claims that that they were just a cover story to hide the fact that TV Pirveli was the real target. TV Pirveli feels that the government or Georgia Dream sympathizers were involved, and that the attack was an attempt to silence the network. Its assets were frozen by the government on December 25, 2019, after repeated attempts to buy time to cover outstanding tax payments. It has been reported that the courtesy of rescheduling tax debt has been afforded to sympathetic outlets, such as Imedi TV, which owed the government as much as 55 million GEL in 2019.

In October, another cyber-attack focused on 2,000 websites as well as GPB. Many homepages were replaced with an image of President Mikheil Saakashvili and the caption "I'll Be Back." Some speculation on social media suggested that Russia was behind the attack, although responsibility has never been conclusively determined.

c. Legal cases against opposition owners

i. Nika Gvaramia (Former Director General Rustavi 2/ Director General Mtvari Arkhi)

During his time at Rustavi 2, Nika Gvaramia

faced several legal charges, which the opposition claims constituted an attempt to pressure his media outlet. He was first charged on December 21, 2012, alongside Aleko Khetaguri, who had served as finance and energy minister in Saakashvili's administration, with accepting bribes, falsifying documents, and engaging in illegal commercial activities.⁶²⁷ The charges were soon dropped for lack of evidence, but nonetheless were perceived as suspicious in timing and veracity. Gvaramia claimed that some months earlier, the prosecutor had sent video footage shadowing his wife and teenage daughter, causing him to fear for his safety and the safety of his family.⁶²⁸

New charges were filed against him by the Prosecutor General following the Rustavi 2 ECtHR ruling in August 2019, alleging abuse of power in his role at Rustavi 2, commercial bribery, and production/use of counterfeit official documents.⁶²⁹ Additional charges were added in November for embezzlement of Rustavi 2 property, and the former financial director of the channel, Kahkha Damenia and Zurab Iashvili, director of InterMediaPlus (an advertising contractor hired by Rustavi 2), were also charged.⁶³⁰ On January 20 2020, Gvaramia was physically assaulted outside of the Tbilisi court where he was representing Giorgi Rurua, one of the founders of Mtvari Arkhi. Both the Media Advocacy Coalition and Open Society Georgia have called for an investigation of this incident, however as of this writing it is unclear whether one has been opened.⁶³¹

627 "Two Allies Two Allies Of Georgian President Charged With Corruption," *RadioFreeEurope/Radio Liberty*. December 21, 2012. <https://www.rferl.org/a/georgia-saakashvili-allies-arrested-for-corruption/24805580.html>

628 "Georgia's independent TV channels allege state pressure," December 12, 2019. AFP. <https://www.france24.com/en/20191204-georgia-s-independent-tv-channels-allege-state-pressure>

629 "General Prosecutor's Office filed new charges against Nika Gvaramia," First Chanel GPB, September 6, 2019. <https://1tv.ge/en/news/general-prosecutors-office-filed-new-charges-against-nika-gvaramia/>

630 Dumbadze, Ana. "Prosecutor's Office Files New Charges against Nika Gvaramia," *Georgia Today*. November 1, 2019. <http://georgiatoday.ge/news/17991/Prosecutor%27s-Office-Files-New-Charges-against-Nika-Gvaramia>

631 Press release, Open Society Foundation Georgia. "The assault on Nika Gvaramia should be investigated in a timely and impartial manner,"

ii. Avtandil Tsereteli (father of the owner of TV Pirveli)

On August 22, 2019, the prosecutor's office began a criminal case against Avtandil Tsereteli, the father of Vakhtang Tsereteli, the owner of opposition channel TV Pirveli. The charges involved transactions carried out by TBC Bank, owned by the senior Tserteli, over 11 years before. The Prosecutor claims that TBC Bank granted the family's companies Samgori M and Samgori Trade a loan of \$16.664 million in an "accelerated manner with a violation of procedures." According to the documentation, both companies of Avtandil Tsereteli then repaid the loan not to TBC Bank, but to the personal accounts of the bank managers.⁶³² The charging document contends that this transaction amounted to money laundering and that the \$16.664 million is still missing. The Prosecutor froze the Tseretelis' bank accounts days after the charges were filed. Vakhtang Tsereteli claims that this was a deliberate attack on his television channel and an attempt by the authorities to put pressure on him and TV Pirveli through "blackmailing" his father. He says that the 11-year old charges will not hold up in court and that the bank owned by his father submitted to every internal audit possible. Whatever their motivation, these charges on top of the cyber-attack on the station and the frozen accounts as a result of delinquent taxes threaten TV Pirveli's ability to operate autonomously as part of the voice of opposition to the government.

iii. Zurab Gumbaridze (Director General of Formula TV)

The Prosecutor's Office brought also brought criminal charges against Zurab Gumbaridze, the founder of InterMedia and the Director General of the newly-established Formula TV on October 1, 2019.⁶³³ He was summoned for questioning on the day that Formula TV went on the air. He was also interviewed in the cases against Nika Gvaramia, Kakha Damenia, and Zurab Iashvili, regarding the advertising company InterMedia Plus. Gumbaridze has claimed that these were "trumped-up criminal cases against owners or managers of almost all of Georgia's independent TV stations," and that they constitute "a concerted attack on media freedom in Georgia."⁶³⁴

These legal cases taken together provoke suspicion of political motivation and retaliation by the current government against the opposition media. They must be seen in the context of the cyberattacks against multiple outlets, and legal investigations opened into the owners of opposition outlets: all suggesting that the Georgian media landscape is unstable. The assault of Gvaramia outside the courthouse is particularly troubling. As the cases against Gvaramia and Tsereteli are ongoing it cannot yet be known whether the accusations have merit. But all of these incidents provoke further distrust in the ruling party's alleged interference in the workings of a free and fair media.

January 31, 2020. <https://osgf.ge/en/the-assault-on-nika-gvaramia-should-be-investigated-in-a-timely-and-impartial-manner/>

632 "Father of owner of Georgian opposition TV channel Pirveli charged with complicity in money laundering," *JAM News*, August 22, 2019. <https://jam-news.net/father-of-owner-of-georgian-opposition-tv-channel-pirveli-charged-with-complicity-in-money-laundering/>

633 Dumbardze, Ana. "Director-general of Formula TV Questioned by Prosecutor's Office," *Georgia Today*, October 2, 2019. <http://georgiatio-day.ge/news/17561/Director-general-of-Formula-TV-Questioned-by-Prosecutor>

634 Georgia's independent TV channels allege state pressure, AFP

6. Revenue of the media

Since the legislative changes in 2015, advertising revenues have been in continuous decline, making it impossible for broadcasters to operate without funding from TV company owners. While they account for most operating funds, many of them must rely on political donors, threatening their outlets' independence. Typically, donors are interested in investing not in the technology or resources TV channels may need, but rather in the content of their programming. To maintain neutrality, independent broadcasters who do not receive government subsidies,⁶³⁵ such as TV Pirveli, must rely on advertising.⁶³⁶ Advertising on private TV channels is highly skewed, with Rustavi 2 and Imedi TV – “the most watched television stations in the country, which do not maintain political neutrality, and instead carry out the interests of concrete political forces” – receiving as much as 78% of total advertisement, while others receive little.⁶³⁷

The law on advertisement was modified in 2015 to reduce advertising time to 12 minutes per hour and four minutes for sponsorship services.⁶³⁸ These legislative changes were in line with the EU's Audiovisual Media Services Directive. TV stations heavily criticized the GNCC for supporting this amendment, arguing that the changes would negatively impact their funding, since advertising used to make up 20% of stations' total airtime

and was concentrated during primetime hours.⁶³⁹ The GNCC has claimed that the larger TV stations benefit from the new law on advertising, which may well be true, but the point is that the smaller, more diverse, stations that might reflect opposition views do not share in that largesse.⁶⁴⁰

Raising additional concerns over limiting competition between major and small media outlets, a new advertisement company, entered the market in 2017. Since then, it has sold all “advertising time for the six largest television stations—Rustavi 2, Imedi TV, Marao, Comedy Channel, GDS, and Maestro—and a portion of ad time on Pirveli and Kavkasia TV”, according to IREX's Sustainability Index reports.⁶⁴¹ Contributing to this disparity are ratings compiled by two measurement companies. According to TI, Inter Media LLC sells its advertising based on the results of these companies, which often deliver inconsistent data.⁶⁴²

To further entangle an already battled sphere, in 2018 Parliament overrode the President's veto of a bill to direct more advertising to the GPB and to exempt it from some public procurement requirements.⁶⁴³ In other words, the already state-funded outlet is now able to compete with private TV stations for advertisement revenues, narrowing the field even more for smaller outlets, narrowing the field even more for smaller outlets.

In spite of its formal independence, the GNCC

635 “Georgia: Media Sustainability Index 2018,” IREX, 2017, pg.12 <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-georgia-2.pdf>

636 Nana Aburjarnardze, TV Pirveli, in Discussion with the Authors, January 2020.

637 Tsetshladze, Salome. “Georgian Advertising Market 2018: Analysis & Challenges.” Transparency International. 2018. pg. 5. https://docs.google.com/viewerng/viewer?url=https://www.transparency.ge/sites/default/files/advertising-market-2018-e_2.pdf

638 Mikashavidze, Maia. “Systematic Capacity Building of the Media Regulatory Authorities.” 2016. pg. 3 [https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Media_ENG_Cor_\(1\).pdf](https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Media_ENG_Cor_(1).pdf)

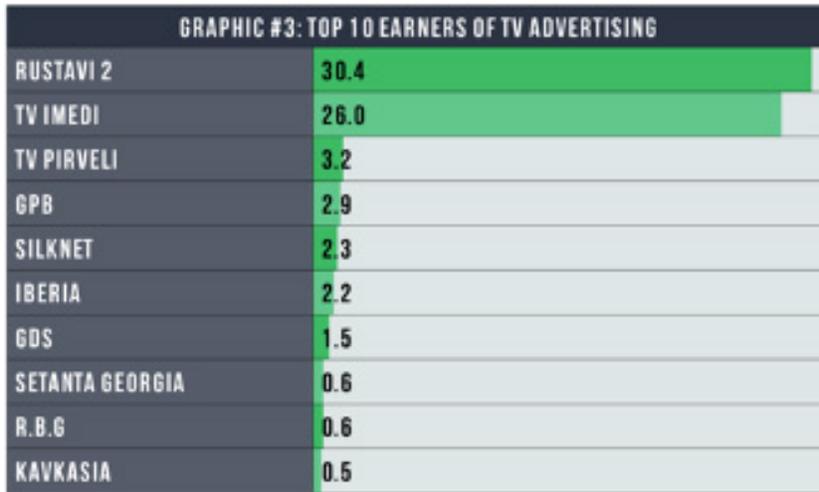
639 Mikashavidze, 3

640 Mikashavidze, 3

641 Georgia: Media Sustainability Index 2018, 12.

642 Tsetshladze, Salome, 14.

643 Georgia: Media Sustainability Index 2019, 11.



© Image: GNCC Analytical Portal

has consistently reported an increase in revenue while failing to disclose information about the broadcasters’ sources (ad sales, sponsorships, and donations) to corroborate these claims. It was not until 2018 that the regulatory body released self-reported figures which actually portrayed a 14% decrease, along with an analysis of the growth of the advertising market.⁶⁴⁴ The GNCC claimed that advertising brokers were increasing their fees, something that Inter Media LLC denied, and that as a result media outlet were not benefitting from the gains.⁶⁴⁵ These reports have been highly criticized by civil society, which suspects that they are a way for the regulator to dodge criticism for its support of the GPB receiving advertising revenue that it does not need.

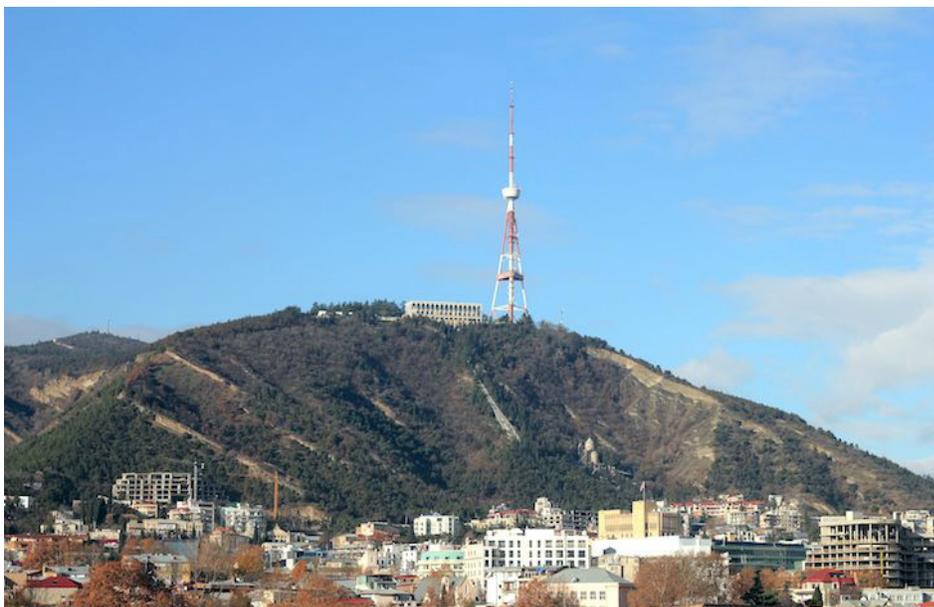
In reality, since the new law was put in place, TV stations’ advertising revenues have been steadily decreasing across the board – from GEL 93 million (\$37.4 million) in 2016 to GEL 70 million (approx. \$28 million) in 2017, according to GNCC data, a decrease of 25%.⁶⁴⁶

There was a further decline in 2018 to GEL 66.22 million (approx. \$25.4 million).⁶⁴⁷

Specialists have blamed diminishing returns on an increase in internet advertising (there is no available data on these volumes), which requires smaller budgets and usually goes to international platforms such as Facebook, YouTube, and Google, which offer access to a larger audience.⁶⁴⁸ Since GPB joined the market for advertising, the public broadcaster has seen an increase in its annual revenue from GEL 848,091 (\$320,00) in 2017 to GEL 2,877,8982 (\$1.1 million) in 2018.⁶⁴⁹ Above is a table from Transparency International’s report on the Georgian advertising market for the top 10 earning TV stations in 2018⁶⁵⁰ (in millions of GEL).

As shown in the table above, Rustavi 2 and Imedi TV remain the top recipients of advertising revenue, while no regional TV channels made it to the top 10. These smaller channels, as TI reported, face daunting financial challenges, and struggle

644 Ibid, 11.
 645 Ibid, 11.
 646 Georgia: Media Sustainability Index 2018, 11.
 647 Georgia: Media Sustainability Index 2019, 11.
 648 Tsetshladze, Salome, 14.
 649 Georgia: Media Sustainability Index 2019, 11
 650 Tsetshladze, Salome, 7.



Tbilisi TV Tower

© Image: Jon Broadcasting under CC license

for funding⁶⁵¹ although Rustavi 2 and Imedi TV are the most heavily indebted to the government.⁶⁵²

The question of financing an independent and pluralistic media environment is further complicated by tax legislation that has made life difficult for new media providers to enter the market and maintain operations without advertising income or some form of patronage. The print media has enjoyed an exemption from the Value-Added Tax (VAT) for printing and distribution, but their imported supplies and equipment are fully taxed.⁶⁵³ Today, the only way that media outlets can survive is as parts of larger corporations financed and run by people who can afford to invest in a business that does not generate high profit margins.⁶⁵⁴

Since the implementation of the new

broadcasting law in 2015, TV companies have absorbed a body blow to their finances. Total revenue in 2018 dropped by GEL 16.4 million for private broadcasters.⁶⁵⁵ Shrinking advertisement revenues and politically biased legislation continue to promote unsustainability, threatening the existence of a pluralistic independent media.

651 Ibid, 12.

652 Ibid, 8.

653 Kokashvili, Marina, "Ch. 10, The Role of the Media in Georgia's Transition to Democracy," *The Role of the Media in Georgia's Transition to Democracy*, 2005, pg. 217. https://www.bundesheer.at/pdf_pool/publikationen/10_wg11_chapt10_110.pdf

654 Ibid, 218.

655 Ibid, 13.

RECOMMENDATIONS

For authorities:

- Strong consideration must be placed on reforming media advertisement and similar fields. Television networks face troubling ability to access revenues to continue airing content;
- Equitable tax and financial policies for all media outlets should be passed to ensure a balanced media environment and the transmission of impartial and diverse news;
- Political leaders should look at enforcing existing ownership laws. Despite existing laws, ownerships are clearly aligned with political interest;
- Political leaders should stop attempts to develop strict legal frameworks against freedom of speech regarding deemed disrespectful of religion. Stronger emphasis must be placed on collaborating with civil society to strengthen internal-review mechanism that exist in television and radio networks;
- Officials must stop turning journalists and media outlets with a different political outlook into enemies; hostile and threatening statements are particularly unacceptable from civil servants and high-ranking political officials;
- Government officials should ensure that perpetrators against journalists and media representatives be held liable upon the infringement of journalistic activities and freedom of expression
-
- Representatives of political parties should refrain from interfering in the activities of media with the aim of influencing editorial policies

For civil society:

- Work with journalists must be intensified to develop best-practices of balanced presentation of information and diverse opinions;
- Civil Society must maintain its research into the effects of political polarization. A particular emphasis must be placed on developing strong media literacy programs that strengthen people's ability to interpret news;
- While partnering with media, the NGO sector should incentivize projects that highlight political pluralism in media and enable media to fulfill that function of public forum;
- Continue joint efforts with international organizations to broaden the scope and reach of media projects

For international donors:

- Close attention must be paid to reports of interference in editorial policy. The use of the media for political purposes by the ruling and opposition parties must be part of aid conditionality;
- Media literacy efforts must be increased as part of international donor effort. It is clear that media polarization is decreasing accurate news;
- Media monitoring shall be maintained and strengthened to enable the analysis of dynamics of media development in perspective.



Stairwell inside Georgia's Parliament building
© Image: Authors.

Conclusion

It is clear that Georgia has made immense progress in implementing human rights law throughout its relatively short history. The pull of the West has initiated greater assimilation into European institutions and harmonization with international standards. The Soviet legacy and ongoing occupation, however, position Georgia at a literal and figurative crossroads. This geographic and ideological struggle is witnessed in police accountability, discrimination, and freedom of the media mechanisms.

POLICE

When a Georgian feels that their rights have been violated by a police officer, they have numerous ways to claim their right to a remedy. They can go directly to one of several government institutions that accepts claims, or they can call upon the assistance of Georgia's civil society. As their claim makes its way through the accountability system, they can be sure that it is handled in a fair, transparent, and independent manner. But if their allegation touches politics in any way, they no longer have that guarantee. Indeed, Georgia's police accountability system is plagued by the same issues of politicization and polarization gripping much of Georgia's supposedly independent governance systems.

Moving forward, Georgia must continue to reform its police accountability system. The relevant actors, such as the SIS, understand the steps that need to be taken to build public

confidence and ensure independence. It is up to the government to motivate these reforms and the public to hold the government accountable.

DISCRIMINATION

Though Georgia's domestic legislation broadly aligns with international human rights conventions on paper, there are shortcomings in implementation. On paper, the Georgian Constitution, the Anti-Discrimination Law, and civil and criminal law align with international conventions. The Anti-Discrimination Law, in particular, is inclusive, progressive, and promising. The Labor Code aligns with ILO Conventions, while its Anti-Discrimination Law meets OSCE guidelines regarding minority groups and languages. However, in practice, there is a lack of implementation: we have observed that instances concerning LGBTQ+ people and minority groups experiencing workplace harassment are significantly underreported, and so too, are those relating to sexual harassment. Discrimination is still present in Georgian society, as evidenced by hate crimes, bias in education, law enforcement, and local government. It affects women, LGBTQ+ people, and ethnic and religious minorities in the workplace and inhibits the progress in human rights that Georgia has made since independence.

MEDIA

Our weeklong visit showed us that Georgia

is a country full of contradictions. A country developing and consolidating its democratic norms, it finds itself at a troubling juncture for its media environment. Strong constitutional protections of freedom of expression are backed by treaties and decisions of the ECtHR. Its legal system has evolved to ensure that media have the necessary safeguards to inform the population through progressive laws such as the 2004 Law on Freedom of Expression and the Public Broadcasting Law. Each of these statutes was significant in aligning the country's laws with international requirements and promoting the inclusion of internationally recognized mandates in the interpretation of the law.

However, the media environment is being affected by the concentration of ownership in the hands of a few, creating a sense that the media space is closed or closing, limiting financial opportunities for channels, and generating the conviction that the Georgia Public Broadcaster has failed in its attempt to provide quality public service television in the country.

Political tensions have exercised undue influence over television networks' editorial policies. Given the strong web of connections between political figures and media owners, it is now clear that television channels are not just a representation of the hyper-polarized environment of the country, but also outlets for political interests. This is by no means new, but it is a growing threat to the ability of people to be informed.

There is concern that this political tension can become entrenched in significant changes to the governing legal regime. For instance, the recent draft amendment N.21080 on the

Law on Broadcasting could lead to growing pressures on the freedom of expression. Attempts to introduce strict regulatory frameworks to address speech offensive to the Church are concerning as well. Although none of these proposals have yet materialized, they demonstrate a willingness by some to take steps that would restrict freedom of expression.

Overall, what are perceived as attempts by the government to limit freedom of expression exacerbate the lack of cooperation between civil society and government. These two actors are key in consolidating Georgia's leadership in the region. The deep-seated suspicion between them undermines the chances for progress in guaranteeing the freedom of expression to which Georgians are entitled.

AT A CROSSROADS: The Future of Human Rights in Georgia

With parliamentary elections set for October 2020, Georgia's human rights progress will be put to the test. The issues of politicization, polarization, and the broken promises of the ruling party incited popular protests on June 20, and again in November 2019. The failed electoral reforms and violent suppression of these peaceful protests has generated criticism of democratic backsliding by elements of the international community. According to NDI public opinion polling from January, Georgians are 'increasingly dissatisfied' with Georgia's progress, with 53% believing Georgia is moving in the wrong direction.¹ Georgia is at a crossroads. We, and the international community, will watch the 2020 elections with interest. The future of human rights in Georgia is at stake.

Bibliography

"A Brief look at Russian-Georgian Relations." AP News, June 21, 2019. <https://apnews.com/2fcbe15e50924aac9d45b60890cf6a82>.

Accountable Journalism. "Europe – Georgia: The Georgian Charter of Journalistic Ethics: The Charter of Journalistic Ethics." Donald W. Reynolds Journalism Institute at University of Missouri School of Journalism. 2020. <https://accountablejournalism.org/ethics-codes/code-of-ethics-georgian-charter-of-journalistic-ethics>.

"Adjara TV Journalists Protest Dismissal of Key Newsroom Figures." Civil.ge. February 29, 2020. civil.ge/archives/340559.

AFP. "Georgia's independent TV channels allege state pressure." France 24, December 4, 2019. <https://www.france24.com/en/20191204-georgia-s-independent-tv-channels-allege-state-pressure>.

"Amid opposition boycott, parliament approves Shotadze as chief prosecutor for 2nd time." Agenda.ge. February 18, 2020. Accessed May 6, 2020. <https://agenda.ge/en/news/2020/503>.

Anaklia Development Consortium. "Anaklia Port—About the Project." Anaklia Development Consortium. 2020. <http://anakliadevelopment.com/>.

Article 19. "Guide to the Law of Georgia on Freedom of Speech and Expression." Organization for Security and Co-operation in Europe. June 1, 2005. <https://www.osce.org/fom/15214?download=true>.

Asali, Muhammad, Norberto Pignatti, and Sophiko Skhirtladze. "Discrimination in a Former Soviet Union Republic: Evidence from a Field Experiment." IZA Institute of Labor Economics, September 2017. <http://ftp.iza.org/dp11056.pdf>.

Association Agenda between the European Union and Georgia. https://eeas.europa.eu/sites/eeas/files/associationagenda_2014_en.pdf.

Beacháin, Donnacha Ó, and Frederik Coene. "Go West: Georgia's European Identity and Its Role in Domestic Politics and Foreign Policy Objectives." *Nationalities Papers* 42, no. 6 (November 2014): 923–41. <https://www.cambridge.org/core/journals/nationalities-papers/article/go-west-georgias-european-identity-and-its-role-in-domestic-politics-and-foreign-policy-objectives/AB309EDA6F4E1E4D25C97F00DCFF7973>.

Betts, Alexander. *Protection by Persuasion: International Cooperation in the Refugee Regime*. Ithaca, NY: Cornell University Press, 2009.

Bonino, Emma, and James A. Goldston. "Overworked but Vitaly Important." POLITICO, December 7, 2011. Accessed April 11, 2020. <https://www.politico.eu/article/overworked-but-vitaly-important/>.

Buchanan, Jane. "Crossing the Line Georgia's Violent Dispersal of Protestors and Raid on Imedi Television." Human Rights Watch. December 19, 2007. <https://www.hrw.org/report/2007/12/19/crossing-line/georgias-violent-dispersal-protestors-and-raid-imerdi-television>.

Buckley, Neil. "Russia accused of annexation attempt." Financial Times, April 16, 2008. <https://www.ft.com/content/7c67dda8-0bd8-11dd-9840-0000779fd2ac>.

- Burke, Justin. "Post-Soviet world: what you need to know about the 15 states," *The Guardian*, June 9, 2014. <https://www.theguardian.com/world/2014/jun/09/-sp-profiles-post-soviet-states>.
- Caryl, Christian. "The Georgian Paradox." *Foreign Policy*, January 31, 2012. <https://foreignpolicy-com/2012/01/31/the-georgian-paradox/>.
- Centre for Law and Democracy. "Briefing Note 2: Restrictions on Freedom of Expression." Centre for Law and Democracy International Media Support (IMS), February 2015. <http://www.law-democracy.org/live/wp-content/uploads/2015/02/foe-briefingnotes-2.pdf>.
- Chitaladze, Ana, and Sopho Gelava. "Russian and Pro-Russian Actors against Georgia's Deep Sea Ports and TBC Bank Case." *Myth Detector*. March 13, 2019. <http://www.mythdetector.ge/en/myth/russian-and-pro-russian-actors-against-georgias-deep-sea-ports-and-tbc-bank-case>.
- Chubabaria, Tatuli, Lela Gvishiani, and Salome Jokhadze. "An Assessment of the Labour Inspection Mechanism and a Study of Labour Rights Conditions in Georgia." Tbilisi: Human Rights Education and Monitoring Center, 2017. <https://emcrights.files.wordpress.com/2017/01/research-labour-rights.pdf>.
- Coalition for an Independent and Transparent Judiciary. "Coalition Communicates with the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association." Coalition for an Independent and Transparent Judiciary. May 7, 2018. http://www.coalition.ge/index.php?article_id=187&clang=1.
- . "The Coalition's Opinion on the Initiative to Create a State Inspector's Office." *Humanrights.ge*. February 16, 2018. Accessed April 30, 2020. <http://www.humanrights.ge/index.php?a=main&pid=19486&lang=eng>.
- . "The Coalition's Statement on Developments Related to the State Inspector." Coalition for an Independent Judiciary. June 10, 2019. Accessed April 16, 2020. http://coalition.ge/index.php?article_id=209&clang=1.
- . "The Parliament of Georgia Postponed the Activation of the Investigative Authority of the State Inspector's Office for the Fourth Time." Coalition for an Independent and Transparent Judiciary. July 3, 2019. Accessed April 12, 2020. http://www.coalition.ge/index.php?article_id=212&clang=1.
- Cole, William. "Far-Right Activists in Georgia Protest Gay-Themed Film Premiere." *Mail Online, Daily Mail*, November 9, 2019. <https://www.dailymail.co.uk/news/article-7667475/Far-right-activists-Georgia-protest-gay-the-med-film-premiere.html>.
- Constitutional Court of Georgia. *The citizen of Georgia Mrs. Maia Natadze and others v. The Parliament and the President of Georgia*. N2/2-389. 26 October 2007. <https://www.constcourt.ge/en/judicial-acts?legal=301>.
- Corso, Molly. "Georgian Priests Lead Mob on Homophobia Rampage." *BNE Intellinews*. May 17, 2013. <https://www.intellinews.com/georgian-priests-lead-mob-on-homophobic-rampage-500017627/?archive=bne>.
- Council of Europe Office in Georgia. "Establishing a Media Literacy Network." Council of Europe. June 6, 2019. <https://www.coe.int/en/web/tbilisi/-/establishing-a-media-literacy-network>
- Council of Europe. "About the CPT." Council of Europe. Accessed March 19, 2020. <https://www.coe.int/en/web/cpt/about-the-cpt>.

- . “Barriers, Remedies and Good Practices for Women’s Access to Justice in Georgia.” Council of Europe: August 2017. <https://rm.coe.int/georgia-barriers-remedies-and-good-practices/168075fd52>.
- . “First Roundtable on Safety of Journalists in Georgia Organized on 13 December.” Council of Europe. December 15, 2019. <https://www.coe.int/en/web/freedom-expression/-/first-roundtable-on-safety-of-journalists-in-georgia-organized-on-13-december>.
- . “Georgia - Fight against discrimination, hate crimes and hate speech in Georgia.” Council of Europe. 2018. <https://www.coe.int/en/web/national-implementation/georgia-fight-against-discrimination-hate-crimes-and-hate-speech-in-georgia>.
- . “Georgia joins the Council of Europe.” April 27, 1999. <https://reliefweb.int/report/georgia/georgia-joins-council-europe-0>.
- . Case-Law Concerning Article 10 of the European Convention on Human Rights. Human Rights Files 18. Strasbourg: Council of Europe Pub, 2001. <http://global.asc.upenn.edu/fileLibrary/PDFs/CaseLawArt10.pdf>.
- . European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950. ETS 5. https://www.echr.coe.int/Documents/Convention_ENG.pdf.
- . Framework Convention for the Protection of National Minorities. 10 November 1994. <https://www.coe.int/en/web/minorities/at-a-glance>.
- . Protocol 12 to the European Convention of Human Rights and Fundamental Freedoms on the Prohibition of Discrimination. Rome, 2000.
- . Recommendation CM/Rec (2018)1[1] of the Committee of Ministers to Member States on Media Pluralism and Transparency of Media Ownership. 7 March 2018. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680790e13.
- . The European Charter for Regional or Minority Languages. 5 November 1992. <https://www.coe.int/en/web/european-charter-regional-or-minority-languages>.
- . The European Code of Police Ethics: Recommendation Rec (2001) 10, Adopted by the Committee of Ministers of the Council of Europe on 19 September 2001 and Explanatory Memorandum. Recommendation Adopted by the Committee of Ministers of the Council of Europe, 2001, 10. Strasbourg: Council of Europe Publishing, 2002. Accessed October 23, 2019. <https://www.fenpol.org/legislacao/legpsp01.pdf>.
- “Court of Appeal announces Qibar Khalvashi is legal owner of Rustavi 2.” Agenda.ge. June 10, 2016. <https://agenda.ge/en/news/2016/1427>.
- COWI. “Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Georgia.” Council of Europe, 2010. https://www.coe.int/t/Commissioner/Source/LGBT/Georgia-Sociological_E.pdf.
- CRRC-Georgia. “Hate Crime, Hate Speech, and Discrimination in Georgia: Attitudes and Awareness.” Council of Europe. November 2018. <https://rm.coe.int/hate-crime-hate-speech-and-discrimination-in-attitudes-and-awareness-e/16808ef62a>.

- "CSOs Call for Govt to Fulfill Promise on Moving to Proportional Electoral System." Civil.ge. December 20, 2019. <https://civil.ge/archives/332366>.
- "CSOs Call for Transparent Selection of Georgian Chief Prosecutor." Civil.ge. January 13, 2020. Accessed May 6, 2020. <https://civil.ge/archives/334276>.
- "CSOs: Competition Selecting Independent Inspector Not Transparent." Civil.ge. January 20, 2020. Accessed May 6, 2020. <https://civil.ge/archives/335095>.
- Dabrundashvili, Ana. "The TV station of 'victorious people': The story of Rustavi 2." Transparency International Georgia. August 2, 2013. <https://transparency.ge/en/blog/tv-station-%E2%80%98victorious-people-story-rustavi-2>.
- Daushvili, Meri, and Nona Kurdovanidze. "Prevention of and Response to Incidents of Ill-Treatment." Tbilisi: Georgian Young Lawyers' Association, 2019. Accessed May 1, 2020. <https://gyla.ge/files/news/2006/Report.%20eng.pdf>.
- de Waal, Thomas. *The Caucasus: An Introduction*. New York: Oxford University Press, 2010.
- Delegation of the European Union to Georgia. *Association Agenda between Georgia and the EU, 2014-2016*. https://eeas.europa.eu/sites/eeas/files/associationagenda_2014_en.pdf.
- Democracy and Freedom Watch. "Georgia's Public Broadcaster selects new head who has links to Ivanishvili." Democracy and Freedom Watch. January 7, 2017. <https://dfwatch.net/georgias-public-broadcaster-selects-new-head-who-has-links-to-ivanishvili-47186>.
- Devlin, Matthew. *Innovation for Successful Societies – Seizing the Reform Moment: Rebuilding Georgia's Police, 2004-2006*. Princeton University Press, 2010.
- Dumbadze, Ana. "Prosecutor's Office Files New Charges against Nika Gvaramia." Georgia Today. November 1, 2019. <http://georgiatoday.ge/news/17991/Prosecutor%27s-Office-Files-New-Charges-against-Nika-Gvaramia>.
- . "Director-general of Formula TV Questioned by Prosecutor's Office." Georgia Today. October 2, 2019. <http://georgiatoday.ge/news/17561/Director-general-of-Formula-TV-Questioned-by-Prosecutor>.
- "EU Hails Georgia's Implementation of Association Agreement." Radio Free Europe/Radio Liberty, March 5, 2019. <https://www.rferl.org/a/eu-hails-georgia-s-implementation-of-association-agreement/29805224.html>.
- EU Neighbors. "Facts and Figures About EU-Georgia Relations." EU Neighbors. https://www.euneighbours.eu/sites/default/files/publications/2020-03/EAP%20SUMMIT%20FACTSHEET_Georgia_EN.pdf.
- . "Results of EU-Georgia Visa Liberalisation Agreement: Three Years On." EU Neighbors. December 16, 2019. <https://www.euneighbours.eu/en/east/stay-informed/news/results-eu-georgia-visa-liberalisation-agreement-three-years>.
- European Broadcasting Union. "Vasil Maglaperidze appointed Director General of Georgian Public Broadcaster." European Broadcasting Union. January 11, 2017. <https://www.ebu.ch/news/2017/01/vasil-maglaperidze-appointed-director-general-of-georgian-public-broadcaster>

- European Commission for Democracy Through Law (Venice Commission). Georgia: Opinion on the Legislative Amendments to the Criminal Procedure Code Concerning the Relationship between the Prosecution and the Investigators. 18 March 2019. Accessed May 6, 2020. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)006-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)006-e#).
- European Commission. Association Implementation Report on Georgia. 6 February 2020. https://eeas.europa.eu/sites/eeas/files/1_en_document_travail_service_conjoint_part1_v4.pdf.
- . EU-Georgia Visa Dialogue, Action Plan on Visa Liberalization. <http://migration.commission.ge/files/vlap-eng.pdf>.
- . Report on the implementation of the Commission Recommendation on strengthening the principle of equal pay between men and women through transparency. 20 November 2017. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0671&from=en>.
- European Court of Human Rights. “Fact Sheet: Hate Speech.” European Court of Human Rights. March 2020. https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf.
- . “No judge bias or other breach of fair trial guarantees in television channel ownership row.” ECHR 270 (2019). July 18, 2019. <https://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-6464450-8514363&filename=Judgment%20Rustavi%20%20Broadcasting%20Company%20Ltd%20and%20Others%20v.%20Georgia%20-%20no%20breach%20of%20fair%20trial%20guarantees%20in%20television%20channel%20ownership%20row.pdf>.
- European Network of National Human Rights Institutions. “Public Defender (Ombudsman) of Georgia.” European Network of National Human Rights Institutions. 2019. <https://ennhri.org/our-members/georgia/>.
- European Parliament and the Council of the European Union. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services. EUR-Lex, 10 March 2010. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32010L0013>.
- Fabbro, Robin. “More Young Georgians Say Queer Rights Are Important than Not, Poll Finds.” OCMedia, September 20, 2019. <https://oc-media.org/more-young-georgians-say-queer-rights-are-important-than-not-poll-finds/>.
- Fairbanks, Jr., Charles H. “Georgia’s Prison Rape Scandal—and What It Says About the Rose Revolution.” The Atlantic, September 24, 2012. <https://www.theatlantic.com/international/archive/2012/09/georgias-prison-rape-scandal-and-what-it-says-about-the-rose-revolution/262720/>.
- “Father of owner of Georgian opposition TV channel Pirveli charged with complicity in money laundering.” JAM News. August 22, 2019. <https://jam-news.net/father-of-owner-of-georgian-opposition-tv-channel-pirveli-charged-with-complicity-in-money-laundering/>.
- Fearon, James D. “Signaling Foreign Policy Interests: Tying Hands versus Sinking Costs.” The Journal of Conflict Resolution 41, no. 1 (1997): 68–90. Accessed March 3, 2020. www.jstor.org/stable/174487.
- Fédération Internationale des Ligues des Droits del Homme. “International Fact-finding Mission: Ethnic minorities in Georgia.” FIDH, April 2005. <https://www.fidh.org/IMG/pdf/ge412ang.pdf>.

- Fikfak, Veronika. "Changing State Behaviour: Damages before the European Court of Human Rights." *European Journal of International Law* 29, no. 4 (December 31, 2018): 1091–1125. Accessed April 11, 2020. <https://doi.org/10.1093/ejil/chy064>.
- First Channel GPB. "General Prosecutor's Office filed new charges against Nika Gvaramia." First Channel GPB. September 6, 2019. <https://1tv.ge/en/news/general-prosecutors-office-filed-new-charges-against-nika-gvaramia/>.
- "Freedom House: Internet access and usage continues to grow in Georgia." *Agenda.ge*. November 1, 2018. <https://agenda.ge/en/news/2018/2292>.
- "Freedom House: Internet access and usage continues to grow in Georgia." *Agenda.ge*. November 1, 2018. <https://agenda.ge/en/news/2018/2292>.
- Fuller, Liz. "Georgian President Vetoes Controversial Changes To Broadcasting Law." *Radio Free Europe/Radio Liberty*, January 16, 2018. www.rferl.org/a/georgia-public-broadcaster-bill-vetoed-margvelashvili/28978727.html.
- Gavtadze, Mariam. "Georgia: Constitutional changes to impose impermissible freedom restrictions?" *Forum* 18, September 21, 2017. <https://www.refworld.org/docid/59c3b79a4.html>.
- "Georgia Country Risk Report – Q4 2019." London: Fitch Solutions Group Limited, 2019. <https://search-proquest-com.proxy1.library.jhu.edu/docview/2258974054?accountid=11752>.
- "Georgia hit by massive cyber-attack." *BBC News*, October 28, 2019. <https://www.bbc.com/news/technology-50207192>
- Georgia National Communications Commission (GNCC). "On Making Amendments to the Law of Georgia on Broadcasting (მაუწყებლობის შესახებ საქართველოს კანონში ცვლილების შეტანის თაობაზე)." December 2018. <https://info.parliament.ge/#law-drafting/17006>.
- . "The Commission." Georgia National Communications Commission. 2020. <https://www.gncc.ge/en/the-commission>.
- Georgia Public Broadcaster. "Leadership (ხელმძღვანელობა)." Georgia Public Broadcaster. 2020. <https://1tv.ge/organizatsia/vin-vart-chven/khelmdzghvaneloba/>.
- . "Who we are (ვინ ვართ ჩვენ)." Georgia Public Broadcaster. 2020. <https://1tv.ge/organizatsia/vin-vart-chven/>.
- Georgia Young Lawyers' Association. "History." Georgian Young Lawyers' Association. November 10, 2015. <https://gyla.ge/en/page/history>.
- Georgian Democracy Initiative. "CSOs call on the State Inspector to Petition the Prosecutor's Office to Relinquish Tsurtsunias Case to Her Office." Georgian Democracy Initiative. January 9, 2020. Accessed April 30, 2020. <https://gdi.ge/en/news/csos-call-on-the-state-inspector-to-petition-the-prosecutors-office-to-relinquish-tsurtsunias-case-to-her-office.page>.
- Georgian Police Code of Ethics. 2013. Accessed January 7, 2020. <https://police.ge/files/pdf/etikis%20kodeqsi/Georgian%20Police%20Code%20of%20Ethics%20English%20final.pdf>.

- "Georgian State Inspector Speaks of Additional Violations into Teen Suicide Case." *Civil.ge*. February 7, 2020. Accessed May 1, 2020. <https://civil.ge/archives/337840>.
- "Georgian TV Channel's Deputy Director Resigns under Pressure." *Reporters Sans Frontières*, February 14, 2020. <https://rsf.org/en/news/georgian-tv-channels-deputy-director-resigns-under-pressure>.
- Goldsmith, Jack L., and Eric A. Posner. *The Limits of International Law*. Oxford ; New York: Oxford University Press, 2005.
- Goodman, Ryan, and Derek Jinks. "How to Influence States: Socialization and International Human Rights Law." *Duke Law Journal* 54, no. 3 (2004): 621–703. Accessed March 11, 2020. www.jstor.org/stable/40040439.
- . "Incomplete Internalization and Compliance with Human Rights Law." *European Journal of International Law* 19, no. 4 (September 1, 2008): 725–48. Accessed March 11, 2020. <https://doi.org/10.1093/ejil/chn039>.
- Gotev, Georgi. "Georgia suggests taking an unconventional path to accession." *Euractiv*. July 11, 2019. <https://www.euractiv.com/section/eastern-europe/news/georgia-suggest-taking-an-unconventional-path-to-eu-accession/>.
- Gotsiridze, Giorgi, Eka Mamrikishvili, Tamar Oniani, Nikoloz Simonishvili, Mikheil Jakhua, and Nino Jomarjidze. "Beyond the Lost Eye: Legal assessment of June 20-21 events." Tbilisi: Georgian Young Lawyers' Association, 2019.
- Government of Georgia. *State Strategy on Occupied Territories*. January 2010. <https://reliefweb.int/report/georgia/georgia-state-strategy-occupied-territories-engagement-through-cooperation>.
- Hammarberg, Thomas. "Georgia in Transition: Report of the human rights dimension: background, steps taken and remaining challenges." September 2013. http://gov.ge/files/38298_38298_595238_georgia_in_transition-hammarberg1.pdf.
- Harding, Luke. "Bidzina Ivanishvili: the eccentric billionaire chasing Georgia's leadership." *The Guardian*, October 1, 2012. <https://www.theguardian.com/world/2012/oct/01/bidzina-ivanishvili-profile-georgia>.
- Hathaway, Oona A. "Do Human Rights Treaties Make a Difference?" *The Yale Law Journal* 111, no. 8 (2002): 1935–2042. Accessed March 11, 2020. <https://doi.org/10.2307/797642>.
- Hauer, Neil. "The West Takes NATO for Granted. One Country Still Wants In." *The Atlantic*. April 3, 2019. <https://www.theatlantic.com/international/archive/2019/04/west-georgia-nato/586225/>.
- Human Rights Center. "Another Protest Rally of the Human Rights Center and Independent Lawyers in front of the Prosecutor General's Office." *Humanrights.ge*. February 7, 2020. Accessed May 6, 2020. <http://www.humanrights.ge/index.php?a=main&pid=20063&lang=eng>.
- Human Rights Council. "Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to council resolution 16/21 – Georgia." A/HRC/WG.6/23/GEO/2, 24 August 2015. Accessed April 17, 2020. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/99/PDF/G1518799.pdf?OpenElement>.

- Human Rights Education and Monitoring Center. "Overview of Cases on Restriction of Religious Freedoms and Discrimination." Human Rights Education and Monitoring Center. 2017. <https://emc.org.ge/uploads/products/pdf/Overview-of-Cases-on-Cestriction-of-Religious-Freedoms-and-Discrimination-in-Georgia.pdf>.
- . "EMC urges Prosecutorial Council not to support Irakli Shotadze's candidacy for the post of Prosecutor General (EMC მოუწოდებს საპროკურორო საბჭოს მხარი არ დაუჭიროს ირაკლი შოთაძის კანდიდატურას გენერალური პროკურორის თანამდებობაზე)." EMC. January 16, 2020. Accessed May 6, 2020. <https://emc.org.ge/ka/products/emc-moutsodebs-saprokuroro-sabchhos-mkhari-ar-dauchiros-irakli-shotadzis-kandidaturas-generaluri-prokuroris-tanamdebobaze>.
- Human Rights Secretariat. Human Rights Action Plan for 2018-2020. 2019. Accessed April 10, 2020. <http://myrights.gov.ge/en/plan/Human%20Rights%20Action%20Plan%20for%202018-2020>.
- Human Rights Watch. "Administrative Error: Georgia's Flawed System of Administrative Detention." Human Rights Watch, January 2013. <https://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>.
- . "Crossing the Line: Georgia's Violent Dispersal of Protestors and Raid on Imedi Television." Human Rights Watch, December 19, 2007. <https://www.hrw.org/report/2007/12/19/crossing-line/georgias-violent-dispersal-protestors-and-raid-imeri-television>.
- . "World Report 2019: Rights Trends in Georgia." Human Rights Watch. January 17, 2019. www.hrw.org/world-report/2019/country-chapters/georgia.
- . "World Report 2020: Georgia." Human Rights Watch. December 10, 2019. Accessed April 12, 2020. <https://www.hrw.org/world-report/2020/country-chapters/georgia>.
- International Labor Organization. Discrimination (Employment and Occupation) Convention, No. 111. 1958. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111.
- International Monetary Fund. "Press Release: IMF Approves US\$ 141 Million PRGF Loan for Georgia." International Monetary Fund. January 12, 2001. <https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr0104>.
- Ireland. Employment Equality Act. 1998. http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/EN_ACT_1998_0021.PDF.
- IRES. "Georgia: Media Sustainability Index 2018." IRES. 2017. <https://www.ires.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-georgia-2.pdf>
- Isachenkov, Vladimir. "Russia Warns of 'Horrible' Conflict If Georgia Joins NATO." AP NEWS, August 7, 2018. <https://apnews.com/21036352495b4b4fa9802bd2d7c5ac86/Russia-warns-of-'horrible'-conflict-if-Georgia-joins-NATO>.
- Jeiranashvili, Nika, and Gavin Slade. "Georgia's Disastrous Attempt to Bring Prisons Up to 'European Standards,'" Open Society Foundations. March 10, 2015. <https://www.opensocietyfoundations.org/voices/georgia-s-disastrous-attempt-bring-prisons-european-standards>.
- Jgharkava, Irakli. "Russia's Information Warfare: A Menace to Georgian National Security." Georgian Institute of Politics. December 18, 2018. <https://gip.ge/russias-information-warfare-a-menace-to-georgian-national-security/>.

- Johnson, J. "Georgia: Facebook users from 2018 to 2019." February 14, 2020. <https://www.statista.com/statistics/1029753/facebook-users-georgia/>.
- Johnston, Alastair Iain. "Treating International Institutions as Social Environments." *International Studies Quarterly* 45, no. 4 (December 2001): 487–515. Accessed March 11, 2020. <https://doi.org/10.1111/0020-8833.00212>.
- Jonas, Ted. "The Khorava Street Murders: Justice Delayed, Justice Denied." *Civil.ge*. June 1, 2018. Accessed May 6, 2020. <https://civil.ge/archives/243423>.
- Jones, Amy. "Community Policing Begins in Tbilisi." *Georgia Today*. December 5, 2018. <http://georgiatoday.ge/news/13562/Community-Policing-Begins-in-Tbilisi>.
- Judicial Independence and Legal Empowerment Project. "How to End Georgia's Unconstitutional Use of Its Administrative Offenses Regime." East West Management Institute, October 15, 2013. Accessed April 24, 2020. http://ewmi-prolog.org/images/files/5244Eng_Admin_Regime_JILEP_Report_Oct_30_final.pdf.
- "Justice Ministry, Penitentiary Service Fined for Violation of Personal Data Protection Law." *Civil.ge*. March 28, 2020. Accessed May 6, 2020. <https://civil.ge/archives/344532>.
- Kakachia, Kornely, and Bidzina Lebanidze. "Georgia's Dream becomes Georgia's Nightmare." *Foreign Policy*, June 25, 2019. <https://foreignpolicy.com/2019/06/25/georgian-dream-meets-georgias-nightmare/>.
- Kakachia, Kornely. "Is Georgia's Orthodox Church an Obstacle to European Values?" *Ponars Eurasia - Policy Memos*, June 6, 2014. https://www.ponarseurasia.org/memo/georgia%E2%80%99s-orthodox-church-obstacle-european-values#_ftn6.
- Kakulia, Inga. "The Parliament of Georgia adopts the Law on Sexual Harassment." *The Messenger Online*. May 6, 2019. https://www.messenger.com.ge/issues/4388_may_6_2019/4388_edit.html.
- Kapanadze, Marine. "Hate Speech in Public Service Analysis of the Response Mechanism to Violations of Ethical Norms." *Georgian Democracy Initiative*. 2019. <https://www.gdi.ge/uploads/other/1/1055.pdf>.
- Kashakashvili, Nino. "Equality in Labor Relations (Georgian Legislation in the Context of EU Equality Directives)." *Tbilisi: EMC*, 2018. https://emc.org.ge/uploads/products/pdf/Equality_in_labour_1530521485.pdf.
- Kazmirenko, Yana. "Tbilisi Pride: Conference and Non-Festive March." *A Few International*. May 9, 2019. <https://afew.org/headlines/tbilisi-pride-eng/>.
- Keith, Linda Camp. "The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?" *Journal of Peace Research* 36, no. 1 (1999): 95–118. Accessed March 11, 2020. www.jstor.org/stable/451106.
- Kevanishvili, Eka, and Simon Papuashvili. "Putinization of Georgia: Georgian Media after the Rose Revolution: Media in Georgia 2003-2007." *Human Rights Centre*, 2007. https://www.ecoi.net/en/file/local/1003359/1227_1206540712_media-georgia.pdf.
- Kintsurashvili, Tamar. "Anti-Western Propaganda Report 2018." *Media Development Foundation*, 2019. http://mdfgeorgia.ge/uploads/library/119/file/eng/Anti_West-2018-ENG.pdf.

- Koh, Harold Hongju. "How Is International Human Rights Law Enforced." *Indiana Law Journal* 74, no. 4 (Fall 1999): 1397-1418. Accessed March 11, 2020. <https://heinonline.org/HOL/P?h=hein.journals/indana74&i=1407>.
- Kokashvili, Marina. "The Role of the Media in Georgia's Transition to Democracy." In *From Revolution to Reform: Georgia's Struggle with Democratic Institution Building and Security Sector Reform*, edited by Philipp H. Fluri and Eden Cole, 209–29. Vienna: National Defence Academy, 2005. https://www.apcos.at/pdf_pool/publikationen/10_wg11_chapt10_110.pdf.
- Kupatadze, Alexander. "Informal Governance and Corruption –Transcending the Principal Agent and Collective Action Paradigms Georgia Country Report." Basel Institute on Governance, July 2018. https://www.baselgovernance.org/sites/default/files/2019-04/georgia.informalgovernance.country_report.pdf.
- L261: Legislation Official Journal of the European Union. Volume 57. 30 August 2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:261:FULL&from=EN>.
- Lawrence, Sarah, and Bobby McCarthy. "What Works in Community Policing? A Best Practices Context for Measure Y Efforts." *The Chief Justice Earl Warren Institute on Law and Social Policy*, November 2013. Accessed May 1, 2020. https://www.law.berkeley.edu/files/What_Works_in_Community_Policing.pdf.
- Letnar Černej, Jernej. "Impact of the European Court of Human Rights on the Rule of Law in Central and Eastern Europe." *Hague Journal on the Rule of Law* 10, no. 1 (April 2018): 111–37. Accessed April 11, 2020. <https://doi.org/10.1007/s40803-018-0074-5>.
- Levine, Kate. "Who Shouldn't Prosecute the Police." *Iowa Law Review* 101, no. 4 (May 2016): 1447–96. Accessed March 30, 2020. <https://ilr.law.uiowa.edu/print/volume-101-issue-6/who-shouldnt-prosecute-the-police/>.
- Lomsadze, Giorgi. "Georgian protesters regroup, insist on cultured approach." *Eurasianet*, November 22, 2019. <https://eurasianet.org/georgian-protesters-regroup-insist-on-cultured-approach>.
- . "Georgian protests draw other bereaved parents." *Eurasianet*, June 4, 2018. Accessed May 6, 2020. <https://eurasianet.org/georgian-protests-draw-other-bereaved-parents>.
- . "Opposition challenges results in Georgia's presidential election." *Eurasianet*, November 28, 2018. <https://eurasianet.org/opposition-challenges-results-in-georgias-presidential-election>.
- . "Protests erupt in Georgia over Russian MP's visit." *Eurasianet*, June 20, 2019. <https://eurasianet.org/protests-erupt-in-georgia-over-russian-mps-visit>.
- Mackay, Mairi. "Torture was once 'normal' in Georgia's prisons – this is how they 'effectively abolished' it." *Open Democracy*. July 28, 2016. <https://www.opendemocracy.net/en/torture-georgia/>.
- Mackinnon, Amy. "A Flickering Beacon of Democracy in Russia's Backyard." *Foreign Policy*, November 27, 2019. <https://foreignpolicy.com/2019/11/27/georgia-georgian-dream-ivanishvili-russia-democracy/>.
- . "In Georgia's Parliament, One Russian Too Many." *Foreign Policy*, June 21, 2019. <https://foreignpolicy.com/2019/06/21/georgia-tbilisi-protests-political-russia-west/>

MacPhee, Craig R. "Economic Education and Government Reform in the Republic of Georgia." *The Journal of Economic Education* 32, no 1 (2001): 68-77. <https://www.tandfonline.com/doi/abs/10.1080/00220480109595172>.

"Many journalists injured during protest outside Georgian parliament." *Reporters without Borders*, June 22, 2019. <https://rsf.org/en/news/many-journalists-injured-during-protest-outside-georgian-parliament>.

Mariamidze, Tea. "NGOs: Collection Imposed on TV Pirveli & Mtavari Accounts Should Be Removed." *Georgia Today*. March 23, 2020. <http://georgiatoday.ge/news/20137/NGOs:-Collection-Imposed-on-TV-Pirveli-&-Mtavari-Accounts-Should-Be-Removed>.

Marikashvili, Eduard, Teimuraz Svanidze, and Shota Qobalia. "Freedom of Expression in Georgia." *Georgia Democracy Initiative*, January 2020. <https://gdi.ge/uploads/other/1/1091.pdf>.

McDevitt, Andrew. "The State of Corruption: Armenia, Azerbaijan, Georgia, Moldova and Ukraine." *Transparency International*, July 2, 2015. https://www.transparency.org/whatwedo/publication/the_state_of_corruption_armenia_azerbaijan_georgia_moldova_and_ukraine.

Mchelidze, David. "Statement by Rustavi 2 Founders and Former Owners." *Media.ge*. September 29, 2012. <http://www.media.ge/en/portal/news/50057/>.

Media Development Fund. "About Us." *Media Development Fund*. 2014. <http://www.mdfgeorgia.ge/eng/page/1>.

———. "Asaval Dasavali." *Myth Detector*. 2020. <https://www.mythdetector.ge/en/profile/asaval-dasavali>

———. "Disinformation in Georgia: A Threat and No Entertainment." *Myth Detector*. December 30, 2019. <http://myth-detector.ge/en/myth/disinformation-georgia-threat-and-no-entertainment>.

———. "Media Profiles: GDS." *MediaMeter*. 2020. <http://mediameter.ge/en/media-profiles/gds-tv>.

———. "Media Profiles: Maestro." *MediaMeter*. 2020. <http://mediameter.ge/en/media-profiles/maestro>.

———. "Troll Factory against - TBC, NGOs and Media (Government Trolls in Georgia)." *Myth Detector*. April 8, 2019. <https://www.mythdetector.ge/en/myth/troll-factory-against-tbc-ngos-and-media-government-trolls-georgia>.

Mikashvidze, Maia. "Georgia: Print." *Media Landscapes*. 2020. <https://medialandscapes.org/country/georgia/media/print>.

———. "Media Landscape: Georgia 2018." *Research Gate*. 2018. www.researchgate.net/profile/Maia_Mikashvidze/publication/327765429_Media_Landscape_-_Georgia_2018/links/5ba3579ca6fdccd3cb64c238/Media-Landscape-Georgia-2018.pdf.

———. "Systematic Capacity Building of the Media Regulatory Authorities." *Open Society Georgia Foundation*, 2016. [https://osgf.ge/files/2016/EU%20publication/Angarishi_A4__Media_ENG_Cor_\(1\).pdf](https://osgf.ge/files/2016/EU%20publication/Angarishi_A4__Media_ENG_Cor_(1).pdf).

Minister of Internal Affairs of Georgia. Statute of the General Inspection of the Ministry of Internal Affairs of Georgia (საქართველოს შინაგან საქმეთა სამინისტროს გენერალური ინსპექციის დებულება). 23 February 2015. Accessed April 11, 2020. <https://police.ge/files/შსს%20გენერალური.pdf>

- Ministry of Internal Affairs of Georgia. "Domestic Violence Statistics, 2015-2019." Ministry of Internal Affairs Georgia. Accessed May 4, 2020. <https://info.police.ge/page?id=102>.
- Ministry of Internal Affairs Public Information. "Statistics of Disciplinary Penalties Imposed on the Employees by the General Inspection." Ministry of Internal Affairs of Georgia. Accessed April 25, 2020. <http://info.police.gepage?id=234>.
- Minority Rights Group International. "World Directory of Minorities and Indigenous Peoples: Georgia." Minority Rights Group International. 2014. <https://minorityrights.org/country/georgia/>.
- Moore, David H. "A Signaling Theory of Human Rights Compliance." *Northwestern University Law Review* 97, no. 2 (2003): 879–910. Accessed March 3, 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=932066.
- National Democratic Institute. "Georgia's Local Elections Demonstrate Challenges and Provide Opportunity to Renew Commitment to Democratic Processes." National Democratic Institute. April 15, 2019. www.ndi.org/publications/georgias-local-elections-demonstrate-challenges-and-provide-opportunity-renew.
- NATO. "Relations with Georgia." NATO. Last updated March 26, 2019. https://www.nato.int/cps/en/natohq/topics_38988.htm?selectedLocale=en.
- . Bucharest Summit Declaration - Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council in Bucharest on 3 April 2008. Accessed May 4, 2020. https://www.nato.int/cps/us/natohq/official_texts_8443.htm.
- "NDI Poll: 82% of Georgians Support EU, 74%- NATO Membership." Agenda.ge. January 16, 2020. agenda.ge/en/news/2020/146.
- "NDI polls: 'Georgian people's trust in institutions, leaders declining.'" Agenda.ge. January 16, 2020. <https://agenda.ge/en/news/2020/135/>.
- "New Director General elected for Georgia's state-funded television." Agenda.ge. January 6, 2017. <https://agenda.ge/en/news/2017/27>.
- "New Georgian opposition TV channel announced – 'Formula' to launch in October." JAM News. August 14, 2019. <https://jam-news.net/new-georgian-opposition-tv-channel-announced-formula-to-launch-in-october/>.
- Nicholson, Maggie. "Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches." USAID and the East-West Management Institute, March 2017. Accessed May 8, 2020. <http://ewmi-prolog.org/images/files/1266ReportonimplementationHumanRightsStrategyENG.pdf>.
- OAS. "Organization of American States: Democracy for Peace, Security, and Development." OAS, August 1, 2009. <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=25&IID=1>.
- Office of the Directorate General for Programs. "Action Plan for Georgia 2020-2023." Council of Europe. November 5, 2019. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168097fe8f.
- Office of the High Commissioner for Human Rights. Guiding Principles on Business and Human Rights. United Nations. New York, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

- . "Human Rights Bodies." OHCHR. Accessed April 11, 2020. <https://www.ohchr.org/en/hrbodies/Pages/Human-RightsBodies.aspx>.
- Open Government Partnership. "Open Government Partnership Action Plan of Georgia 2018-2019." December 4, 2018. <https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>.
- Open Society Georgia Foundation. "About Us." Open Society Georgia Foundation. 2020. <https://osgf.ge/en/about-us/>.
- . "The assault on Nika Gvaramia should be investigated in a timely and impartial manner." Open Society Georgia Foundation. January 31, 2020. <https://osgf.ge/en/the-assault-on-nika-gvaramia-should-be-investigated-in-a-timely-and-impartial-manner/>.
- OSCE ODIHR Hate Crime Reporting. "Georgia Official Data." OSCE. 2018. <https://hatecrime.osce.org/georgia>.
- OSCE Polis. "Country Profile: Georgia." OSCE Polis. Accessed May 11, 2020, <https://polis.osce.org/country-profiles/georgia>
- "OSCE Representative for Media Freedom Concerned by Developments in Adjara TV." Agenda.ge. March 10, 2020. <https://agenda.ge/en/news/2020/730>.
- OSCE. "OSCE High Commissioner on National Minorities, in Georgia, discusses implementation of integration strategy for minority participation." OSCE. April 20, 2016, <https://www.osce.org/hcnm/234786>.
- OSCE/ODIHR Election Observation Mission. "Georgia, Extraordinary Presidential Election 2008, Interim Report No. 2." December 27, 2007. <https://www.osce.org/odihr/elections/georgia/30097?download=true>.
- "Parliament Confirms Londa Toloraia as State Inspector." Civil.ge. June 11, 2019. Accessed April 16, 2020. <https://civil.ge/archives/308090>.
- Parliament of Georgia, On Making Amendments to the Law of Georgia on the State Inspector's Office ("სახელმწიფო ინსპექტორის სამსახურის შესახებ" საქართველოს კანონში ცვლილების შეტანის თაობაზე). 27 December 2018. Accessed April 12, 2020. <https://matsne.gov.ge/ka/document/view/4432896?publication=0>.
- . "About Human Rights and Civil Integration Committee." Parliament of Georgia. 2014. <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi/adamianis-uflebata-dacvisa-da-samoqalaqo-integraciis-komiteti/komitetis-shesaxeb>.
- . "Legal Issues Committee." Parliament of Georgia. 2014.a <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi/iuridiul-sakitxta-komiteti-146>.
- . "The Presentation of the Report by the Thematic Inquiry Group on Disinformation and Propaganda." Parliament of Georgia. February 3, 2020. <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi/sagareo-urtiertobata-komiteti-147/sagareo-komitetis-axali-ambebi/dezinformaciis-da-propagandis-sakitxebze-tematuri-mokvlevis-djgufma-angarishis-prezentacia-gamarta.page>.
- . Constitution of Georgia. 24 August 1995. Accessed March 15, 2020. <https://matsne.gov.ge/en/document/view/30346?publication=35>.
- . Criminal Code of Georgia. 22 July 1999. <https://matsne.gov.ge/en/document/view/16426?publication=209>.

- . Criminal Procedure Code of Georgia. 9 October 2009. Accessed April 7, 2020. <https://matsne.gov.ge/en/document/view/90034?publication=106>.
- . Labour Code of Georgia. 17 December 2010. <https://matsne.gov.ge/en/document/view/1155567?publication=12>.
- . Law of Georgia on Broadcasting. 23 December 2004. <https://matsne.gov.ge/en/document/download/32866/39/en/pdf>.
- . Law of Georgia on Freedom of Speech and Expression. 24 June 2004. <https://matsne.gov.ge/en/document/view/33208?publication=5>.
- . Law of Georgia on International Treaties of Georgia. 16 October 1997. <https://matsne.gov.ge/en/document/view/33442?publication=10>.
- . Law of Georgia on Police. 4 October 2013. Accessed April 16, 2020. <https://matsne.gov.ge/en/document/view/2047533?publication=23>.
- . Law of Georgia on the State Inspector's Office (საქართველოს კანონი სახელმწიფო ინსპექტორის სამსახურის შესახებ)(original). 21 July 2018. Accessed April 12, 2020. <https://matsne.gov.ge/ka/document/view/4276790?publication=0>.
- . Law on the Elimination of All Forms of Discrimination. 2 May 2014. https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/--ilo_aids/documents/legaldocument/wcms_361984.pdf.
- . Law on the State Inspector's Office. 21 July 2018. Accessed April 12, 2020. <https://matsne.gov.ge/ka/document/view/4276790?publication=4>.
- . On Making Amendments to the Law of Georgia on the State Inspector's Office ("სახელმწიფო ინსპექტორის სამსახურის შესახებ" საქართველოს კანონში ცვლილების შეტანის თაობაზე). 28 June 2019. Accessed April 12, 2020. <https://matsne.gov.ge/ka/document/view/4599623?publication=0>.
- . Organic Law of Georgia on the Prosecutor's Office. 30 November 2018. Accessed January 22, 2020. <https://matsne.gov.ge/en/document/view/4382740?publication=2>.
- "Parliament Overrides President's Veto on Controversial GPB Law." OC Media, December 20, 2019. oc-media.org/parliament-overrides-presidents-veto-on-controversial-gpb-law/.
- Pascall Gillian and Manning Nick, "Gender and social policy: comparing welfare states in Central and Eastern Europe and the former Soviet Union", *Journal of European Social Policy*, Vol. 10, N. 3, 2000.
- Patariaia, Babutsa. "Maternity and Parenting – Georgia 's Forgotten Obligations." Tbilisi: Open Society Georgia Foundation, October 2016. [https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Equality_ENG_Cor_\(2\).pdf](https://osgf.ge/files/2016/EU%20publication/Angarishi_A4_Equality_ENG_Cor_(2).pdf).
- Pataridze, Mariam. "Russian World' in Georgia." Media Development Fund, 2014. http://mdfgeorgia.ge/uploads/library/117/file/eng/rusuli_samyaro_saqarTveloSi_EN.pdf.
- "Police Blamed, as Teen, 15, Succumbs to Injuries after Attempted Suicide in Tbilisi." Civil.ge. December 17, 2019. Accessed May 1, 2020. <https://civil.ge/archives/331828>.

- "Political unity Lelo demands state inspector investigate murder involving Interior Ministry Employee." Agenda.ge. January 8, 2020. Accessed April 30, 2020. <https://agenda.ge/en/news/2020/51>.
- Poolman, Sarah, Richard Wilshaw, and Jamie Grace. "Human Rights in Policing: The Past, Present and Future." *The Political Quarterly* 90, no. 3 (September 2019): 449–56. Accessed October 22, 2019. <https://doi.org/10.1111/1467-923X.12711>.
- Presidium of the Supreme Council of the Georgian SSR. Administrative Offences Code of Georgia. 15 December 1984. Accessed January 22, 2020. <https://matsne.gov.ge/en/document/view/28216?publication=381>.
- Price, Everett, and Alex Tiersky. "The Russian Occupation of South Ossetia and Abkhazia." CSCE. July 16, 2018. www.csce.gov/international-impact/publications/russian-occupation-south-ossetia-and-abkhazia.
- "Prominent Journalists Fired At Georgia's Rustavi-2 TV Station." Radio Free Europe/Radio Liberty, August 20, 2019. <https://www.rferl.org/a/georgia-rustavi-2-journalists-/30119868.html>.
- Prosecutor's Office of Georgia. "History of the Prosecutor's Office." Prosecutor's Office of Georgia. 2019. Accessed April 7, 2020. <http://pog.gov.ge/en/history>.
- . "Office of the Coordinator of Witnesses and Victims." Prosecutor's Office of Georgia. Accessed April 16, 2020. <http://pog.gov.ge/en/interesting-info/coordinator-of-the-witness-and-victim>.
- . "Statement of the Prosecutor's Office of Georgia." Prosecutor's Office of Georgia. January 9, 2020. Accessed April 30, 2020. <http://pog.gov.ge/news/saqarTvelos-prokuraturis-gancxa-1>.
- . "Statement of the Prosecutor's Office of Georgia." Prosecutor's Office of Georgia. January 9, 2020. Accessed April 30, 2020. <http://pog.gov.ge/news/saqarTvelos-prokuraturis-gancxa-1>.
- . "Structure of the District Prosecutor's Offices." Prosecutor's Office of Georgia. Accessed April 16, 2020. <http://pog.gov.ge/en/district-structure>.
- . "Structure of the Office of the Prosecutor General." Prosecutor's Office of Georgia. Accessed April 16, 2020. <http://pog.gov.ge/en/structure>.
- Public Defender of Georgia. "About The Department." Public Defender (Ombudsman) of Georgia. 2010. <http://www.ombudsman.ge/eng/190307081557departamentis-shesakheb>.
- . "About Us." Public Defender of Georgia. <http://www.ombudsman.ge/eng/sakhalkho-damtsveli>.
- . "Mandate." Public Defender (Ombudsman) of Georgia. 2013. <http://ombudsman.ge/eng/mandate>.
- . "National Prevention Mechanism." Public Defender of Georgia. <http://ombudsman.ge/eng/preventsiiis-erovnu-li-meqanizmi>.
- . "Public Defender Presents 2019 Special Report on Equality," Public Defender of Georgia, 2019. <http://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-tanastsorobis-mdgomareobis-shesakheb-2019-tslis-spetsialuri-angarishi-tsarmoadgina>.

- . “Public Defender Submits Amicus Curiae Brief on Alleged Sexual Harassment in Private Company.” Public Defender of Georgia. October 30, 2019. <http://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-kerdzo-kompaniashi-savaraudo-seksualuri-shevitsroebis-shemtkhvestan-dakavshirebit-sasamartlos-megobris-mosazreba-tsaradgina>.
- . “Special report on the fights against discrimination, its prevention, and the situation of equality.” Public Defender of Georgia, 2018. <http://www.ombudsman.ge/res/docs/2019042317142950340.pdf>.
- . “Special report on the fights against discrimination, its prevention, and the situation of equality.” Public Defender of Georgia, 2018. <http://www.ombudsman.ge/res/docs/2019042317142950340.pdf>.
- . “Annual Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia.” Public Defender of Georgia. 2017.
- Public Movement Multinational Georgia. “Ethnic Minorities in Georgia: Current Situation.” October 1, 2008. <https://www.osce.org/odhr/33813?download=true>.
- “Public Attitudes in NDI-Commissioned Opinion Survey.” Civil.ge. September 19, 2019. <https://civil.ge/archives/320420>.
- Ramishvili, Levan, and Tamar Chergoleishvili. *The Making of Modern Georgia 1918-2018: March of the Goblins*. New York: Routledge, 2014.
- Robertson, Caleb J. “Restoring Public Confidence in the Criminal Justice System: Policing Prosecutions When Prosecutors Prosecute Police.” *Emory Law Journal* 67, no. 4 (March 2018): 853–87. Accessed March 30, 2020. <https://law.emory.edu/elj/content/volume-67/issue-4/comments/restoring-confidence-justice-prosecute-police.html>.
- Roy, Sushmita. “Sexual Harassment Is Now Illegal in the Country of Georgia.” *Global Citizen*. May 2019. <https://www.globalcitizen.org/en/content/georgia-sexual-harassment-law-passes/>.
- “Russia plays games with Georgia.” *The Economist*, July 6, 2019. <https://www-economist-com.proxy1.library.jhu.edu/europe/2019/07/06/russia-plays-games-with-georgia>.
- “Rustavi 2 and Mze owned by the family of Saakashvili’s friend (“რუსთავი 2” და “მზე” სააკაშვილის მეგობრის ოჯახის საკუთრებაში).” *Netgazeti.ge*. December 28, 2011. <https://netgazeti.ge/news/12147/>.
- “Rustavi 2 case: is Georgia’s media pluralism in peril?” *Civil.ge*. August 2, 2019. <https://civil.ge/archives/315595>
- “Rustavi 2 TV’s Main News Program Resumes Broadcasting.” *Civil.ge*. September 26, 2019. <https://civil.ge/archives/321531>.
- Sakellaraki, Ioanna. “Georgia passes antidiscrimination law.” *Human Rights House Foundation*. May 6, 2014. Accessed May 9, 2020. <https://humanrightshouse.org/articles/georgia-passes-antidiscrimination-law/>.
- Sanakoev, Dimitri. “South Ossetia and Russia’s War on Georgia.” *McClatchy – Tribune News Service*, October 14, 2008, <https://search.proquest.com/docview/456813361?accountid=11752>.
- Scheye, Eric. “The Effectiveness of Police Accountability Mechanisms: What Works and the Way Ahead.” Washington, DC: USAID, November 9, 2018. Accessed November 13, 2019. <https://www.usaid.gov/sites/default/files/documents/1866/Police-Accountability-What-Works.-Nov2019ab.pdf>.

- Segal, David. "High in His 'Glassle,' Georgia's Richest Man Looms Over Country's Top Project," *New York Times*, July 2, 2019. <https://www.nytimes.com/2019/07/02/business/georgia-oligarch-bidzina-ivanishvili.html?searchResultPosition=1>.
- "Senior Police Officer, One More Person Arrested over Death of Georgian Citizen." *Civil.ge*. January 10, 2020. Accessed April 30, 2020. <https://civil.ge/archives/333944>.
- Singer, Sabrina G. "Embracing Federalism in Special Prosecution Models: An Analysis of Experimentation in the States." *Columbia Journal of Law & Social Problems* 51, no. 3 (2018): 431–77. Accessed March 30, 2020. <http://jlsplaw.columbia.edu/wp-content/uploads/sites/8/2018/06/Vol51-Singer.pdf>.
- "Situation tense at parliament as civic activists denied entry." *Agenda.ge*. February 17, 2020. Accessed May 6, 2020. <https://agenda.ge/en/news/2020/487>.
- Slade, Gavin. "Georgia's prisons: roots of scandal." *Open Democracy*. September 24, 2012. <https://www.opendemocracy.net/en/georgias-prisons-roots-of-scandal/>.
- State Inspector's Service. *State Inspector's Office Activity Report – 2019 (სახელმწიფო ინსპექტორის სამსახურის საქმიანობის ანგარიში - 2019 წელი)*. 1 April 2020. Accessed April 13, 2020. <https://personaldata.ge/cdn/2020/04/სახელმწიფო-ინსპექტორის-სამსახურის-საქმიანობის-ანგარიში-2019>.
- "Tensions Along Disputed Georgia-South Osseteia Boundary Lead to Calls for Restraint." *Radio Free Europe/Radio Liberty*, August 31, 2019. www.rferl.org/a/30138607.
- The Coalition for Equality. "The Right to Non-discrimination in Practice for Various Groups in Georgia – 2016." 2017. www.osgf.ge/files/2017/Publications/Diskriminacia_ENG_WEB.pdf.
- The Danish Institute for Human Rights. "Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity." *Employment*. 2010. https://www.coe.int/t/Commissioner/Source/LGBT/Georgia-Sociological_E.pdf.
- The European Court of Human Rights. "The ECtHR and Georgia: Facts and Figures." *The European Court of Human Rights*. February 2020. https://www.echr.coe.int/Documents/Facts_Figures_Georgia_ENG.pdf.
- "The fall and rise of Georgia's most watched TV channel – Rustavi 2." *JAM News*. August 21, 2019. <https://jam-news.net/the-fall-and-rise-of-georgias-most-watched-tv-channel-rustavi-2/>
- The Georgian Charter of Journalistic Ethics. "About Us." *The Georgian Charter of Journalistic Ethics*. November 10, 2017. <https://www.qartia.ge/en/about-us>.
- The Statesman's Yearbook 2018: *The Politics, Cultures and Economies of the World*. London: Palgrave Macmillan, 2018. <https://doi-org.proxy1.library.jhu.edu/10.1007/978-1-349-70154-4>. Central Intelligence Agency. "The World Factbook: Georgia." *Central Intelligence Agency*. February 1, 2018. <https://www.cia.gov/library/publications/the-world-factbook/geos/gg.html>

- Thornton, Laura, and Koba Thurmanidze. "Public Attitudes in Georgia: Results of March 2018 Survey." National Democratic Institute, April 30, 2018. https://www.ndi.org/sites/default/files/NDI_March_2018_Public%20Presentation_English_final.pdf.
- . "Public Attitudes in Georgia: Results of July 2019 Survey." National Democratic Institute, July 2019. https://www.ndi.org/sites/default/files/NDI_July_2019_political%20presentation_Eng_vf.pdf.
- . "Public Attitudes in Georgia: Results of December 2019 Survey." National Democratic Institute, December 2019. https://www.ndi.org/sites/default/files/NDI%20Georgia_December%202019_Public%20Presentation_ENG_VF.pdf.
- . "Results of December 2019 Public Opinion Polls in Georgia." National Democratic Institute, January 16, 2020. <https://www.ndi.org/publications/results-december-2019-public-opinion-polls-georgia-0>.
- Tolerance and Diversity Institute. "Racism and Xenophobia in Georgia The State's Policy towards Foreign Nationals." TDI, March 2019. https://tdi.ge/sites/default/files/racism_and_xenophobia_jan-march_2019_english.pdf.
- "Transgender Employee Attacked in Spar Supermarket in Tbilisi." OCMedia, February 5, 2020. <https://oc-media.org/transgender-employee-attacked-in-spar-supermarket-in-tbilisi/>.
- Transparency International Georgia. "Changes to Law of Georgia on Public Broadcaster. Overview of the Process of Initiating and Hearing the Changes." Transparency International Georgia. July 11, 2017. www.transparency.ge/en/blog/changes-law-georgia-public-broadcaster-overview-process-initiating-and-hearing-changes.
- . "Fighting Disinformation in Georgia." Transparency International Georgia, 2019. https://docs.google.com/viewerng/viewer?url=https://transparency.ge/sites/default/files/dezinpormaciis_cinaagmdeg_brzola_sakartvelo-shi-e-web_0.pdf
- . "Ivanishvili's companies – the forge for government officials." Transparency International Georgia. April 22, 2015. <https://www.transparency.ge/en/blog/ivanishvilis-kompaniebi-tanamdebobis-pirebis-samchedlo>
- . "The election of Vasil Maglaperidze indicates the intensification of political influence on the Georgian Public Broadcaster." Transparency International Georgia. January 11, 2017. <https://transparency.ge/en/post/general-announcement/vasil-maghlaperidzis-archeva-sazogadoebriv-mautsqebelze-politikuri-zegavlenis-gadzlierebaze-miutitebs>.
- Transparency International. "Corruption Perceptions Index 2019 Report." Transparency International, 2020. https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf.
- . "From Concentrated Power to State Capture: Georgia's Backsliding Anti-Corruption Reforms." Transparency Voices. February 14, 2019. <https://voices.transparency.org/from-concentrated-power-to-state-capture-georgias-backsliding-anti-corruption-reforms-c94d76bb2b21>.
- . "Overview." Transparency International. <https://www.transparency.org/whoweare/organisation>.
- Tsetshladze, Salome. "Georgian Advertising Market 2018: Analysis & Challenges." Transparency International, 2018. https://docs.google.com/viewerng/viewer?url=https://www.transparency.ge/sites/default/files/advertising-market-2018-e_2.pdf
- "Two Allies Of Georgian President Charged With Corruption." Radio Free Europe/Radio Liberty, December 21, 2012. <https://www.rferl.org/a/georgia-saakashvili-allies-arrested-for-corruption/24805580.html>.

- U.S. Department of State. "International Religious Freedom Report 2010." November 17, 2010. <https://2009-2017.state.gov/j/drl/rls/irf/2010/148936.htm>.
- . "Leahy Law Fact Sheet." Bureau of Democracy, Human Rights, and Labor. January 22, 2019. <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/human-rights/leahy-law-fact-sheet/>.
- . "U.S. Security Cooperation with Georgia: Fact Sheet." <https://www.state.gov/u-s-security-cooperation-with-georgia/>.
- UN Georgia. "Sexual harassment—Georgia's public defenders' office takes a stand." UN Georgia. http://www.ungeorgia.ge/eng/news_center/media_releases?info_id=512#.XsAuPWhKg2w.
- UN Women. "Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia." Tbilisi: UN Women, March 2020. https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/gender%20pay%20gap_georgia_eng.pdf?la=en&vs=636.
- . "Ministry of Internal Affairs of Georgia launches Human Rights Protection Department to strengthen response to violence against women and domestic violence." UN Women. January 23, 2018. <https://georgia.unwomen.org/en/news/stories/2018/01/ministry-of-internal-affairs-of-georgia-launches-human-rights-protection-department>.
- . "National study on Violence against Women in Georgia 2017 (Summary report)." UN Women. <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2018/national%20study%20on%20violence%20against%20women%202017.pdf?la=en&vs=2932>.
- . "Private sector increasingly involved in addressing sexual harassment in the workplace." UN Women. October 1, 2018. <https://georgia.unwomen.org/en/news/stories/2018/10/private-sector-increasingly-involved-in-addressing-sexual-harassment-in-the-workplace>.
- United Nations Committee on Economic, Social and Cultural Rights. General Comment No. 20. May 2009.
- United Nations General Assembly. Calling of an International Conference on Freedom of Information. 14 December 1946. <https://www.refworld.org/docid/3b00f0975f.html>.
- . Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 10 December 1984. United Nations Treaty Series, vol 1465. Accessed March 20, 2020. <https://www.refworld.org/docid/3ae6b3a94.html>.
- . International Convention on the Elimination of All Forms of Racial Discrimination. 21 December 1965. United Nations, Treaty Series, vol. 660, p. 195. <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.
- . International Covenant on Civil and Political Rights. 19 December 1966. United Nations Treaty Series, vol 999, No. 14668. https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf.
- . International Covenant on Economic, Social, and Cultural Rights. 16 December 1966. United Nations Treaty Series, vol 993, No. 14531. https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf.
- United Nations Human Rights Council. Resolution 17/9 Human rights, sexual orientation and gender identity. 17 June 2011.
- . Resolution 27/32 Human rights, sexual orientation and gender identity. 26 September 2014.

- . Resolution 32/2. Protection against violence and discrimination based on sexual orientation and gender identity. 30 June 2016.
- United Nations in Georgia. "From November 1, 2019 the State Inspector's Service Investigative Function Will Be Launched." United Nations in Georgia. Accessed April 12, 2020. http://www.ungeorgia.ge/eng/news_center/media_releases?info_id=707#.XpNln4hKjIV.
- United Nations Office on Drugs and Crime. Handbook on Police Accountability, Oversight and Integrity. Criminal Justice Handbook Series. New York: United Nations, 2011. Accessed October 23, 2019. https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf.
- United Nations. "Georgia." UNHCR. www.unhcr.org/en-us/georgia.html&ved=2ahUKewigjPHisJlAhVhIDQIHc0k-Dy8QFjALegQIAhAB&usq=AOvVaw3fuQSmMQ89u4R1vUy5Ih9_.
- . "Universal Declaration of Human Rights." United Nations October 6, 2015. Accessed April 10, 2020. <https://www.un.org/en/universal-declaration-human-rights/>.
- United States Senate, Committee on Foreign Relations. U.S. Senators Jeanna Shaheen and James Rische to Georgian Prime Minister Giorgi Gakharia. January 29, 2020. <https://www.foreign.senate.gov/imo/media/doc/Risch-Shaheen%20Letter%20to%20H.E.%20Gakharia.pdf>.
- "Verdict delivered: Court says owner of Rustavi 2 is ex-owner Qibar Khalvashi." Agenda.ge. November 3, 2015. <https://agenda.ge/en/news/2015/2463>.
- Wilding, Derek, Peter Fray, Sacha Molitorisz, and Elaine McKewon. "The Impact of Digital Platforms on News and Journalistic Content." Centre for Media Transition, University of Technology Sydney, 2018. <https://www.accc.gov.au/system/files/ACCC%20commissioned%20report%20-%20The%20impact%20of%20digital%20platforms%20on%20news%20and%20journalistic%20content%2C%20Centre%20for%20Media%20Transition%20%282%29.pdf>.
- World Bank. "Fighting Corruption in Public Services: Chronicling Georgia's Reforms." Washington, DC: The World Bank Group, 2012.
- . "Georgia: From Reformer to Performer: A Systematic Country Diagnostic." Washington, DC: The World Bank Group, 2018.
- . "In Georgia, Growth Projected to Slow Due to Impacts of COVID-19." World Bank. April 8, 2020. <https://www.worldbank.org/en/news/press-release/2020/04/08/in-georgia-real-gdp-growth-projected-to-slow-due-to-impacts-of-covid19>.
- . "Overview: Georgia." World Bank. April 16, 2020. <https://www.worldbank.org/en/country/georgia/overview>.
- World Economic Forum. "Global Gender Gap Report 2020." WEF, December 17, 2019. http://www3.weforum.org/docs/WEF_GGGR_2020.pdf.
- Wrobel, Andrew. "It's Time for the EU to Show Georgia That a Clear Path towards Membership Exists." Emerging Europe. December 20, 2019. <https://emerging-europe.com/news/its-time-for-the-eu-to-show-georgia-that-a-clear-path-towards-membership-exists/>.

Zalkaliani, David. "Georgian Presidency will contribute to making the Council of Europe Stronger." Euractiv. November 29, 2019. <https://www.euractiv.com/section/eastern-europe/opinion/georgian-presidency-will-contribute-to-making-the-council-of-europe-stronger/>.

Zalmayev, Peter, and Lincoln Mitchell. "The Rise and Fall of Mikheil Saakashvili." Al Jazeera. February 20, 2018. <https://www.aljazeera.com/indepth/opinion/rise-fall-mikheil-saakashvili-180220122748810.html>.

About the Authors

Steven M. Schneebaum is Practitioner-in-Residence and Interim Director of the International Law and Organizations Program at SAIS, having been a member of the faculty since 1990. He has also taught international legal subjects at Catholic, American, Cornell, George Washington, and Oxford Universities. After partnerships in three national law firms, Professor Schneebaum established his own firm in 2014. His professional focus has been on litigation and international law, with a special emphasis on human rights. He has been counsel to parties and amici curiae in many significant cases, and has published and lectured extensively on the role of international human rights norms in domestic law and policy.

Prof. Schneebaum currently serves on the Boards of Directors of the American Branch of the International Law Association, the International Law Students Association (of which he was founding Chairman), the Council for Court Excellence, and Child Justice, Inc., as well as advisory boards to the British-American Project and the Center for Justice and Accountability. He is a Counsellor to the American Society of International Law, a Fellow of the American Bar Foundation, and a past Chair of the Board of Visitors of the Western Hemisphere Institute for Security Cooperation and the Steering Committee of the American Bar Association's Death Penalty Representation Project.

He was educated at Yale University (B.A., magna cum laude), Oberlin College (M.A. in philosophy), Oxford University (B.A. and M.A. in jurisprudence, the former with First Class Honors), and George Washington University

Law School (M.C.L.). His honors include the Msgr. Geno Baroni Caritas Award from Catholic Community Services (2005), the United States Army Commander's Award for Public Service (2009), and the Pamela Young Lifetime Achievement Award from the International Law Students Association (2018). He is a member of the District of Columbia Bar and the Bar of the U.S. Supreme Court.

Brittin Alfred is an MIPP student concentrating in International Law and Organizations. She graduated from Colorado College in 2010 with a degree in Religious Studies and Philosophy. She went on to work with the Kathmandu Valley Preservation Trust, a cultural preservation NGO in Nepal that works to protect the threatened architectural heritage of the Kathmandu Valley. After spending four years in Nepal, Brittin then transitioned to work with the Open Society Foundations (OSF) in a variety of roles. From 2014-2016 she worked with the Nepal-Bhutan Initiative and with the Alliance for Social Dialogue, the OSF National Foundation in Nepal. From 2016-2018 she worked as a Program Specialist with the South Asia Program, focusing primarily on Sri Lanka. Recently, she has held consultancies with National Democratic Institute (NDI) and has worked a short-term assignment as Acting Program Officer with OSF's South Asia Program, focusing on the protection of human rights defenders in the sub-region.

Sebastian Bernal is a second-year M.A. student concentrating in International Economics and Latin American Studies, with a minor in International Law and Organizations.

Before graduate school, Sebastian worked at the Washington Office on Latin America (WOLA), where he provided research and support for the Colombia and Cuba Program. He additionally worked at the National Endowment for Democracy (NED), where he provided assistance to the Latin America and Africa teams in NED's quarterly grant-making cycle.

Sebastian graduated from American University with a B.A. in International Studies, where he focused on U.S. foreign policy towards Latin America.

Elena Botts is a first-year M.A. student concentrating in International Law and Organizations. Elena graduated Bard College with a B.A. in Global and International Studies. Elena has worked for nonprofits (including a South African refugee rights organization) and political campaigns as well as for small presses and arts organizations. Elena interned for USUN and members of Congress as well as freelanced for various nonprofits, including those in the UN system. Elena is interested in human rights work, with a focus on transitioning societies, displaced people, and international interventions. Elena is also a multimedia artist, musician, and poet.

Dafne Carletti is a second-year M.A. student concentrating in International Economics and International Law and Organizations. She was born and raised in Bologna, Italy, where she has always been an active citizen involved in advocacy and volunteering, especially with regard to women's and migrants' issues. She graduated from the University of Bologna

in 2018, where she majored in International Studies and Diplomacy. She speaks Italian, English, Spanish, French and is currently learning Arabic. Following her first year at SAIS, Dafne interned in a grassroots NGO in Northern Egypt, working on projects of women empowerment and women's rights. Her interests include women and gender studies, international environmental law, and transnational advocacy.

Samuel Davidoff-Gore is a second-year M.A. student concentrating in International Economics and International Law and Organizations, with a minor in Conflict Management. He graduated from Brown University in 2015 with honors, concentrating in International Relations. After his first year at SAIS, he interned at the German Marshall Fund of the United States' office in Berlin, working on the migration team. Prior to attending SAIS, Sam worked for two years at the International Foundation for Electoral Systems (IFES), an international non-governmental organization that provides technical electoral assistance around the world. At IFES, he worked on the Jordan and Libya teams, helping manage several multimillion dollar USG funded projects aimed at building the capacity of local electoral management bodies and promoting inclusive elections. He hopes to pursue a career in refugee and migration policy.

Anna-Marie Kroos is a second-year M.A. student concentrating in International Law and Organizations and International Economics. Originally from Lincoln, Nebraska,

Anna-Marie graduated from Nebraska Wesleyan University with a degree in History, International Studies, and Spanish. Following graduation, Anna-Marie joined the Peace Corps and worked as a community economic development volunteer in Timor-Leste for two years. Living in a post-conflict context, Anna-Marie became interested in human rights and transitional justice which informed her participation in the human rights clinic. This past summer Anna-Marie interned with the Human Rights team at the US Mission to the UN in Geneva, Switzerland.

Zhi Li is a second-year SAIS student concentrating in International Law and Organizations. Before SAIS, she graduated from Nanjing University of China with honors, majoring in Chinese Law. From 2018-2019, she studied at the Johns Hopkins University – Nanjing University Center for Chinese and American Studies, learning about Comparative and International Law in depth. Her academic interests include the environment law and policy, international investment studies, and humanitarian issues.

Olivia Magnanini is a second-year M.A. student concentrating in International Economics and Latin American Studies. She spent this past summer working for United Nations High Commissioner for Refugees (UNHCR) in Bogotá, Colombia with the External Relations team advocating and supporting projects regarding the Venezuelan refugee crisis.

Olivia has worked in the private sector as a pre-sales consultant and international project manager for CrossKnowledge, a digital learning company, focused on the US and Latin American markets. Additionally, she worked for a private law firm as a legal assistant and interned with the American Civil Liberties Union (ACLU) as a Civil Liberties research intern. Olivia graduated with honors from the University of Wisconsin-Madison in 2014 with a B.A. in History and Spanish Literature, and concentrations in European Studies and Global Cultures. She is interested in the relationship between the rule of law and human rights, particularly in freedom of speech and the rights of journalists, the rights of women, and refugee and migrants' rights.

Helia Peng is a first-year M.A. student concentrating in International Law and Organization and International Economics, especially interested in human rights. Before coming to SAIS, she studied philosophy at Nanjing University and interned at UNDP China.

Gabriela Saenz is a second-year M.A. student concentrating in International Economics and International Law and Organizations. She completed her undergrad at the University of Central Florida, graduating in International and Global Studies with a minor in French. This past summer she completed an internship at the United Nations High Commissioner for Refugees (UNHCR) in Bogotá, Colombia. During her time there,

she was part of the Community Based Protection Team where she worked on recognizing the specific needs of Venezuelan refugees and internally displaced persons, focusing on women, children, youth, elderly, and disabled persons. She is currently interning at the Council on Foreign Relations as part of the Latin America and European Studies Team. Her interests encompass refugees, women, children, education and rule of law.

Zi Xue is a second-year M.A. student concentrating in International Law and Organizations. Originally from China, she received her B.A. in Political Science with distinction and double minors in Gender Women Sexuality Studies and Studies in Cinema and Media Culture from the University of Minnesota. Zi is also interning at Women in International Security (WIIS) as a Gender and Global Security Program Assistant. Her research interests are in the role that international organizations play in international security, the relationship between gender equality and global security, and foreign policies.



The authors at the Public Defender's Office in Tbilisi, Georgia during their research trip. January 2020

