



Report on the Situation of Human Rights Defenders in South Caucasus

2011-2012

Prepared by members of the South Caucasus Network of Human Rights Defenders
with the support of the Human Rights House Foundation



South Caucasus
2013

This report is a joint report of the South Caucasus Network of Human Rights Defenders that covers the situation of human rights defenders in Armenia, Azerbaijan and Georgia. The joint report will be available at the website of the South Caucasus Network of Human Rights Defenders, www.caucasusnetwork.org.

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

The following organizations contributed to the report:

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Georgian Young Lawyers' Association (GYLA), Georgia
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Helsinki Citizens' Assembly – Vanadzor, Armenia
Human Rights Center (HRIDC), Georgia
Human Rights Club, Azerbaijan
Institute for Reporters' Freedom and Safety, Azerbaijan
Legal Education Society, Azerbaijan
Media Rights Institute, Azerbaijan
Multinational Georgia (PMMG), Georgia
PINK Armenia
Public Association for Assistance to Free Economy, Azerbaijan
Rule of Law, Armenia
Shahkhatun, Armenia
Socioscope, Armenia
Women's Resource Center, Armenia
Women's Association for Rational Development, Azerbaijan



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INTRODUCTION

The report covers cases of pressure against human rights defenders in Armenia, Azerbaijan and Georgia between January 2011 and November 2012. The documentation provided by local human rights organizations in the three countries shows that the work of human rights defenders is not only hindered through direct attacks, threats or charges against individuals, but also through smear campaigns targeting both human rights defenders and organizations that cover sensitive issues. This despite the fact that according to the UN Declaration on Human Rights Defenders, everyone has the right “to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.”¹

The cases covered in the report refer to organizations, groups and individuals working on a variety of issues concerning human rights, such as: impunity of perpetrators of abuses in the army or in the police; national minority issues; protection for LGBT rights; and protection for the environment. The wide range of cases included in the report is in line with Article 1 of the UN Declaration on Human Rights Defenders, which states that “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”²

According to the UN Special Rapporteur on Human Rights Defenders, a human rights defender “can be any person or group of persons working to promote human rights, ranging from intergovernmental organizations based in the world’s largest cities to individuals working within their local communities. Defenders can be of any gender, of varying ages, from any part of the world and from all sorts of professional or other backgrounds. In particular, it is important to note that human rights defenders are not only found within NGOs and intergovernmental organizations but might also, in some instances, be government officials, civil servants or members of the private sector.”³

¹ UN Declaration on Human Rights Defenders, <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>

² Ibid.

³ “Who is a Defender”, UN Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>

SUMMARY

During 2011 and 2012, human rights defenders in **Armenia** continued to face difficulties in carrying out their work efficiently without hindrance. There were attacks on, threats against, and harassment of human rights defenders. Members of government-friendly NGOs, nationalist organizations, and other individuals participated in acts of violence and intimidation, and singled out LGBT defenders and defenders promoting dialogue with Azerbaijani civil society in particular for abuse and slander. Government officials offered a vague notion of a “national ideology” to justify these acts, stating that human rights defenders’ views were antithetical to Armenian traditions and the nation. The media also used this concept of a national ideology to discredit human rights defenders and human rights organizations. In some cases, authorities forcibly detained and imposed penalties on defenders who participated in public demonstrations. The reporting period also saw some positive changes in the climate for defenders in Armenia. For example, courts allowed for more criticism of public officials.

Human rights defenders in **Azerbaijan** saw their working environment deteriorate during 2011 and 2012. The Azerbaijani government engaged in systematic persecution of individuals reporting on and defending victims of the human rights violations in the country. Human rights defenders were the targets of violent attacks, threats, and harassment, which the authorities failed to properly investigate. Azerbaijani courts moved away from the use of articles on defamation to target defenders. Instead, a new tactic evolved in Azerbaijani courts whereby defenders were tried on spurious charges, sometimes based on planted evidence such as drugs and arms. Youth activists who used social media to mobilize or react to human rights violations were especially targeted. The protests inspired by the Arab Spring and demonstrations in connection with the Eurovision Song Contest in Baku were suppressed by the authorities. Journalists covering the events were beaten, and lawyers defending protesters were both threatened and faced disciplinary actions from the Bar Association. In addition, the Azerbaijani government did its best to discredit defenders at home and abroad. This was part of a larger campaign to either co-opt or render moot independent civil society. It included legislative changes limiting the space for independent international and national NGOs to operate in the country. It also included the support to so-called governmental non-governmental organizations (GONGOs), which in certain ways duplicated or complicated the work of independent NGOs. At the end of the reporting period, Azerbaijani human rights defenders were concerned about the new changes to the laws governing freedom of assembly. Harsher punishment for unsanctioned protests promised to further limit defenders’ ability to criticize the Azerbaijani government or call for improvements in its policies.

Human rights defenders in **Georgia** reported several problems from January 2011 to October 2012. HRDs were attacked, threatened, and harassed. Journalists were targeted, particularly when they monitored anti-government protests in 2011 and covered certain pre-election campaign meetings in 2012. Authorities also harassed and obstructed the work of lawyers who litigated human rights cases. HRDs in the regions outside Tbilisi, who lacked access to international organizations, the media, and other support networks, were particularly vulnerable to harassment and abuse. Investigations into these incidents were perfunctory and failed to identify perpetrators. The judicial system continued to exhibit a lack of independence from government authorities, and there were a few incidents in which HRDs were subject to administrative and criminal proceedings. During the reporting period, the Georgian government treated civil society input with skepticism and this limited the effectiveness of HRDs’ advocacy. One notable success story was a civil society campaign to improve election laws and practices, which hinted at room for improvement in HRDs’ advocacy strategies. At the end of the reporting period, graphic videos of torture in prisons resulted in protests that caused several high-ranking government officials to resign. Following the scandal, the Minister of Corrections and Legal Assistance granted some civil society representatives access to the penitentiary system. HRDs believe that a permanent civil society prison monitoring group is crucial to improve the human rights situation. The parliamentary elections in October 2012 brought a peaceful handover of power from the ruling United National Movement party to the Georgian Dream coalition of opposition parties. After the elections, Georgian defenders remained hopeful that they would be able to work with the government to initiate a reform process that would improve long-term protection for defenders and for human rights.

ARMENIA
SITUATION OF HUMAN RIGHTS DEFENDERS
JANUARY 2011 – NOVEMBER 2012

Compiled by a member of South Caucasus Network for Human Rights Defenders:

Helsinki Citizens' Assembly – Vanadzor

The following members and partners of South Caucasus Network of Human Rights Defenders contributed to the report:

PINK Armenia

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Rule of Law

Edited by:

Helsinki Citizens' Assembly – Vanadzor, Armenia

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I. OVERVIEW

Human rights defenders (HRDs) in Armenia continued to operate in a difficult political and advocacy environment in 2011 and 2012. The atmosphere of citizen distrust, disappointment and indifference towards the country's legal system, which initially was a result of the protests and clashes following the 2008 presidential election, persisted during the reporting period. Civil society continued to be marginalized in the process of governance⁴ and the government did not encourage defenders' activities or participation in the political process.⁵ During the reporting period, the government also failed to implement recommendations from various international bodies, including the Special Rapporteur on the Situation of HRDs. The government also did not seek to fulfill all of the human rights obligations that it assumed in its partnership agreement with the Council of Europe in 1999, especially those concerning the rule of law.⁶ The judiciary continued to need reforms in order to ensure access to justice for all citizens and to guarantee the right to a fair trial, issues that the European Parliament highlighted in its 2012 recommendations to Armenia.⁷

Several HRDs were harassed, assaulted, and intimidated in 2011 and 2012. Although the government generally did not hinder defenders' work, the government harassed certain human rights organizations and defenders, including journalists,⁸ and the European Parliament called on the government to guarantee a safe environment for investigative journalism.⁹ Perpetrators of other acts of violence and intimidation were private citizens, particularly members of nationalist groups and pro-government NGOs. In addition, HRDs were subject to violence and arbitrary detention as a result of their participation in peaceful assemblies, demonstrations, protests and marches. The government did not take any measures to prevent these violations or punish perpetrators. Pressure and persecution of HRDs was particularly prevalent in the period before and after the elections in May 2012. NGOs criticized the election process, alleging that it was marred by "vote buying, abuse of administrative resources, political imposition and harassment of employees by the public sector and private employers, and the use of numerous other illegal 'techniques'."¹⁰

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- ⁴ On this subject, the U.N. Special Rapporteur on the Situation of Human Rights Defenders stated that "[t]he Government seems not to consider NGOs as potential partners, nor are they perceived by society as representative." Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, Addendum, Mission to Armenia. December 2010, U.N. Doc. A/HRC/16/44/Add.2, ¶ 56, p. 13. <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44-Add2.pdf>
- ⁵ Bertelsmann Stiftung's Transformation Index (BTI) 2012, *BTI 2012 — Armenia Country Report*. Gütersloh: Bertelsmann Stiftung, 2012, <http://www.bti-project.de/fileadmin/Inhalte/reports/2012/pdf/BTI%202012%20Armenia.pdf>
- ⁶ PACE resolution 1837 (2011) stated that the Assembly "is concerned about the functioning and lack of independence of the judiciary in Armenia, which impede its role as an impartial arbiter. It is equally concerned about persistent reports and allegations of endemic corruption in the Armenian judiciary. In this respect, it welcomes the importance and priority given by the authorities to the reform of the judiciary, especially with a view to ensuring its independence. It considers that the reform of the judiciary cannot be achieved through legislative changes alone and should be accompanied by a comprehensive policy for their implementation aimed at changing existing mentalities and practice." The resolution also expressed concern about the reports of police brutality and misconduct and urged the authorities to step up their efforts to eradicate any form of ill treatment and abuse by the police. PACE Resolution 1837 (2011): "The functioning of democratic institutions in Armenia", 2011, <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=18032&Language=EN>
- ⁷ The European Parliament's 2012 recommendations on the negotiations of the EU-Armenia Association Agreement "stress in particular the importance of the independence of the judiciary...reliable court procedures that guarantee fair trial and access to justice for all citizens, a safe environment for investigative journalism, access to information and independent and social media and the prevention of any forms of torture and ill-treatment in detention centres." European Parliament resolution of 18 April 2012 containing the European Parliament's recommendations to the Council, the Commission and the European External Action Service on the negotiations of the EU-Armenia Association Agreement, Doc. 2011/2315(INI), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0128&language=EN&ring=A7-2012-0079>
- ⁸ The U.S. Department of State identifies the "Army in Reality" Initiative and the Helsinki Citizens' Association-Vanadzor as two groups that the Armenian government harasses. Examples of harassment of these groups are included in this report. United States Department of State, Bureau of Democracy, Human Rights and Labor, "Country Reports on Human Rights Practices 2011: Armenia," page 24. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dld=186326#wrapper>
- ⁹ European Parliament resolution of 18 April 2012, *supra* note 4.
- ¹⁰ "STATEMENT On the 2012 Parliamentary Elections in Armenia", Partnership For Open Society, 11 May 2012, <http://www.partnership.am/en/Statements/38416>

In 2011 and 2012, the government attempted to create negative publicity for HRDs and publicly criticized individual activists and organizations, focusing in particular on HRDs' use of funds from foreign donors. Government officials, parliamentarians, and media representatives relied on the notion of a national ethnic ideology to discredit defenders and questioned the origin and motivation of individuals who expressed critical views about government policies. Officials frequently stressed that preserving this national ideology within Armenia was an urgent priority for Armenian society and that citizens' actions should be in line with national interests, national security, and national traditions. This vague concept of a national ideology was used to eliminate or discredit ideas and opinions that did not coincide with the interests of the ruling party.

NGOs' cooperation with mass media continued to be limited during 2011 and 2012,¹¹ and the media's coverage of NGO activities decreased during this period. Most media outlets in Armenia are government-controlled or friendly toward the government, and those outlets continued to distort HRDs' activities and display hostility toward individual defenders and human rights organizations.¹² However, NGOs were able to use online media to disseminate information about their activities and mobilize supporters virtually without censorship.¹³ Facebook was a particularly valuable tool, and NGOs' ability to influence the public agenda increased significantly during the reporting period.

II. PROBLEMS THAT HUMAN RIGHTS DEFENDERS FACED DURING 2011-2012

A. Attacks on and Threats against Human Rights Defenders

During 2011-2012, government authorities physically assaulted HRDs who participated in peaceful rallies and demonstrations. Authorities also publicly expressed their support for private citizens' acts of intimidation and violence. In particular, journalists, LGBT rights defenders, conflict resolution activists, defenders of the environment, and human rights lawyers were threatened and harassed during the reporting period.¹⁴

Journalists

In 2011, several journalists alleged that they were victims of physical violence because of their professional activities. Although investigations were launched, no criminal charges were filed in connection with these cases and perpetrators were not prosecuted.

In 2012, there were reported cases of physical violence against journalists who covered the parliamentary election in May. 16 cases of pressure on the media were registered as of July 2012, of which 4 occurred on Election Day.¹⁵ Journalists complained that in polling stations, their video and audio recording devices were seized or confiscated, which hindered their ability to encourage a free and transparent election process by spreading public information about the process.

¹¹ In this regard, the U.N. Special Rapporteur on the Situation of Human Rights Defenders stated that "[a]wareness about the activities of civil society organizations is also very low. The media often ignores NGO initiatives, reports and press conferences, and, furthermore, NGOs are frequently denied access to the media." *Supra* note 1 at ¶ 56, p. 13.

¹² The U.N. Special Rapporteur on the Situation of Human Rights Defenders noted "with serious concern that human rights defenders are regularly depicted in a distorted manner in State-controlled media and even smeared. Human rights defenders have been time and again labeled as foreign agents, spies, cronies and the "fifth column". *Supra* note 1 at ¶ 56, p. 13.

¹³ United States Agency for International Development Bureau for Europe and Eurasia Office of Democracy, Governance and Social Transition, *The 2010 NGO Sustainability Index for Central and Eastern Europe and Eurasia*, 14th Edition – November 2011, <http://program.counterpart.org/Armenia/wp-content/uploads/2011/02/USAID-NGO-Sustainability-Index-PDF.pdf>

¹⁴ Similarly, the Special Rapporteur stated in her 2010 report that "[a]mong the most vulnerable groups of human rights defenders in Armenia are those working on the rights of LGBT persons, women human rights defenders, NGOs working in remote areas and environmental activists." *Supra* note 1 at ¶ 60, p. 13.

¹⁵ *CPFE Second Quarterly Report (April-June 2012)*, Committee to Protect Freedom of Expression, http://khosq.am/wp-content/uploads/2012/09/2-CPFE-quarterly-report-2012_eng.doc

On May 5, 2012, electoral commission members at a polling station in Gyumri used physical force against a camera crew from the regional television station, Gyumri Gala TV, which regularly criticized the government.¹⁶ The crew members were observing and reporting on voting procedures at the station. On May 6 (Election Day), while a journalist from Radio Liberty was filming a crowd near a polling station in Yerevan, a man forcefully attempted to take her camera and erase the video.¹⁷ Although the journalists filed complaints about both incidents, the authorities did not initiate a criminal case against the attackers.

LGBT Defenders

LGBT rights defenders were particularly vulnerable to attacks, threats and harassment from private citizens and nationalist groups. Prominent politicians supported these acts, using nationalistic rhetoric to justify the actions, which in turn led to further harassment of LGBT defenders.

The D.I.Y club, an LGBT-friendly bar owned by an LGBT activist, was set on fire on May 8, 2012. Members of the National Assembly publicly supported the attack and the two men who were arrested in connection with it. An MP stated that the attackers were “completely right and justified” and another supported the attackers for taking “practical steps in fighting against those who defame our national values and faith.” As a result, an aggressive attitude toward LGBT people formed among the public, there were additional break-ins at the club, and civil society activists who publicly supported the club and its owners were attacked.¹⁸

On May 21, 2012, two NGOs, Public Information and Need of Knowledge (PINK) and Women’s Resource Centre (WRC), organized a diversity march in Yerevan to mark the U.N. World Day for Dialogue and Development. Before the march, the media incorrectly stated that the event was a gay pride event and a large group of young nationalists appeared at the march. The nationalists sang patriotic songs, chanted homophobic phrases, and attacked the participants in the march.¹⁹ After the incident, PINK’s leaders, who also had spoken out about the attack on D.I.Y., were harassed and threatened. Harassers attempted to intimidate the leaders with veiled threats about future reprisals, making statements like “Be careful, you never know what will happen to you if you don’t stop your activism” and “Give up the D.I.Y. case or you will be sorry.”²⁰

Nationalist groups also intimidated venues that agreed to host public events about LGBT rights.

In October 2012, the German Embassy in Yerevan and the European Union Delegation to Armenia organized a series of screenings of a film about LGBT issues in Serbia. Hayazn, an organization known for its nationalist views, protested the event in front of the German Embassy. Protestors then marched to two venues where screenings were scheduled. Consequently, both venues cancelled the screenings. A third venue then agreed to show the film, but cancelled the event without providing an explanation to the

¹⁶ “Materials Being Prepared on Report made by ‘GALA’ TV Journalist”, Hetq online, Investigative Journalists, 14 May 2012, <http://hetq.am/eng/news/14409/materials-being-prepared-on-report-made-by-“gala”-tv-journalist.html>

¹⁷ “Radio Liberty Reporter Attacked in Armenia,” News.am, 6 May 2012, <http://news.am/eng/news/104374.html>

¹⁸ “DIY Incident Stirs National Debate: Hate crime was “right and justified” says deputy speaker of National Assembly”, 18 May 2012, ArmeniNow. http://www.armenianow.com/society/38162/diy_gay_lesbian_club_bomb_attack_yerevan_reactions. “The Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Armenia: A Shadow Report, Submitted for consideration at the 105th Session of the Human Rights Committee, July 2012, Geneva.” http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Armenia_HRC105.pdf. “The Statement of the Civil Society Forum Armenian National Platform about the Raising Xenophobia and Intolerance in Armenia”, Easter Partnership Newsletter Armenia, 1 June 2012, <http://eaparmenianews.wordpress.com/2012/06/05/issue-105>

¹⁹ “Incident during Diversity March in Yerevan”, «A1+» TV, 21 May 2012, <http://www.a1plus.am/en/social/2012/05/21/diversity-march>

²⁰ Public Information and Need of Knowledge NGO.

organizers. At the time of writing, the organizers sought to find other venues to host the screenings.²¹

Threats have prevented LGBT rights defenders from expressing their opinions and participating in public events.

In October 2012, Mamikon Hovsepyan, an LGBT rights activist and President of PINK Armenia, received threats when he attended the Armenians and Progressive Politics conference in the USA organized by the Armenian Revolutionary Federation (ARF) Central Committee – Eastern Region.²² Due to the severity of the threats, Hovsepyan was given private security as a precautionary measure. On the second day of the conference, two members of the ARF’s Western Region told Hovsepyan, who was scheduled to serve as a panelist at the conference, that he was not allowed to speak due to concern for his security. Later, Hovsepyan was told that the actual reason he was not allowed to speak during the conference was that the ARF would have institutional problems if they allowed him to serve as a panelist.²³

LGBT defenders also have experienced other acts of intimidation, including stalking.

In November 2012, PINK Armenia’s staff members began to notice that they were being stalked by the young people who attacked the Diversity March in May. When PINK’s staff left the office at lunchtime or at the end of the day, these young people showed up on the same street or at the same cafés. In the cafés, the attackers would sit at the next table, staring at the staff members, suggesting that the attackers’ presence was more than a mere coincidence.

Conflict Resolution Activists

Activists who promote the resolution of the ongoing conflict between Armenia and its neighbors were harassed when they promoted messages of tolerance and peace in the South Caucasus. The authorities did not investigate these incidents.

On April 12, 2012, the Caucasus Centre for Peace Making Initiatives attempted to hold a festival of Azerbaijani films in Gyumri. A group of 50 protestors held a demonstration opposing the planned festival on nationalistic grounds. The protestors blocked access to the venue hosting the festival, threatened the organizers and the festival hosts, and physically assaulted one of the Centre’s representatives. Due to the protests, the Centre was forced to cancel the event at the last minute.²⁴

The Helsinki Citizens’ Assembly-Vanadzor planned to host the same film festival at its offices on April 17. The day before the event, the organization’s office was attacked. Protestors gathered in front of the office and threw rocks and eggs, breaking windows and injuring an employee. The police did not take any action to ensure the safety of the organization’s staff, even though the organization informed the police about the situation at the office. The authorities also did not bring criminal charges against any of the attackers.²⁵

²¹ “EU-initiated demonstration of ‘Parada’ Serbian drama on sexual minorities arouses public discontent in Yerevan”, Arminfo, 10 October 2012, <http://www.arminfo.info/index.cfm?objectid=8D84FF80-12F4-11E2-B1ACF6327207157C>

²² The Armenian Society of Columbia University and the ARF Western Region co-sponsored the conference.

²³ “Armenian Progressive Politics Conference Sees Highs, Lows,” ianyan mag, An Independent Armenian Publication, 9 October 2012, <http://www.ianyanmag.com/2012/10/09/progressive-politics-conference-sees-highs-and-lows/>

²⁴ “Festival fallout: Vanyan organizes show of Azeri films at restaurant outside Gyumri”, Armenia Now, 13 April 2012, http://www.armenianow.com/arts_and_culture/37290/azerbaijani_film_festival_demonstration_fail_gyumri

²⁵ “Statement about the attack on the organization on April 16, 2012, Helsinki Citizens’ Assembly- Vanadzor,” 17 April 2012, <http://hcav.am/en/events/hca-vanadzor-statement-regarding-the-attack-on-the-organization/>. “Concerned about attacks against human rights organisations in Armenia”, statement of Human Rights House Network and South Caucasus Network of Human

Defenders of the Environment

Authorities prevented environmental defenders from staging public protests in 2011 and 2012. During the pre-election period in 2012, political parties also sought to limit defenders' ability to participate in campaign rallies and spread their message to voters, sometimes forcibly dispersing demonstrators.

On April 27, 2012, Peace Dialogue organized a peaceful protest against mining activities in Teghut during a Republican Party parliamentary campaign rally in Vanadzor. Serzh Sargsyan, the President of Armenia and the head of the Republican Party, led the event. Young members of the local office of the Republican Party intervened and ordered the protestors to leave.²⁶

On April 30, 2012, members of the Teghut Protection Initiative tried to participate in a campaign rally organized in the Avan District of Yerevan. President Sargsyan attended the rally. Supporters of the President prevented the members of the Initiative from participating in the rally and destroyed their signs and banners.²⁷

Lawyers

Human rights lawyers also were harassed.

In January 2011, human rights lawyer Artak Zeynalyan's office was burglarized. Zeynalyan's computer monitor and keyboard were stolen, while money and other valuable objects were untouched. It also appeared that the office had been searched for documents.²⁸ Zeynalyan represents the interests of the victims who were injured, killed, and imprisoned on March 1, 2008, when police used excessive force against protestors who disputed the results of the presidential election. Zeynalyan also has represented the interests of Vahan Khalafyan, a man who died at the Charentsavan police department in 2010 under suspicious circumstances.

B. Arbitrary Police Interrogation and Detention of Defenders

Police arbitrarily detained activists who defended human rights by participating in public protests and assemblies related to human rights issues.

On October 27, 2011, the "Army in Reality" initiative organized a demonstration in front of the Armenian government building to protest abuse in the armed forces, to demand access to statistics about non-combat deaths of servicemen, and to encourage the authorities to conduct a proper investigation into those deaths.²⁹ The police prevented the demonstration from taking place. Lala Aslikyan, a human rights activist involved in the demonstration, was arrested and detained in a police station for several hours without access to her lawyer.³⁰

Rights Defenders, 18 May 2012, <http://humanrightshouse.org/Articles/18040.html>

²⁶ "Today We Are Building Our Future And The Future For Our Children..." (Video), Peace Dialogue, 20 April 2012, http://www.peacedialogue.am/english/activity_more.php?SID=2&AID=503&TopicId=5&Language=Eng

²⁷ "Civil Initiative for the Protection of Teghut," h.hraparak.am, <http://hraparak.am/texux-avan/>. Updates on the activities of the initiative in English: <http://www.ecolur.org/en/news/teghout/46/>.

²⁸ "Hanrapetutyun' Party Office Burgled For The Second Time", armtown.com, 10 January 2011, <http://www.armtown.com/news/en/a1p/20110110/201101108/>

²⁹ For more details on the cases, see "Civil and Public Control over Armed Forces in Armenia," HCA-Vanadzor, <http://hcav.am/wp-content/uploads/2012/04/Report-eng.pdf>

³⁰ "Activist released," «A1+» TV, 27 October 2011, <http://www.a1plus.am/en/politics/2011/10/27/lala-free>

On March 30, 2012, Ervand Karapetyan was arrested for protesting in front of the Armenian Public Television (“H1”) building. During the protest, Karapetyan held posters stating that the television company had violated the law and he called on the station to air a film on the March 1, 2008 protests. After his arrest, the police transferred Karapetyan to a psychiatric institution, where he underwent a psychiatric evaluation. A team of three doctors found that Karapetyan displayed no symptoms of a mental illness, and he was released a few hours later.³¹ The police appeared to have no basis for subjecting Karapetyan to a psychiatric evaluation.³² Subsequently, the Civil Society Institute disseminated a report on the incident and requested that the government investigate Karapetyan’s arbitrary detention. The organization did not receive a response from the authorities.³³

In addition, police have requested HRDs to submit to questioning based on unfounded allegations of criminal conduct.

On January 16, 2012, Artur Sakunts, the Chairman of Helsinki Citizens’ Assembly-Vanadzor, was questioned at the Lori Regional Police Investigative Department. The police stated that they suspected that Sakunts had forced a civilian to give a statement alleging violence at the hands of the police. The police did not give Sakunts any additional information about the investigation after the interrogation. They only informed HCA-Vanadzor that the case had been closed due to lack of evidence after the organization made a formal inquiry about the proceedings.³⁴

C. Threats against Human Rights Organizations

Politicians also directly threatened human rights organizations with reprisals for their activities, particularly during the pre-election period in 2012.

In May 2012, employees of the campaign offices of Prosperous Armenia, a political party, refused to speak with election observers from the Helsinki Citizens’ Assembly-Vanadzor. The employees stated that the party was against the organization’s activities and would terminate those activities if the party came to power. One employee told the observers, “If we come to power, the first thing we will do is to deport Artur Sakunts (the Chairman of HCA-Vanadzor) from Vanadzor.”³⁵

³¹ <http://www.epress.am/2012/03/31/Իրավապաշտպանը-պատմել-է-ինչպես-էին-հոգ>, Armenian

³² According to one source, “When doctors expressed surprised and asked police officers why they assumed Karapetyan was mentally ill, the officers said, ‘Well, there was a call and we were obliged to check.’” Independent Journalists’ Network epress.am, “Man Protesting Outside State Broadcaster Detained by Police Now Released,” 30 March 2012, <http://www.epress.am/en/2012/03/30/man-protesting-outside-state-broadcaster-detained-by-police.html>. Another source states that “[a]ccording to the police, Yervand Karapetyan’s strange behavior manifested ‘in standing with a poster in his hands’ and ‘in irregular movements of his hands.’” Civil Society Institute, “CSI Demands an Investigation into Occasion of Unlawful Interference by Police,” 4 April 2012, <http://hra.am/en/events/2012/04/04/csi>

³³ “CSI demands an investigation of the unlawful involvement of the police,” Aravot, 4 April 2012, <http://www.aravot.am/2012/04/04/55758/>

³⁴ “Artur Sakunts was invited in for an interrogation,” HCA Vanadzor, 16 January 2012, <http://hcav.am/events/նստիկանությունը-հարցաքննություն>, Armenian

³⁵ “Report on Observation Mission on the Parliamentary Elections of May 6, 2012, Vanadzor 2012,” p. 22, HCA Vanadzor, <http://hcav.am/wp-content/uploads/2012/08/Elections-report-final-May-2012-Eng1.pdf>

D. Smear Campaigns against Human Rights Defenders

The government used the media to disseminate false information about HRDs during 2011 and 2012 in an attempt to influence public perception of HRDs' activities and encourage public suspicion about HRDs' motives. These messages often were spread through online media and social networks.

Beginning in 2011, a number of local and Russian websites spread articles defaming the Helsinki Citizens' Assembly-Vanadzor and its chairperson Artur Sakunts. The articles accused Sakunts of having a political agenda and stated that he was "spreading the color revolution." Further, the articles criticized HCA-Vanadzor's 2010 project "Training and Networking for the Young Human Rights Activists", describing it as a boot camp for training revolutionaries to organize revolutions in their respective countries.³⁶

Current and former government officials promoted a similar view of human rights defenders in their statements to the media. The officials focused on the fact that foreign governments often fund human rights organizations and used that fact to attempt to discredit the organizations and their work. In their comments, the officials expressed a general distrust toward foreigners and questioned defenders' patriotism and loyalty.

Vladimir Gasparyan, former Deputy Minister of Defense, gave two interviews in October 2011 in which he criticized defenders who demanded fair investigations of human rights violations in the army.³⁷ In one interview, Gasparyan stated, "How can one's heart ache for the army of this country if one is financed from other countries? How can one's heart ache when one thinks the more sensational and the more terrible the case is, the better, because one can earn more money off of it? Those who are engaged in such activities are without a fatherland and with disgrace."³⁸

Journalists from government-controlled media outlets have made similar statements about human rights organizations and defenders.

On October 11, 2011, Gevorg Altunyan, the Director of Informational and Analytical Public Television programs and the host of the Tesankyun (Viewpoint) program on public television (H1), criticized a petition promoted by several human rights defenders. The petition demanded President Sargsyan's resignation on the grounds that he has ignored evidence of torture, ill treatment, and a large number of non-combat deaths in the army. During the program, Altunyan stated that the defenders sought to commit acts of treason. Altunyan also insisted that because foreign governments fund human rights organizations, those organizations do not have the right to make political demands.³⁹

On October 16, 2011, the Arajin Lratvakan (First Informative) program on public television aired a report about Artur Sakunts, Chair of the Helsinki Citizens' Assembly-Vanadzor, and Levon Barseghyan, Chair of the Board of Journalists' Club Asparez. Sakunts and Barseghyan had spoken out about the number of non-combat deaths that occurred in the armed forces and had demanded a fair investigation into the deaths. The television report presented a distorted picture of the activities of the organizations and the projects that they have implemented, referring to random excerpts from project descriptions and referring to them as an unreasonable waste of money and resources.

³⁶ "Striking discovery about Artur Sakunts and what Helsinki Association does in Reality," BlogNews, <http://blognews.am/arm/news/16077/cnc>. Note: HCA and AHA are often confused, sometimes deliberately.

³⁷ On 15 October 2011, Gasparyan appeared on the "Zinuzh" TV program. On 17 October 2011, he gave an interview to www.hraparak.am.

³⁸ HCA Vanadzor vs. Vladimir Gasparyan, Helsinki Citizens' Assembly Vanadzor, 11 November 2011, <http://hcav.am/en/events/hca-vanadzor-vs-vladimir-gasparyan/>

³⁹ TesankyunARMTV, <http://www.youtube.com/watch?v=tnSXNbkrN48&feature=plcp>

The report also referred to the activists as “traitors”, “grant consumers”, and “foreign servants”.⁴⁰

On October 18, 2012, Gevorg Altunyan, host of the Tesnakyun program on public television, discussed a survey conducted by PINK NGO on the public’s perception of LGBT people. Altunyan made homophobic statements that focused in particular on those who identify as transgender. He also commented that the public’s negative attitude toward LGBT people was “obvious, thank God,” and stated that LGBT rights were threat to the survival of the Armenian nation.⁴¹

Online media also have been used to smear defenders and incite violence against them.

Before PINK Armenia and “Women’s Resource Centre” held the Diversity March in May 2012, information was disseminated through social networks and online media stating that the organizations were preparing a “gay parade”. In their online statements, extremists encouraged people to go to the streets and prevent the march. They stated that the march organizers were bringing “immoral Western values to Armenia and calling it diversity.” They also encouraged people to “burn the gays,” “clean the country from immorality,” and “send gays out of the country.”

E. Legal Actions against Human Rights Defenders

During the reporting period, HRDs were subject to criminal charges and prosecutions as well as civil defamation and libel proceedings.

Criminal Prosecutions and Charges

There were cases of criminal prosecutions of HRDs during 2011 and 2012 as well as instances in which HRDs were subject to criminal charges that subsequently were dropped or dismissed due to lack of evidence. Although a new Law on Assembly was adopted in 2011, freedom of assembly remained limited in practice,⁴² and many charges were filed in connection with peaceful public demonstrations or protests. Police arrested peaceful protestors for crimes such as hooliganism and disturbing public order, suggesting that authorities’ goals were to end demonstrations quickly and intimidate other potential protest organizers.

On October 20, 2011, Vardges Gaspari was arrested during a protest at the Armenian government building that related to the continuing deaths in the armed forces and the flawed investigation of those deaths. During the protest, Gaspari stated that a former police chief was a murderer and a hooligan. Police detained Gaspari and charged him with hooliganism and assault. Gaspari was found guilty and fined 30,000 AMD (74 USD).⁴³ After participating in another protest in March 2012, Gaspari was charged with disturbing public order. Four months later, the police dropped the charges.

⁴⁰ “The Debate between the Prominent Human Rights Activist and the TV-Commentator Continues,” Helsinki Citizens’ Assembly Vanadzor, 24 October 2011, <http://hcav.am/en/events/the-debate-between-the-prominent-human-rights-activist-and-the-tv-commentator-continues/>

⁴¹ TesnakyunARMTV, <http://www.youtube.com/watch?v=vVtWk87NPIE>

⁴² “Written Contribution of the International Federation of Human Rights (FIDH) and the World Organisation Against Torture (OMCT) to the 2011 OSCE Human Dimension Implementation Meeting”, 27 September 2011, <http://www.fidh.org/Written-contribution-of-the>

⁴³ “‘The Decision Was Not Unexpected for Me,’ Vardges Gaspari Says”, Aravot Daily, 29 October 2012, <http://www.aravot.am/en/2012/10/29/124822/>

Criminal charges also were filed against journalists who were critical of government authorities.

Hayk Gevorgyan, a journalist for the opposition newspaper Haykakan Zhamanak, was arrested on February 3, 2012, on charges that he violated traffic rules and ran over a citizen. Gevorgyan was arrested after the newspaper's February 3 edition featured an article that criticized the chief of police. Human rights organizations characterized Gevorgyan's arrest as based on unfounded allegations and as an act of revenge for the article.⁴⁴ The criminal charges brought against Gevorgyan were dismissed in July due to a lack of sufficient evidence.

Lawyers were subject to criminal charges as well during the reporting period.

On April 25, 2012, a criminal case was filed against Gurgen Harutyunyan, a public defender, on the grounds that he had forced a client to give false statements. The charges were filed after one of Harutyunyan's clients was acquitted of hooliganism charges.⁴⁵ With the help from the Chamber of Advocates and several NGOs, the court dismissed the case against Harutyunyan, stating that there was no evidence to support the charges.⁴⁶

Defamation and Libel

Article 1087.1 of the Civil Code regulates compensation for damage caused to honor, dignity or business reputation and effectively legalizes the intimidation of journalists and the media. In 2011, authorities used this legal provision to put pressure on the media, NGOs and individual defenders.⁴⁷ The number of incidents of intimidation of journalists, particularly in the form of lawsuits, increased significantly during the year—34 lawsuits against journalists were filed in 2011, as compared to 4 lawsuits filed in 2010.⁴⁸

In 2012, the number of lawsuits filed against media outlets decreased after the Constitutional Court adopted a broader interpretation of freedom of speech. The Court stated that individuals holding public office or other official positions should be more open to public criticism and less protected from public insult, slander and criticism. As a result, it has been more difficult for public officials to justify lawsuits against journalists. As of July 1, 2012, only 6 lawsuits had been filed against journalists during the year.⁴⁹

F. Other Restrictions on Human Rights Defenders' Activities

Legal barriers to effective human rights advocacy include legislative gaps in human rights protection, restrictions on the provision of legal assistance, and laws applicable to volunteers. Pro-government NGOs and bias in the judicial system also hinder HRDs' activities.

⁴⁴ "Statement of Helsinki Citizens' Assembly-Vanadzor in Defense of Hayk Gevorgyan," HCA-Vanadzor, 4 February 2012, <http://hcav.am/en/events/statement-of-helsinki-citizens%E2%80%99-assembly-vanadzor-in-defense-of-hayk-gevorgyan/>

⁴⁵ Criminal Code of the Republic of Armenia, Part 4, Art 258 on hooliganism.

⁴⁶ "Ruling on Gurgen Harutyunyan's Case," Republic of Armenia Chamber of Advocates, 25 May 2012, http://www.advocates.am/index.php?option=com_content&view=article&id=655:2012-05-25-11-53-22&catid=39:2010-09-13-15-11-58&Itemid=144

⁴⁷ On May 18, 2010 Article 135 (defamation) and Article 136 (libel) of the Republic of Armenia Criminal Code were decriminalized. The Republic of Armenia Civil Code now sets a fine for defamation and libel, which is 1-2 mln AMD (about €1900-3800), approximately 1000-2000 times the minimum wage in Armenia.

⁴⁸ Committee to Protect Freedom of Expression, *CPFE Annual Report 2011 On the Situation of Freedom of Speech and Violations of Rights of Journalists and Media in Armenia*, <http://khosq.am/en/reports/annual-report-2011-2/>

⁴⁹ *CPFE Second Quarterly Report (April-June 2012)*, Committee to Protect Freedom of Expression, http://khosq.am/wp-content/uploads/2012/09/2-CPFE-quarterly-report-2012_eng.doc

Legislative Gaps in Human Rights Protection

According to the Council of Europe's Fundamental Principles on the Status of NGOs in Europe and explanatory memorandum, "NGOs can be either informal bodies or organizations which have legal personality. They may enjoy different statuses under national law in order to reflect differences in the financial or other benefits which they are accorded in addition to legal personality."⁵⁰ In Armenia, laws of general applicability regulate the formation and activities of human rights organizations. A public association may register with the state and acquire the status of a legal entity in accordance with the Civil Code, which also defines the rights and responsibilities of registered public legal entities.⁵¹ The rights and responsibilities are the same for all such organizations, regardless of the type of activity that an organization performs. If a public association does not register with the state (for example, in the case of an initiative group formed to protect human rights), legislation does not define any rights and responsibilities for that organization.⁵² In the case of pressure, intimidation, or restriction on defenders' activities, general provisions in the Criminal Code and the law "On Administrative Offences" apply. These provisions fail to ensure sufficient protection for human rights defenders because they do not consider the character of threats and obstacles linked to their human rights work.

Armenia also does not have a law that ensures the application and implementation of human rights protections that are recognized by the Constitution and international documents. A separate law on human rights is necessary to ensure that the government implements its obligations. A separate law also should establish guarantees for the protection of the activities of individuals, initiative groups and organizations dealing with human rights issues.

Restrictions on Legal Assistance⁵³

Although human rights organizations in Armenia are able to provide citizens with legal assistance to ensure protection of human rights, legislation passed in 2012 restricted the ability of human rights defenders from NGOs to represent human rights victims in court. The new law "On the Profession of Advocate" requires lawyers to complete higher legal education or receive a degree in law and have a certificate awarded by the Chamber of Advocates. Only certified lawyers can provide legal services in civil court proceedings.⁵⁴ In order to obtain a license, a lawyer is required to file an application (fee: 100 USD), study at the School of Advocates for six months (tuition: 1000 USD) and obtain a certificate (fee: 400 USD).

In the past, many licensed lawyers refused to take sensitive cases to court, particularly cases connected to allegations of abuse and non-combat deaths in the army. Other licensed lawyers charge high fees for their services. Consequently, NGO representatives often provided in-court assistance to victims of human rights violations or their successors. Some of these representatives had legal training but were not certified; others did not have formal legal training but were well-known for their in-court advocacy on behalf of victims and their successors.

⁵⁰ Fundamental Principles on the Status of Non-governmental Organisations in Europe and Explanatory Memorandum, Council of Europe, Art 5, p. 5, <http://www.osce.org/odihr/18045>

⁵¹ Republic of Armenia law "On Public Organizations," Article 3, http://parliament.am/law_docs/241201HO268eng.pdf; Republic of Armenia Civil Code, Article 52, <http://parliament.am/legislation.php?sel=show&ID=1556&lang=eng>

⁵² The report of the UN Special Rapporteur on the situation of human rights defenders August 2009: para 59 Registration should not be compulsory and that NGOs should be allowed to exist and carry out collective activities without having to register if they so wish. On the other hand, NGOs have the right to register as legal entities and to be entitled to the relevant benefits. <http://www.unhcr.org/refworld/pdfid/4aae4eebd.pdf>

⁵³ Sub-point c), Point 3 of Article 9 of the UN Declaration on HRDs prescribes that individuals, organizations and groups have the right "to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms." UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

⁵⁴ Republic of Armenia Civil Procedure Code, Article 39: Conducting cases through representatives, Article 40: Persons who can be representatives in court. http://parliament.am/law_docs/070898HO247eng.pdf?lang=eng

Some HRDs believe that the new law targeted defenders specifically, especially since the government and judiciary in Armenia historically have failed to provide sufficient remedies for victims of human rights violations. After the enactment of the 2012 law, several prominent HRDs were unable to continue to represent victims' interests in legal proceedings. For some HRDs, the significant amount of money and time that are required to obtain a certificate has been prohibitive, and thus they are no longer able to offer legal services to victims of human rights violations.

Volunteers

Volunteers are a critical part of a human rights organization's work, particularly when an organization operates with limited human and financial resources. Under Armenian legislation, any service for a public organization is subject to the legal regulations applicable to employer-employee relationships and requires "relevant reimbursement"—i.e., a salary. If a salary is not paid, then the organization may be liable for taxes and for violating the administrative code. As a result, it is difficult for organizations to account for the volunteers involved in their activities, and organizations' volunteer programs are not formalized.

Pro-Government NGOs

NGOs that supported and/or cooperated with the government also created problems for HRDs during the reporting period. When HRDs publicized human rights violations, these NGOs responded in support of the government and gave the government's actions an appearance of legitimacy. For example, The Choice is Yours is a pro-government NGO that observes elections. Since 2009, the organization's final reports on elections have found no electoral violations,⁵⁵ while international and other local observers have found that elections have suffered from several shortcomings.⁵⁶ Two other NGOs, Hayots Artsivner (Armenian Eagles) and Hayazn Youth Union, are right-wing pro-government NGOs that have established representation in all regions of Armenia.⁵⁷ Their members actively instigate and participate in attacks on human rights organizations, use the administrative support of the government, and propagate an extremely nationalistic ideology.

Bias in the Judicial System

The judicial system continued to lack independence and impartiality. Courts were unresponsive to complaints about human rights violations and cases of violence against HRDs. Moreover, courts failed to provide remedies for victims of human rights violations and issued harsh and disproportionate punishments in criminal cases brought against HRDs.

On August 9, 2011, police forcibly detained three young members of the Armenian National Congress (ANC), an opposition party, when the ANC members attempted to prevent police officers from arbitrarily checking the identity of a person walking in the city center.⁵⁸ The police officers forcibly detained the men, whom the officers recognized were ANC members. The police then refused to provide access to medical care while the men were in custody, though the men had been injured during the process of

⁵⁵ "Reports", The Choice is Yours, <http://www.iyc.am/eng/index-5.html>

⁵⁶ For example, Freedom House states that the May 2009 municipal elections in Yerevan "suffered from significant violations, though international observers claimed that the fraud did not jeopardize the overall legitimacy of the results." Freedom House, "Freedom in the World 2011: Armenia," <http://www.freedomhouse.org/report/freedom-world/2011/armenia?page=22&year=2011&country=7987>

⁵⁷ "Hayots Artsivner" (Armenian Eagles) Patriotic NGO, <http://www.hayocartsivner.am/masna&uxer.html>, Armenian

⁵⁸ "Armenian Activists Arrested After Clash with Police," Radio Free Europe, 11 August 2011, http://www.rferl.org/content/armenian_activists_arrested_after_clash_with_police/24293508.html

apprehension.⁵⁹ The men were charged with the crime of hindering the work of police officers and were sentenced to six, three and two years in prison, respectively. The court verdict was based solely on the testimony of the police officers involved in the incident.⁶⁰ One of the men is currently in prison while the other two have appealed the court's decision.⁶¹

On April 30, 2012, Tigran Manukyan assaulted Arman Veziryan, an election monitor for the Helsinki Association for Human Rights, while Veziryan was monitoring the campaign activities of an ANC candidate for the National Assembly.⁶² Veziryan filed a complaint with the police and a criminal case was initiated against Manukyan. There were numerous attempts by authorities and other persons with private interests to pressure Veziryan to drop the case. On June 12, Veziryan then was charged with criminal battery of Manukyan in connection with the original incident. Numerous procedural requirements were not complied with during the investigation and initial court proceedings.⁶³ As of the date of writing, the case against Veziryan was still pending.⁶⁴

Members of the judiciary publicly criticized lawyers who spoke out about the problems in the judiciary.

On June 11, 2012, around 600 lawyers from the Chamber of Advocates, the national bar association, participated in a one-day strike. The lawyers protested the Court of Cassation's practice of denying the majority of appeals in civil cases without considering the merits of the appellant's argument and without providing reasoning for the decision.⁶⁵ In response, the Court of Cassation released a statement accusing the lawyers of political motivations.⁶⁶

⁵⁹ "A[rmenian] N[ational] C[ongress] statement about the arrest of the activists," HAYNEWS.AM, <http://haynews.am/hy/archive-67251>, Armenian

⁶⁰ PACE Resolution 1643, "Implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)", in 2009 clearly states that the charges based on police officers testimony are untrustworthy and can be politically motivated. PACE, <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta09/eres1643.htm>

⁶¹ "Protesters demand freedom for ANC activists," Tert.am, 17 August 2012, <http://www.tert.am/en/news/2012/08/17/hak-protest/>

⁶² "The Criminal Case against Helsinki Association Monitor Arman Veziryan is a Showdown. Mikael Danielyan." Helsinki Association for Human Rights, 14 June 2012, <http://www.hahr.am/index.php/en/component/content/article/65-parliamentary-elections/484-the-criminal-case-against-helsinki-association-monitor-arman-veziryan-is-a-showdown-mikael-danielyan>

⁶³ For example, during the preliminary investigation, the bodies conducting the investigation did not recognize Manukyan as a victim. In addition, Manukyan's claim is missing from the case materials and evidence submitted, while a criminal case legally can only be initiated by a victim's claim. After rejecting the written petitions of Veziryan's lawyer, the court stated that the advocate's petitions and motions were just an opinion and held that there was enough evidence to continue with the case without the victim's involvement.

⁶⁴ Haykakan Zhamanak campaign was hindered, 1 May 2012, <http://www.armtimes.com/33359>, Armenian

⁶⁵ "In Armenia, 545 persons take part in lawyers' strike", Caucasian Knot, 11 June 2012, <http://www.eng.kavkaz-uzel.ru/articles/21273/>

⁶⁶ "High Court Condemns Lawyers' Strike," Radio Free Europe/Radio Liberty, Armenian Service, 12 June 2012, <http://www.azatutjun.am/content/article/24612197.html>

AZERBAIJAN

SITUATION OF HUMAN RIGHTS DEFENDERS⁶⁷

2011-2012

Report prepared by:

Legal Education Society, coordinator of the South Caucasus Network of Human Rights Defenders and partner of the Human Rights House Azerbaijan

Edited by:

Human Rights Center, Georgian member of the South Caucasus Network, in cooperation with Human Rights House Foundation.

The information is based on contributions provided by Azerbaijani member organizations of the South Caucasus Network of Human Rights Defenders and other Azerbaijani partner organizations:

Democracy and Human Rights Resource Centre Public Union (Sumgait)

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Human Rights Club

Institute for Reporters' Freedom and Safety

Media Rights Institute

Public Association for Assistance to Free Economy

Women's Association for Rational Development

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⁶⁷ Part of the report is based on a contribution prepared in advance of the Universal Periodic Review, submitted to the UN by Azerbaijani human rights organizations in cooperation with Human Rights House Foundation. The NGOs, authors of the report, bear the sole responsibility for the content of the report.

I. OVERVIEW

In 2011-2012, the human rights situation in Azerbaijan deteriorated and, with it, the situation for Azerbaijan's human rights defenders grew increasingly hostile. Systematic attacks, threats, and legal actions against human rights defenders (HRDs) continue unabated. At the same time, the law-making process remains opaque. Legislation on the operation of NGOs has become more restrictive; the authorities are effectively making efforts to limit Azerbaijani HRDs' connections with foreign networks and organizations, for instance through new funding regulations and other bureaucratic obstacles. Overall, these developments demonstrate the unwillingness of the Azerbaijani government to take the action required for the fulfillment of its national and international human rights commitments.⁶⁸

Many Azerbaijanis who express opinions critical of the authorities – whether through traditional media, online, or by taking to the streets in protest – are imprisoned, attacked, harassed or otherwise targeted. Journalists, bloggers, human rights defenders and lawyers are all subjected to acts of violence, pressure, threats, smear campaigns, harassment, and arrests on fabricated charges. The imprisonment of human rights defenders, including journalists, on charges not connected to their work is seen as a new trend in silencing alternative voices.⁶⁹ Perpetrators, often acting on behalf of the authorities, operate with impunity.

On May 12, 2011, the European Parliament passed a resolution in which it expressed "deep concern at the increasing number of incidents of harassment, attacks, and violence against civil society and social network activists and journalists in Azerbaijan."⁷⁰ It condemned the "practice of intimidating, arresting, prosecuting and convicting independent journalists and political activists on various criminal charges," and called on the authorities to release all members of the opposition and youth activists.

Crackdowns on a series of unsanctioned demonstrations seen in 2011 continued in 2012. This included protests during the week of the Eurovision Song Contest, which Baku hosted in May 2012. The police used excessive force to disperse demonstrators and more than 70 peaceful opposition protesters were arrested and sentenced to administrative detention, including two journalists. However activists linked to the Sing for Democracy campaign managed to conduct an unannounced walk in the centre of Baku during Eurovision.

On October 3, 2012, the Parliamentary Assembly of the Council of Europe (PACE) adopted the resolution "Definition of a Political Prisoner", based on a report on political prisoners in Azerbaijan and Armenia, some of whom are HRDs and journalists.⁷¹ The rapporteur on the issue, Christopher Strässer (a member of the German Bundestag) was repeatedly denied a visa to visit Azerbaijan in order to fulfill his mandate, but will present his report on Azerbaijan to PACE in January 2013. At that time, PACE will also adopt its report on

⁶⁸ Annual Report of the U.S. Commission on International Religious Freedom April 2013. Despite the government's claims of official tolerance, religious freedom conditions in Azerbaijan deteriorated over the past few years. During the reporting period, religious organizations were closed and non-violent religious activity was punished with detentions, fines and other penalties. The Azeri government applied the repressive religion law adopted in 2009 that curtails a range of religious activities. Penalties were increased for religion law violations in 2010 and 2011. Unregistered religious activity is illegal and the activities of registered groups are tightly regulated. Based on these concerns, USCIRF places Azerbaijan on Tier 2 for the first time in 2013. USCIRF briefly discussed Azerbaijan in previous Annual Reports and issued a press statement critical of the religion law in 2009. [http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report\(1\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report(1).pdf)

⁶⁹ The United Nations Human Rights Committee expressed its concern regarding the extensive limitations on the right to freedom of expression of the media and urged Azerbaijan "to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 [ICCPR] by ensuring a proper balance between the protection of a person's reputation and freedom of expression. ... [Azerbaijan] is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. [Azerbaijan] should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations." (Concluding observations of the Committee on the review of Azerbaijan, 13 August 2009, paragraph 15, UN doc.: CCPR/C/AZE/CO/3).

⁷⁰ European Parliament resolution of 12 May 2011 on Azerbaijan, document P7_TA-PROV(2011)0243, <http://www.europarl.europa.eu/document/activities/cont/201105/20110524ATT20104/20110524ATT20104EN.pdf>

⁷¹ Resolution on "The definition of political prisoner" adopted by the Assembly on 3 October 2012 (33rd Sitting). <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=19150&Language=EN>

Azerbaijan's overall implementation of its obligations to the Council of Europe, which will cover the human rights situation in the country and the difficulties faced by human rights defenders.⁷²

II. PROBLEMS FACED BY HUMAN RIGHTS DEFENDERS DURING 2011-2012

A. Attacks on and Threats against Human Rights Defenders

Journalists continue to be the most targeted group among HRDs in Azerbaijan. During the reporting period one journalist was murdered because of his work and many others were physically assaulted. Some lawyers were also intimidated, but are not included here due to the risk of reprisals that could jeopardize their professional and personal security.

Human Rights Organizations

Working in the field of human rights protection and activism in Azerbaijan remains fraught with danger. Human rights defenders and their families are often threatened; their relatives are harassed or lose their jobs. Law enforcement and security services do not hide the fact that they keep close watch on those involved in human rights work⁷³.

On May 23, 2011, the Ministry of Internal Affairs questioned the manager of Human Rights House Azerbaijan (HRHA), Vugar Gojayev, regarding a letter from Heidi Hautala, previous Chairwoman of the Subcommittee on Human Rights of the European Parliament, addressed to the Minister of Internal Affairs of Azerbaijan. The letter mentioned the closure of the HRHA in March 2011, the police inspection at the HRHA in February 2011, and the recent arrests of activists. Gojayev was asked whether HRHA had sent out information on recent arrests of opposition activists to other international organizations. Police told the defender that they were keeping an eye on his Facebook account, adding: "we are watching you and consider everything before coming to a decision on an individual case".⁷⁴ Vugar Gojayev is well-known abroad for his analytical articles on the human rights situation in Azerbaijan and his human rights advocacy in international institutions. Between summer 2011 and summer 2012, Gojayev and his relatives were threatened multiple times.

On 19 January 2011 police carried out an inspection at the Institute for Reporters' Freedom and Safety (IRFS) in Baku. The inspection came at a time when IRFS was holding an event in its press center. Participants were prevented from accessing IRFS' office, while three officers without identification questioned IRFS employees about the event.⁷⁵ On March 7 the same year, police returned to IRFS to ask questions about an event on imprisoned youth activists. Later in the evening, IRFS employees Mehman Huseynov and Abulfat Namazov were forced out of their car in the center of Baku and subsequently interrogated by police for two hours. The questioning revolved around

⁷² The resolution on Political Prisoners in Azerbaijan was turned down by the PACE in January 2013. However, the resolution on Honouring of obligations and commitments by Azerbaijan Doc. 13084 was adopted, <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19243&lang=EN>

⁷³ In addition to the two cases mentioned below, there were other cases of attacks in the period, but the targeted human rights defenders do not want the cases to be mentioned in the report.

⁷⁴ Institute for Reporters' Freedom and Safety and Legal Education Society, "Azerbaijan: NGO Progress Report" to the Human Rights Committee of the United Nations, 27 June 2011, p. 12, http://www2.ohchr.org/english/bodies/hrc/docs/ngo/IRFS_LES_HRHF_Azerbaijan_HRC96.pdf

⁷⁵ OCHCR NGO Progress Report, p. 13.

*Huseynov's Facebook account, a protest action on 11 March and the activities of and details concerning employees of IRFS.*⁷⁶

Journalists

Journalists documenting and reporting human rights violations,⁷⁷ or indeed anything that could reflect poorly on the government, are often subjected to threats, harassment, physical and verbal attacks. According to the Azerbaijani IRFS, more than 50 domestic and foreign journalists were harassed or attacked in 2011. During the first six months of 2012, the Media Rights Institute reported 35 cases of journalists being “subject[ed] to physical [and] psychological pressure, threats, and technical obstacles”.⁷⁸ Analysts believe that this has led to high levels of self-censorship among many journalists. Impunity prevails and those responsible, including state employees, law enforcement, and thugs thought to be acting on the instructions of the state, are not brought to justice. The murder of Elmar Huseynov, editor of *Monitor* magazine, in 2005 remains unsolved.

Rafiq Tagi, 61, a journalist behind articles critical of political Islam, was stabbed outside his home in Baku and died from the injuries four days later, on November 23, 2011. Tagi was the target of a fatwa issued by an Iranian cleric and also received several death threats in connection to a defamation trial against him in 2007. The Azerbaijani government never condemned these earlier incidents or the murder.⁷⁹ The investigation into Tagi's death has not been satisfactory and has yet to yield any results.⁸⁰

On April 18, 2012, journalist and IRFS employee Idrak Abbasov was attacked by security guards from the government-controlled State Oil Company of Azerbaijan Republic (SOCAR). When he was attacked, Abbasov was recording the demolition of private property built, illegally SOCAR says, on land owned by the oil company on the outskirts of Baku. The demolitions were part of a wider pattern of violations of the right to private property by the Azerbaijani government.⁸¹ Abbasov suffered a concussion, two broken and three fractured ribs, as well as damage to his right eye. His brother tried to help but was himself assaulted. Several other journalists were attacked during the same incident, and security guards confiscated a camera and a phone from at least one of them. In an attempt to cover up the incident, the Ministry of Internal Affairs said local residents, counting Abbasov among them, attacked the SOCAR guards who defended themselves. At the time of writing, no one had been charged with any crime in relation to the attack.⁸²

⁷⁶ IRFS, “Institute for Reporters Freedom and Safety Statement”, 10 March 2011, <http://www.irfs.az/content/view/5970/28/lang,en/>

⁷⁷ On 12 January 2013, at a protest in Baku city centre, up to ten journalists were reportedly subject to mistreatment by police. They included IRFS chairman Emin Huseynov, who was pushed to the ground by a police officer resulting in him hitting his head on a stone, while he was taking photographs and clearly wearing a press jacket. The arrests bring to seven the number of youth activists of NIDA civil movement detained in connection with a peaceful protest on March 10, 2013. The Nasimi District Court sent Uzeyir Mammadli, 25, and Rashadat Akhundov, 28, to pretrial custody on March 30, and Zaur Gurbanly, 26, on April 1. All are board members of NIDA, Azeri for exclamation mark, a youth opposition movement active on social media that is highly critical of the government

<http://www.hrw.org/news/2013/04/02/azerbaijan-authorities-targeting-youth-activists>

<http://www.article19.org/resources.php/resource/3585/en/azerbaijan:-adoption-of-council-of-europe-resolutions-is-essential-for-human-rights-protection-and-democratic-progress>

⁷⁸ “Freedom of Speech in Azerbaijan, Semi-Annual Report, January-June 2012,” Media Rights Institute, July 2012.

http://www.mediarights.org/docs/freedom_of_speech_in_azerbaijan_2012.pdf, p.16

⁷⁹ Human Rights House, “Joint Call for Justice for Rafiq Tagi”, 26 November 2011, <http://humanrightshouse.org/Articles/17329.html>

⁸⁰ Human Rights Watch, “Azerbaijan: Concerns Regarding Freedom of the Media and Freedom of Expression”, 2 November 2012, <http://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression>

⁸¹ See for example the following report by Human Rights Watch: “They Took Everything from Me”, Forced Evictions, Unlawful Expropriations, and House Demolitions in Azerbaijan’s Capital”, 29 February 2012, <http://www.hrw.org/reports/2012/02/29/they-took-everything-me-0>

⁸² “Azerbaijani journalist brutally attacked”, Sunday, 29 April 2012, by HRH London, based on Article 19, HRHF, Index on Censorship and Committee to Protect Journalists. <http://humanrightshouse.org/Articles/17948.html>.

Police often search the homes of journalists and their families. Telephone threats are also common. A number of journalists and/or members of their families have reported being followed by unknown persons.

An unknown individual called the journalist Anar Mahmudoglu and threatened to kill him and his child if he did not stop writing critical articles. Mahmudoglu works as a columnist and editor of pro-opposition Azadliq and Khural newspapers respectively. The call was not placed from an unknown number, but the police investigation has not resulted in any arrests.⁸³

B. Smear Campaigns against Human Rights Defenders

Human Rights Organizations

Organizations that operate independently of the Azerbaijani government and criticize its human rights violations continue to be the targets of smear campaigns aimed at discrediting them both locally and internationally. Accusations of treason, working to advance Armenian interests,⁸⁴ and spreading disinformation on behalf of political parties have been disseminated in state-controlled media and raised during meetings with international actors.

From January to June 2012, the Sing for Democracy campaign⁸⁵ and its founders⁸⁶ were victims of a targeted smear campaign. Starting on January 24, state-sponsored media outlets including the ruling party's newspaper Yeni Azerbaijan and Parliament's Azerbaijan newspaper published libelous articles against the campaign⁸⁷. The Campaign sought to use the international attention generated by the Eurovision Song Contest to raise awareness about the worrying human rights situation in Azerbaijan. In government-friendly media, however, the human rights defenders were accused of "betraying their country and state, and launching a black smear campaign in exchange for foreign donations".

During an OSCE meeting in Vienna in April, 2011, the Ombudsman of Azerbaijan accused Intigam Aliyev, the president of Legal Education Society (LES), and his organization of not being respected within the country, representing the political opposition, and deliberately providing false information regarding the human rights situation in Azerbaijan. The Ombudsman also stressed that inviting people like him to international events aims at tarnishing the country's reputation.⁸⁸ LES among others submits cases against Azerbaijan to the European Court for Human Rights and reports on the rule of law and human rights situation in Azerbaijan to international institutions, including the Council of Europe, the UN and OSCE.

⁸³ "Freedom of Speech in Azerbaijan, Semi-Annual Report, January-June 2012," Media Rights Institute, July 2012, http://www.mediarights.org/docs/freedom_of_speech_in_azerbaijan_2012.pdf, p.17

⁸⁴ Animosity towards Armenia runs deep in Azerbaijan following the still unresolved Nagorno Karabakh conflict.

⁸⁵ See: <http://www.singfordemocracy.org>

⁸⁶ Founders include the Institute for Peace and Democracy, the Institute for Reporters' Freedom and Safety (IRFS), the Alliance to Protect Political Freedoms, and the Human Rights Club.

⁸⁷ "Smear campaign via newspapers against Sing for Democracy", Sing for Democracy, <http://www.singfordemocracy.org/en/news/91-smear-campaign-via-newspapers-against-sing-for-democracy-?showall=1>.

⁸⁸ "Vyanada ATƏT-in tədbirində İntiqam Əliyevin çıxışı ombudsman Elmira Suleymanovanın qəzəbinə səbəb olub", HR Legal Forum, 15 April 2011. <http://www.legalforum.az/index.php?cat=news&id=178>

Journalists

During the reporting period, smear campaigns were used as a tool to discredit journalists critical of the government.

On 7 March 2012, Khadija Ismayilova, one of the country's most prominent investigative journalists and the winner of the Gerd Bucerius Free Press of Eastern Europe Award 2012, received an anonymous letter containing an envelope with photos of her engaged in sexual relations with her boyfriend in her private home. In the letter, Ismayilova was told to stop her reporting. A week later, a video, obtained using hidden cameras illegally installed in her home, was posted on the Internet. A government-friendly newspaper also published a slanderous article about Ismayilova one day prior to the video's release. It is widely believed that the campaign against Ismayilova was aimed at halting her investigations into high-level corruption, which often reveal direct links to the president and his family. Even though the Azerbaijani authorities have stated that such a smear campaign is unacceptable, a proper investigation has not yet been conducted.⁸⁹

Lawyers

There were also cases of lawyers being treated as traitors for their work on behalf of members of the opposition.

Alaif Hasanov, who was the defense counsel of imprisoned youth activist Bakhtiyar Hajiyev and Shahin Hasanli, a member of Azerbaijan National Front Party, was subjected to smear campaigns by local authorities after March 2011. A number of letters stating that Hasanov was helping the opposition in the country and was, accordingly, involved in "activities against the state"⁹⁰ were sent to the authorities. The letters looked like local residents of Hasanov's home region Zardab had written them. Hasanov grew suspicious, launched a defamation case based on the incident and eventually presented evidence in court that local authorities had in fact been behind the letters. After that, the pressure against Hasanov decreased.⁹¹

C. Legal Actions against Human Rights Defenders

Controlled by a government set on silencing critical voices, the Azerbaijani judicial system is frequently used against HRDs. In cases where existing legislation, such as libel and defamation laws, cannot be used to silence dissenting opinions, the Azerbaijani authorities use trumped up charges to put human rights defenders, including journalists, behind bars. It is not uncommon for police to plant evidence such as drugs and arms in conjunction with arrests. In court, testimony from police officers is often enough for a conviction. Lawyers who take on sensitive cases are often sanctioned by the Azerbaijan Bar Association. In addition, changes to the law on NGOs have already resulted in organizations being shut down by the authorities.

⁸⁹ "Azerbaijan: In Solidarity with Khadija Ismayilova", Statement of International Partnership Group for Azerbaijan (IPGA). Human Rights House Network, 16 March 2012. <http://humanrightshouse.org/Articles/17785.html>

⁹⁰ Report delivered to the UN Human Rights Committee prepared by IRFS and LES with support from the CCPR Center for Political and Civil Rights and the Human Rights House Foundation (HRHF): "Azerbaijan: NGO Progress Report", 27 June 2011, p. 12, http://www2.ohchr.org/english/bodies/hrc/docs/ngo/IRFS_LES_HRHF_Azerbaijan_HRC96.pdf

⁹¹ South Caucasus Network of Human Rights Defenders, "Human Rights Situation in the Republic of Azerbaijan", 21 June 2011, p. 4. <http://xa.yimg.com/kq/groups/11862271/2040093428/name/Documentation+to+CoE+June+2011+session+on+Azerbaijan.doc>

Human Rights Organizations

HRDs fell victim to shorter administrative detention terms as well as longer prison sentences during the reporting period. In December 2012, four human rights defenders,⁹² Bakhtiyar Mammadov⁹³, Ilham Amiraslanov, Vidadi Iskandarov, and Taleh Khasmammadov⁹⁴ are imprisoned in Azerbaijan.

On 10 April 2012, a Baku court gave human rights defender and Trustful Law Ltd director Bakhtiyar Mammadov three months of pre-trial detention. Mammadov had been arrested on charges of “intimidation with a purpose to obtain property” in December 2011 for defending the rights of people who had lost their houses when the venue for the Eurovision Song Contest was being built.⁹⁵ At the time of writing, the case is ongoing and Mammadov remains in detention.

On April 19, 2012, police arrested Ogtay Gulaliyev, a human rights defender and journalist, a Kur Civil Society coordinator, and charged him with minor hooliganism after an official had reported him for allegedly swearing in public during a meeting with local residents. Gulaliyev was sentenced to 12 days’ administrative detention, and claimed that he was beaten while in custody. Gulaliyev had advocated for public control over the equitable distribution of public funds allocated to compensate people affected by the devastating floods of the Kur River in May 2010. Gulaliyev’s administrative detention was prolonged by another two months under new charges of “active disobedience to authorities’ legal orders” and “incitement to mass riots and to violence against citizens” (Article 220.2 of the Criminal Code).⁹⁶ On 13 June 2012, he was released; however, the charges against him, which carry a three-year prison sentence, still stand.

Ilham Amiraslanov, Gulaliyev’s colleague, was charged with arms possession after a gun was placed on his person. Prior to his arrest, Amiraslanov was beaten up by the police. On September 12, 2012, Amiraslanov was sentenced to two years in prison.⁹⁷

In April 2011, human rights defender Vidadi Iskandarov was arrested during an opposition demonstration and given 15 days of administrative detention. Having served his time, Iskandarov was put on trial again for interfering with parliamentary elections and sentenced to three years in prison. In April 2012, the Supreme Court upheld Iskandarov’s sentence.⁹⁸

On 12 November 2011, Taleh Khasmammadov was arrested on hooliganism charges and resisting arrest. Khasmammadov, the head of the Right and Law 2010 legal aid center in the Goychay region, was sentenced to four years in prison. In connection to the arrest,

⁹² This figure does not include the journalists currently in prison in Azerbaijan whose cases are described in the following sub-section.

⁹³ On February 27, 2013, a court sentenced Bakhtiyar Mammadov, a human rights lawyer, to eight years in prison following a trial that appears to have been politically motivated.

http://obyektiv.tv/index.php?view=video&id=4076%3Ahuequq-muedafcs-8-l-mueddtn-azadliqdan-mhrum-edld-&option=com_jomtube&Itemid=33&lang=en

⁹⁴ Popular blogger Taleh Khasmammadov was pardoned according to a decree pardoning issued by President Ilham Aliiev 86 prisoners on 26 December 2012, ahead of a national holiday.

<http://www.osce.org/fom/98422>

⁹⁵ “Serious Concerns About Human Rights Abuses in the Republic of Azerbaijan”, Human Rights House Foundation and Article 19 briefing note, p. 4, June 2012. Human Rights House Network, <http://humanrightshouse.org/noop/file.php?id=18272>

⁹⁶ “Call for the immediate and unconditional release of activist and journalist Ogtay Gulaliyev”, Human Rights House Network, 17 May 2012, <http://humanrightshouse.org/Articles/18042.html>

⁹⁷ Frontline Defenders, “Azerbaijan: Sentencing of human rights defender Mr Ilham Amiraslanov to two years imprisonment”, 17 September 2012, <http://www.frontlinedefenders.org/node/19827>

⁹⁸ Ibid.

the organization's office was searched, with police seizing computers and other items. Prior to his arrest, Khasmammadov had reported on the illegal activities of the Kurtlar Vadisi criminal group in the Ujar region and the possible involvement of police in several crimes. Two months prior to his arrest, he had started uploading videos of interviews with victims of the criminal group on YouTube.⁹⁹

Journalists

While state censorship has been formally abolished in Azerbaijan, the government still uses the judicial system against journalists who report on sensitive topics or criticize the regime. Defamation remains a criminal offense, and together with libel charges have been used on multiple occasions to target those behind articles critical of the government. In recent years, the government has broadened its use of the judicial system, resulting in an increasing number of other trumped up charges against journalists. During the reporting period, journalists were on trial for alleged hooliganism, drugs possession, evasion of military service, inciting hatred, accepting bribery, and tax evasion. At the time of writing, eight journalists are imprisoned or in pre-trial detention. In addition, several journalists were detained for shorter periods of time.

On August 27, 2012, Faramaz Novruzoglu was sentenced to 4.5 years in jail under Articles 220.2 (Inciting mass disorder and violence against citizens) and 318.1 (Crossing protected frontiers of the Azerbaijan Republic without established documents or outside of border check point). It is alleged that Novruzoglu, under the nickname Elchin Ilgaroglu, called upon people to riot during the March 11, 2011 'Great People's Day' (a Facebook event connected with the protest inspired by the Arab Spring), promising to burn himself during the action. Novruzoglu is a well-known critical journalist who has been arrested twice before on defamation charges, in 2007 and in 2009.¹⁰⁰

On 11 June 2012, journalist Anar Bayramli¹⁰¹ was given two years in prison for possession of heroin. The drugs had allegedly been found in his pocket by police searching him during his interrogation. Bayramli, who works for Iranian broadcaster Sahar TV, had been harassed by the police prior to his arrest, being taken to the police station and told to stop his work on the human rights situation in Azerbaijan.¹⁰²

In September 2011, Khural newspaper's journalist Aydin Dzhaniev¹⁰³ was sentenced to three years in prison for hooliganism. Dzhaniev had been accused by clerics in Lankaran of breaking a mosque window. Prior to his arrest, the journalist had reported on links between local officials and drug traffickers in Lankaran.¹⁰⁴

As of writing, in December 2012, five journalists are currently in pre-trial detention and could face lengthy prison sentences: Nijat Aliyev, editor of the website azadxeber.az that covers religious issues, arrested on spurious drug charges; Zaur Guliyev and Vugar Gonagov¹⁰⁵, editor-in-chief and executive director of Khayal

⁹⁹ Ibid.

¹⁰⁰ IRFS, "Journalist Faramaz Novruzoglu Sentenced to 4,5 Years in Jail", 23 August 2012, <http://www.irfs.az/content/view/9039/1/lang.eng/>

¹⁰¹ President Ilham Aliyev issued a decree pardoning 86 prisoners on 26 December 2012, ahead of a national holiday. Two are journalists – Anar Bayramli, an Azerbaijan-based correspondent for Iranian Sahar TV, and Aydin Janiyev, a regional correspondent for the newspaper *Khural* were pardoned. Both spent several months in detention.

¹⁰² *Supra* note 24,

¹⁰³ *Supra* note 35

¹⁰⁴ *Ibid.*, p. 4

¹⁰⁵ 15 March 2013. The Khachmaz Rayon Court finalized court process regarding 6 people arrested for the Guba events on 1 March 2012. The verdict was read in the court process led by judge Anar Ibrahimov. The accused people, executive director of 'Xeyal' TV Vugar Gonagov and chief editor of the same broadcasting company Zaur Guliyev were conditionally sentenced for 3 years and released after the court process. <http://www.juhi.az/index.php?newsid=574>

TV, arrested on charges of organizing and participating in social disorder and abuse of power; and the editors Avaz Zeynalli and Hilal Mammadov, both described below.¹⁰⁶

In October 2011, Khural editor-in-chief Avaz Zeynalli ¹⁰⁷was detained and sentenced to three months of pre-trial detention. His arrest was based on a complaint filed by Member of Parliament (MP) Gular Ahmadova, and a criminal case was launched against him under Article 311.3.3 of the Criminal Code for allegedly taking a large bribe and threatening the parliamentarian. In early October 2011, a court ordered the seizure of Khural's office equipment to pay the fines imposed in three defamation cases filed by the head of the presidential administration and other officials against the newspaper in 2009. In January 2012, Zeynalli's detention was extended for three more months and again for one more month in April. On 4 May 2012, another charge was brought against him under Article 213.1 (evasion of taxes or other obligatory payments of significant amounts). Court hearings on the case started in May and Zeynalli is still in detention. If convicted, Zeynalli faces up to 12 years' imprisonment.¹⁰⁸

On 21 June 2012, Hilal Mammadov, editor-in-chief of Tolishi-Sado newspaper, was arrested on charges of drug possession and later sentenced to three months pre-trial detention. Police searched his apartment and allegedly found drugs in a shirt pocket. On July 3, two more charges were brought against Mammadov, "high treason" and "inciting national, racial, social and religious hatred, hostility and ethnic discrimination". These additional charges were similar to those brought against the previous editor-in-chief of Tolishi-Sado, Novruzali Mammadov. Novruzali Mammadov was sentenced to 10 years imprisonment in 2007 and died in prison in 2009. Hilal Mammadov risks a similar sentence. The Tolishi-Sado newspaper reports on the situation of the Talysh people, a Farsi-speaking minority group mostly inhabiting the southern parts of Azerbaijan. It also contains articles critical of the government.¹⁰⁹

In addition, three journalists previously sentenced on bogus charges were given conditional suspended sentences or were released on parole. Bakhtiyar Hajiyev, who organized the March 2011 protests via Facebook, was sentenced for evading military service; Ilham Suleymanov reported on corruption in the Saatli region, and was sentenced on spurious charges of hooliganism; and Abulfaz Bunyadov, writing for newspaper *Truths of Islam*, was sentenced on narcotics charges. Ramin Bayramov was sentenced to 18 months in prison on false charges of illegal drug and firearm possession and was released in August 2012 after having served 13 months of his sentence. One journalist is not in detention but a case has been launched against him¹¹⁰:

On 12 June 2012, Mehman Huseynov, photojournalist for IRFS was summoned to the Sabayil District Police station in Baku and a criminal case was opened against him for alleged insult of police officers. The accusations stem from a verbal conflict during an unsanctioned protest in front of the Baku Mayor's Office on 21 May 2012, which

¹⁰⁶ For more information on these cases, see report "Serious Concerns About Human Rights Abuses in the Republic of Azerbaijan", *supra* note 24. See also IRFS' report "The right to remain silent. Freedom of Expression in Azerbaijan ahead of the 7th Internet Governance Forum,

¹⁰⁷ Baku Court of Grave Crimes has sentenced the editor of the Khural newspaper Avaz Zeynalli and Araz Guliyev, the editor of the Islamist news website Xeber44 to eight and nine years in jail respectively.

Other journalists remain in prison on politically motivated charges as well- xeber44.com Editor-in-chief Fuad Huseynov and Yeni Musavat newspaper journalist Tofiq Yagublu

<https://en.rsf.org/azerbaijan-islamist-website-editor-sentenced-08-04-2013.44332.html>

<http://www.irfs.org/news-feed/avaz-zeynalli-sentenced-to-nine-years-in-prison/>

<http://www.irfs.org/news-feed/journalist-tofig-yagublu-faces-more-serious-charges/>

¹⁰⁸ *Supra* note 24

¹⁰⁹ *Ibid.*

¹¹⁰ These cases are also described in CCPR and HRHF's report done in cooperation with IRFS and LES "Serious Concerns About Human Rights Abuses in the Republic of Azerbaijan", see *supra* note 22.

*Huseynov was documenting as a media representative. He is accused of hooliganism under article 221.2 of the Criminal Code and faces up to five years' imprisonment if convicted. It is widely believed that the arrest of Huseynov was in retaliation for his professional work, documenting human rights violations as part of the Sing for Democracy campaign around the time of the Eurovision Song Contest in Baku. The case is still pending.*¹¹¹

*In April 2011 a criminal case was launched against online activist and journalist Elnur Majidli, creator and moderator of two Facebook groups – “Great Nation Day” and “Revenge day”. These groups appeared around the time of Azerbaijani protests inspired by the Arab Spring. Majidli is accused of making open calls against the State order. Majidli lives in France and was thus not arrested, but while the criminal case was suspended, his photo is on a list of wanted criminals in all police stations of Baku. Majidli will be arrested if he were to come back. His father and brother lost their jobs a few days after the criminal case was launched.*¹¹²

Since 2009 there have been more than 150 defamation allegations against the media and more than 20 criminal trials that have resulted in journalists being sentenced for publishing their articles. Convictions generally result in heavy fines intended to cripple independent reporting.¹¹³ Although the number of government-initiated criminal libel cases against journalists has decreased over the past two years, 32 defamation suits were brought against journalists and various outlets in 2011 and 17 in the first six months of 2012. In eight of the cases in 2011 and six of those seen during the first half of 2012, the court found criminal responsibility. Three newspapers, *Azadliq*, *Khural*, and *Yeni Musavat*, all critical of the government, stand out as targets of these lawsuits; they had to pay most of the 300,000 Azerbaijani manat (approximately equivalent to the Euro) court-issued fines.

Lawyers

Lawyers who operate independently are subject to pressure from the Azerbaijan Bar Association (see also section II-D, “Lawyers' Working Environment”), especially those who take on sensitive cases concerning the state or where the state risks adverse publicity. The use of disciplinary sanctions against independent lawyers is a cause for serious concern. The threats of disbarment or temporary suspension are used to discourage lawyers from, for example, filing the necessary appeals before a case can be taken to the European Court of Human Rights.¹¹⁴ Pressure from the Presidium of the Azerbaijan Bar Association first appears in the form of a verbal warning against taking on a particular client or case. The next step is to use the threat of disciplinary action against the lawyer, which could result in temporary or permanent suspension from the Bar. When a lawyer is disbarred, s/he cannot act as a defense attorney in a criminal case in any instance, and cannot represent clients in civil cases before the Supreme Court. Even if a lawyer is not disbarred, threats like these that could jeopardize an entire career, making lawyers less inclined to take on sensitive cases. This, in turn, affects civil, youth, and political activists as well as journalists, who increasingly have been the targets of bogus criminal charges: without the option of independent representation, they are even more vulnerable.

In September 2011, lawyer Elchin Namazov was disbarred by the court. Namazov had been actively engaged in defending opposition activists and participants in the 2 April 2011 protests in Azerbaijan, which he had been threatened for. The court decision also

¹¹¹ *Supra* note 24.

¹¹² Amnesty International, “The Spring That Never Blossomed”, p. 25, November 2011. <http://www.amnesty.org/fr/library/asset/EUR55/011/2011/en/831dedec-1c7a-47a3-99ec-f59d1c2f3a19/eur550112011en.pdf>

¹¹³ IRFS, “The Right to Remain Silent: Freedom of Expression in Azerbaijan Ahead of the 7th Internet Governance Forum”, November 2012, p. 21. <http://expressiononline.net/wp-content/uploads/2012/11/IRFS-REPORT.pdf>

¹¹⁴ The ECtHR requires that applicants must exhaust all domestic remedies before proceeding to the European level.

asked the Prosecutor's Office to initiate a criminal case against Namazov for disrespecting the court.¹¹⁵

In September 2012, lawyer Elchin Sadigov faced problems from the Azerbaijan Bar Association following his work on behalf of businessman accused of resistance to authority. The prosecutor in the case requested that the Bar take disciplinary measures against Sadigov for refusing to sign an interrogation form when his hand was broken. Since the Bar has yet to act on the request, the threat of disciplinary action hangs over Sadigov who has previously been targeted for his work on behalf of journalists, civil society representatives, and opposition activists.¹¹⁶ For instance, the Bar has reprimanded him for what they see as his "anti-state" activities.

Intigam Aliyev and Annaghi Hajibayli, both certified lawyers, were refused membership in the Bar Association in 2009 because of their civic engagement and work on strengthening the rule of law in Azerbaijan. The two lawyers proceeded to sue the Bar Association for failing to comply with existing legislation. They lost the case and have appealed the decision to the European Court of Human Rights. Following the lawsuit, the Bar Association filed a civil suit against Aliyev demanding 200,000 AZN (approx. equivalent in EUR) because of articles about the Bar Association leadership that Aliyev had published. Protests from Azerbaijani civil society and international NGOs lead to the case being dropped. Later, however, a Sheki Appeal Court judge, Gazanfar Kerimov, filed another civil suit against Aliyev and his organization, Legal Education Society, demanding 20,000 AZN for defamation. The court ruled that Aliyev should pay 2,000 AZN in damages. Both Aliyev and Hajibayli have yet to be admitted to the Bar Association.¹¹⁷

Legal restrictions on Human Rights Defenders' Activities

In June 2009, amendments to the law on NGOs increased government control over this sector. The amendments were followed by the adoption of several presidential decrees related to the implementation of the respective changes. The latest provisions added to the Azerbaijani NGO Law of 2009 state that foreign NGOs or organizations fully funded by foreign governments shall be registered on the basis of an agreement concluded between the NGO and the state. This regulation uses vague language, creating a legal grey area that makes it possible to refuse to register NGOs that are critical of the government.

The Venice Commission, in its opinion of 19 October 2011 on the NGO law, concluded that the changes "overturn the previous efforts to meet with the requirements of international standards".¹¹⁸ Constraints were imposed on the activities of NGOs, funding opportunities were further restricted, and the range of state control mechanisms was broadened.

On March 16, 2011, the government adopted a decree on rules governing registration of foreign NGOs and negotiations with them on required agreements. Left out of the decree, however, was the procedure for concluding required agreements with the authorities. Other provisions provide the Ministry of Justice with broad discretionary powers in interpreting and defining the requirements for agreements, effectively restricting the right to freedom of association. Two examples are the stipulations that organizations must "respect

¹¹⁵ Human Rights House Foundation, "HRHF Statement on human rights lawyers", 5 October 2011.
<http://humanrightshouse.org/noop/file.php?id=17123>

¹¹⁶ Monitor.az, "Advocate Elchin Sadigov Under Pressure for His Professional Activities", 5 September 2012,
<http://www.monitoring.az/index.php?lngs=eng&cats=1&ids=459>

¹¹⁷ Interview with Intigam Aliyev, December 2012

¹¹⁸ Venice Commission, "Honouring of obligations and commitments by Azerbaijan", 25 April 2012,
http://assembly.coe.int/CommitteeDocs/2012/amondoc05rev_2012.pdf

national moral values” and “must not be involved in political or religious propaganda” in order to finalize an agreement with the authorities.

There is an increased administrative burden on international NGOs and Azerbaijani authorities have a great deal of leeway in deploying discriminatory regulations to target NGOs working on sensitive issues. Laws are often applied arbitrarily in order to suppress organizations addressing injustice, election fraud, human rights violations, or the impunity of state officials. Even though NGOs' compliance with the regulations is monitored on a regular basis, there are no precise criteria for when the authorities can ban certain actions or suspend operations of NGOs.

On March 10, 2011, the Human Rights House Azerbaijan (HRHA) was forced to cease its activities until an agreement with the Azerbaijani Ministry of Justice was made. The official reason referred to the amendments to the NGO law from July 2009. HRHA had been registered in Azerbaijan as an international branch of the Human Rights House Foundation since 2007 and officially opened in 2009. After a process of negotiations since April 2011, a final application was submitted on 3 November 2011. Nevertheless, at the time of writing, there has been no progress and no further instructions by the Azerbaijani authorities. In January 2012, the Azerbaijan Human Rights House had to move from the premises in the center of Baku, as the owner did not want to prolong the contract after being pressured by the police. Azerbaijani partner organizations have lost an independent meeting place and cannot use the joint brand, both of which were instrumental in strengthening the human rights community in Azerbaijan.

The Azerbaijan branch of the American organization National Democratic Institute (NDI) ¹¹⁹was also told to cease all activities in March 2011. NDI did not have any official registration before the closure. Following negotiations, NDI was allowed to continue its activities after an agreement with the Ministry of Justice was signed in September 2012. However, the agreement is only valid for one year.

As result of the new regulations, international organizations seem to have become more cautious. International donors are increasingly wary of cooperating with independent NGOs. An extension of this trend was seen in the summer of 2012, when 11 Azerbaijani NGOs signed an open letter criticizing USAID for reportedly awarding a judicial reform grant to an organization whose founding members were known to be close to the government, instead of awarding it to a coalition of NGOs who take on most of the sensitive cases related to freedom of expression, association and assembly.¹²⁰ Other international bodies such as the United Nations, Council of Europe, and OSCE¹²¹ have fewer programs where they involve critical national partner organizations in Azerbaijan.

Obstacles also arise for NGOs when they seek funding to pursue their activities. Legal requirements for registration of funding enable the Ministry of Justice to exercise its discretionary right to impose unclear burdensome financial reporting requirements for NGOs. This especially concerns grants from international organizations. The grants must be registered with the Ministry of Justice before the activities start. Information

¹¹⁹ Several articles accused the National Democratic Institute of the U.S. for supporting the mass protests in Azerbaijan in Jan-March 2013. (After the unsanctioned rally in Baku against young soldiers' death on March 10 2013, the head of the Presidential Administration, Ramiz Mehdiyev, accused the NDI of destructive activities and infringement of local law) Laura Jewett, NDI's regional director for Eurasia stated that the NDI is fully transparent in reporting all of its expenditures and activities and is fully compliant with local laws... Suggestions that the NDI is involved in any other activities “are completely false” she stated. http://www.contact.az/docs/2013/Politics/040200033088en.htm#_UX5cJqJHJOY
http://contact.az/docs/2013/Interview/031300031517en.htm#_UYFWz6L-H44

¹²⁰ The letter is available at: <http://www.monitoring.az/index.php?lngs=eng&cats=1&ids=471&m>.

¹²¹ In recent months, the government has also demonstrated an increasing hostility towards international organisations. Notably, in March 2013, it was announced that the government had requested a downgrade in mandate for the Baku office of the Organization for Security and Co-operation in Europe (OSCE). The head of the Presidential Administration Ramiz Mehdiyev made accusations against foreign NGOs in non-core activities and interference in the internal affairs of Azerbaijan. http://www.contact.az/docs/2013/Politics/031400031638en.htm#_UYFj56L-H45

the authorities obtain from proposals and contracts registered at the Ministry of Justice, have been used in smear campaigns against NGOs, whereby misinformation about the NGO, its project, and the donor body is spread.

In the first month of 2012, an article on the website merkez.az alleged that a training project of Institute for Reporters' Freedom and Safety funded by the EU (Baku Delegation) was in fact being used to support the opposition coalition. The website drew the conclusion from the fact that one of the organizers of the project, head of the Democratic Journalism School, was also an editor of Azadliq – the biggest opposition newspaper.

The government puts pressure on independent Azerbaijani NGOs by threatening to revoke their registration. In February 2012, the Ministry of Justice issued warnings to the Institute for Reporters' Freedom and Safety and to the Nakhchivan-based Democracy and NGO's Development Resource Centre, citing the dissemination of "biased" information via the website nakhchivan.org.az. Under Azerbaijani law, an organization can be closed down after two such warnings.

D. Other Restrictions on the Work of Human Rights Defenders

HRDs in Azerbaijan suffer under hostile working conditions and systemic pressure. NGOs working on certain issues are being isolated, lawyers are forced to practice law on the government's terms, and laws are passed to block access to public information.

State Campaign against NGOs

In addition to legislating against NGOs¹²² that it finds threatening, the Azerbaijani government has made several other attempts at neutralizing these organizations. One example is the creation of new state agencies offering funding to what the state deems "constructive" organizations, journalists, or projects. One such agency is the President's Council on State Support to NGOs, which serves as a forum for Azerbaijani NGOs, facilitates the work between civil society and the government, as well as allocates funding and provides information to NGOs. While seemingly working for the development of the NGO community in Azerbaijan, analysts claim that the President's Council favors regime-friendly organizations and is actually used to undermine NGOs that criticize the government.

Under these public institutions, councils and committees that involve civil society representatives have also been created. There are examples of the government using these organizations or individuals in their campaigns against other civil society and international organizations members that are working to protect human rights.¹²³

¹²² On 15 February 2013, a series of amendments to the Code of Administrative Offenses, the Law on Grants, the Law on Freedom of Religion and the Law on Non-Governmental Organisations was passed by the National Parliament.

According to the new amendments, NGOs are obliged to notify the authorities of all grants above 200 Azerbaijani manats (approximately €200). Failure to notify the authorities on time could result in a fine of up to 2500 manats (approximately €2500) for individuals and up to 7000 manats (approximately €7000) for organisations. Donations should also be reported to the authorities. The amendments also stipulate that funds which are not properly reported to the authorities can be confiscated. The anti-NGO amendments to national legislation that will significantly restrict the activities of independent NGOs and threaten their very survival. IRFS considers the bill to be the latest authoritarian step against civil society and believes it would further entrench Azerbaijan status as a non-free country.

¹²³ One such example is found on the website of the President's Council on State Support to NGOs. An article from an NGO conference relates that the participants "adopted statements related to non-objective information about Azerbaijan which was spread by the international organizations as 'Human rights, democracy and the rule of law, on the violation of the resolution' which was adopted on May 24, 2012 by The European Parliament, as well as the 'Human Rights Watch,' 'Amnesty International', The Norwegian Human Rights House, Reporters Without Borders Organization [sic]". See "Actual problems of the public agenda

The government pursues a policy that is effectively designed to silence independent civil society¹²⁴. After the parliamentary elections of 2005, this trend grew stronger. It now includes restrictive laws for NGOs and state control over their operation, an isolation campaign against independent NGOs with the aim of neutralizing them, lawsuits lodged against them and their representatives, and assisting in the establishment of or supporting Government Organized Non-Governmental Organizations (GONGOs) as government-friendly alternatives. In recent years a number of GONGOs have been established with active participation and support from state bodies and state officials. Governmental bodies lobby for these NGOs to connect with international organizations.

The government does not cooperate with independent NGOs, nor does it invite them to attend state-sponsored conferences and events. In fact, events held by the OSCE, Council of Europe and other international organizations, to which independent NGOs are invited, are usually boycotted by the government. In July 2012, however, the Presidential Administration invited representatives from the human rights community to participate in a dialogue. During the meeting, several human rights defenders raised questions and concerns regarding human rights in the country and asked the government to respect human rights. No further invitations to such meetings have followed.

Lawyers' Working Environment

Azerbaijan is a country with a small number of lawyers. The Azerbaijan Bar Association has 778 members¹²⁵: a ratio of one lawyer per 12,000 people in the country. In addition, the quality of legal defense is a problem.¹²⁶ Moreover, as an institution, the Bar remains weak, unable to criticize the courts and essentially controlled by the government. While the Bar is in need of reform, the Azerbaijani government seems reluctant to change the status quo and move toward a strong Bar and an independent judiciary. Instead, lawyers loyal to the regime dominate the Bar. Estimates put the number of reform-minded members at 10-15, and other lawyers inclined to change are kept out of the Bar Association even though they fulfill the membership requirements.

The few lawyers who are willing to take on sensitive cases face a heavy workload, and this has had a negative effect on the quality of legal services provided. Since the casework done in national courts is the basis of complaints lodged with the European Court of Human Rights (ECHR), the fear is that poor quality has been the reason for a spike in the number of Azerbaijani cases deemed inadmissible by Strasbourg.

Azerbaijani lawyers also face multiple obstacles in their day-to-day work. In most cases, the police and the judicial authorities try to dissuade accused persons and their families from retaining certain lawyers, such as those who bring cases to the ECHR.

Human rights lawyers in Azerbaijan are also subject to threats and blackmailing by authorities; they are often prevented from realizing their professional rights, or are subject to illegal interference, such as meetings with clients or independent fulfillment of their duties. After the dispersal of assemblies held in Baku on 2 April and 17 April 2011 Intigam Aliyev and Yalchin Imanov, member of the Bar Association, were refused of a list of detained people for whom they intended to provide legal defense, and were subject to physical force and insults by several police officers.

were discussed at the conference of NGOs", 31 May 2012.

http://www.cssn.gov.az/en/index.php?option=com_content&task=view&id=265&Itemid=54

¹²⁴ In April 2013, authorities illegally inspected and closed the office of Azad Fikir (Free Thought) University, a project that provided a forum for youth to learn about and discuss issues that would not be possible elsewhere. Recently adopted regressive legislation and worrisome comments made by top officials suggest that the government is poised for a broader crackdown on independent NGOs.

<http://www.bloomberg.com/news/2013-04-11/azerbaijan-shuts-down-free-thought-university-funded-by-west.html>

<http://www.washingtontimes.com/news/2013/apr/11/embassy-row-azeris-shut-university/?page=all>

¹²⁵ <http://www.barassociation.az>

¹²⁶ OSCE, "2009 Trial Monitoring Report Azerbaijan." <http://www.osce.org/baku/73359>

Access to Information

On 12 June 2012, the Azerbaijani Parliament swiftly, without any public consultations or meaningful discussions in Parliament, adopted amendments to the Law on the Right to Obtain Information, the Law on State Registration and State Registry of Legal Entities, and the Law on Commercial Secrets. The amendments place restrictions on freedom of information in violation of Article 10.2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, of which Azerbaijan is a signatory.

These amendments seriously restrict access to information and increase state control over mass media. According to the amendments to the Law on the Right to Obtain Information, access to information shall be granted provided it does not jeopardize the protection of political, economic, military, financial, credit and monetary interests of the Republic of Azerbaijan. It also should not jeopardize the protection of public order, health and morality, rights and freedoms, commercial and other economic interests of other individuals, ensuring the prestige and impartiality of the court.

After the amendment to the Law on Commercial Secrets comes into effect, information about the founders of commercial legal entities and their shares in the charter capital shall be considered confidential. This information will only be disclosed in the event of an inquiry by the courts and investigative bodies.

Proposed Tightening of Rules Regulating Freedom of Assembly

In November 2012, amendments that increased fines and sentences for violations of the laws on assembly entered into force.¹²⁷ The changes to the Law on Freedom of Assembly, the Code of Administrative Offenses (CAO) and the Criminal Code (CC) in many cases doubled the existing fines and added community service as a sentencing option for participation in unsanctioned demonstrations. These amendments were passed despite the fact that according to Azerbaijani law, such gatherings do not require permission or sanctioning; the authorities simply have to be notified about them 5 days in advance (Article 5 of Law on Freedom of Assembly).¹²⁸

Depending on the offense, fines run from 500 up to 30,000 AZN (approximately equivalent in Euro). In comparison, previous fines ranged between 100 to 8,000 AZN. Under the proposed changes, a distinction would be made between physical and legal persons/entities, with the latter incurring the higher fines. A participant in an unauthorized rally could face a 500-1,000 AZN fine, 160-200 hours of community service, or 15 days administrative detention. Organizers of a rally would risk the harsher sentencing option.¹²⁹ Azerbaijani human rights defenders worry that these changes will further limit the right to freedom of assembly, as already seen in the Russian Federation.

Obstacles for NGOs Working Outside of Baku

The activities of independent NGOs, and civil society gatherings, including public debates, closed seminars and trainings, are viewed with suspicion and discouraged, if not outright restricted, across Azerbaijan. Outside of Baku, the situation for HRDs is especially problematic. It is common for activities organized by NGOs outside of Baku to be under surveillance by security bodies. Azerbaijani legislation does not contain any provision requiring civil society organizations to get permission from government bodies for holding trainings,

¹²⁷ After being passed by Parliament in 2012, the law entered into force following the president's signing of executive orders to pass the amendments. Changes to the Administrative Code law came into effect on 01 January 2013 and have increased fines from between 7 and 12 EUR to between 480 and 1,050 EUR for participants and between 1,400 and 2,900 EUR for organisers. The amendments to the Criminal Code also increase the maximum fine for participating in unsanctioned public gatherings from 955 EUR to 7600 EUR.

¹²⁸ <http://legislationline.org/documents/action/popup/id/7941>

¹²⁹ Contact.az, "Parliamentary Committee Adopts Tougher Amendments for Unauthorized Rallies", 23 October 2012. <http://contact.az/docs/2012/Politics/102300015756en.htm#.ULkP0zhZfg>

seminars or other meetings. However, without such consent, local authorities have been known to threaten the organizers or the owners of the venue, with the aim of preventing such events from taking place.

On June 18, 2012, the organization Election Monitoring Center (EMC) was planning to organize a forum in Belagani region on the topic "Transparency in Local Self-Government". However, local authorities denied the EMC permission to organize the event. A day before the event was scheduled to take place, the restaurant where the forum would have taken place was apparently closed down.

In Ganja, events such as movie screenings and discussions organized by NGOs or students cannot be announced through the Internet, as the authorities have started to question and threaten all people who dare to participate in events held by critical regional human rights group.

In case of non-compliance with requirements, local authorities have created obstacles, even to the point of deploying police at the venue. Organizations that are less critical of the government do at times get permission to hold events. In those instances, local authorities have been known to send a representative to the event. Usually, however, permission is denied. Because of this, some NGOs refrain from asking for permission and instead go ahead with the event. This carries with it an uncertainty as to whether or not the event will be held, and also poses considerable risk of police intervention.

HRDs in the regions have limited access to both national and international human rights networks, and are thus more vulnerable to persecution. Additionally, there are few journalists covering the field of human rights in the regions, including events, activities, and pressure against HRDs. It is also difficult to find lawyers working independently of the government outside of Baku. These factors make it easier for the authorities to silence critics. Azerbaijani defenders believe that all these factors have a negative effect on the already dire state of rule of law and rights of citizens in the regions.

The social and political situation in the Autonomous Republic of Nakhchivan requires particular mention, as the conditions there are much more severe. Nakhchivan is known to be a region governed by arbitrary "rules" instead of the law. In addition to discrediting HRDs by spreading rumors and accusing them of "cooperating with foreigners", the authorities here have also pressured relatives of the most outspoken human rights defenders, such as in the case of human rights defender Malahat Nasibova and her relatives. Nakhchivan's human rights defenders as well as victims' relatives seeking justice nationally and internationally are under significant pressure to drop the cases.

Azerbaijan-Armenia relations

While there are non-governmental organizations working on improving relations with Armenia, the conditions for this kind of work remain very difficult. There were no serious incidents involving Azerbaijani HRDs working on this issue during the reporting period, but the NGOs and activists involved must keep a low profile in order to avoid being labeled traitors. Thus, the space for joint projects, visits, and other civil society cooperation between the two countries is very limited. However, regional networks such as the South Caucasus Network of Human Rights Defenders have made it easier for human rights organizations to create joint platforms where they can share experiences and learn from each other, despite the difficulties of cross border cooperation.

GEORGIA

SITUATION OF HUMAN RIGHTS DEFENDERS

JANUARY 2011-OCTOBER 2012

Compiled by members of South Caucasus Network for Human Rights Defenders:

Article 42 of the Constitution
Human Rights Center (HRIDC)

The following members and partners of South Caucasus Network of Human Rights Defenders contributed to and support the report:

Former Political Prisoners for Human Rights
Georgian Bar Association
Georgian Young Lawyers' Association (GYLA)
Multinational Georgia (PMMG)

Compiled and edited by:

Elizabeth Summers, Article 42 of the Constitution
Tobias Akerlund, Human Rights Center (HRIDC)

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I. OVERVIEW

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

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

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

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

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

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

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

A. Attacks on and Threats against Human Rights Defenders

There were attacks and threats against human rights defenders during the reporting period. Several incidents also occurred during the pre-election period, targeting defenders active in public demonstrations and protests in particular.¹³⁰ When violations took place, the offenders, sometimes representatives of the state, operated with impunity. Law enforcement bodies disregarded their duties, investigations were perfunctory at best, and the punishment ostensibly meted out appeared to be designed to “save face” for authorities, who were generally unwilling to admit to any wrongdoing.

Human Rights Organizations

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

On May 17, 2012, the police failed to protect a march by Georgian LGBT and human rights NGOs through central Tbilisi in observance of the international day against homophobia. Following the start of the march, the designated police escort mysteriously drove off. Not long after, the march encountered a human chain formed by members of a loose-knit organization known as Union of Orthodox Parents, who blocked the road ahead. The participants in this counter demonstration hurled verbal insults at the marchers who, in turn, argued back. The verbal attacks escalated into physical violence, and the police arrived only 30 minutes after the marchers, fearing for their safety, had placed the first call to the police. One marcher, who suffered a concussion from the clash, was arrested and brought to a police station only to be released soon after without any explanation. About 15 participants in the march filed charges with the police. They all received the same reply: a letter stating that two counter demonstrators had been found guilty of administrative offenses, fined 100 lari (approximately 65 USD) each, and the case was now closed. The march organizers did not know how the counter-demonstrators or media representatives present at the scene had found out about the march, having notified only the authorities of their intentions.¹³¹

There have been allegations that authorities have engaged in surveillance of human rights defenders. In June 2011, Human Rights Center (a member of the South Caucasus Network of Human Rights Defenders) reported that different cars bearing the same license plate number were tailing their employees. The same organization also reported on an unannounced visit to their offices by a law enforcement agency. After Human Rights Center made public statements about the incidents, the cars disappeared and there have been no more visits from law enforcement agencies.¹³²

¹³⁰ “Statement of Human Rights Center about the Recent Detention of Human Rights Defenders and Activists,” Human Rights Center, September 24, 2012, <http://www.humanrights.ge/index.php?a=main&pid=15620&lang=eng>

¹³¹ Interview with representatives of LGBT NGO Identoba, September 2012

¹³² “Special Statement,” Human Rights Center, July 20, 2011, <http://www.humanrights.ge/index.php?a=main&pid=13688&lang=eng7> and “Spying on Human Rights Center”, Human Rights Center, 20 July 2011, <http://humanrights.ge/index.php?a=main&pid=13694&lang=eng>

Journalists

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

The office of Studio Monitor, an organization known for its investigative documentary films focusing on government corruption, was burglarized in July 2012. The incident resulted in the loss of several months' of research, interviews and footage and paralyzed the studio's work. Part of the stolen material was to be used in a story on the business associates of then Prime Minister Vano Merabishvili. The story was scheduled to air before the October parliamentary election. The police failed to interview the neighbors, made no progress in investigating the matter and refused to comment on material recorded by security cameras in the area.¹³³

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

Investigative reporter Mari Otarashvili, who covers the Akhlagori region bordering South Ossetia, has repeatedly been threatened by various local officials and by people in their circle. In November 2011, Otarashvili wrote an article on the South Ossetia presidential election, referencing reports that a Georgian businessman was campaigning for the opposition candidate in an IDP settlement. Following publication, the businessman threatened Otarashvili, calling and saying that he would now have problems going into and out of South Ossetia. Worried that she had created problems for the man, Otarashvili looked into the claims and found that the man was well-connected and would not have problems returning. In March 2012, the man called Otarashvili again, out of the blue, cursing her out and threatening to shoot and kill her. Otarashvili believes that Georgian authorities, to whom the journalist's reporting does not fit into the desired narrative on South Ossetia, must have contacted the man. Fearing for her safety, Otarashvili opened a case against the man, in order to ensure protection.¹³⁴

On May 20, 2012, officers from the Tianeti district police station arbitrarily detained and physically assaulted journalist Gela Mtvlishvili. Mtvlishvili was taking pictures of the police station for a report when a man in civilian clothes asked Mtvlishvili to identify himself. Mtvlishvili complied, even though the man refused to show any ID. Two police officers in uniform joined the pair and dragged Mtvlishvili into the police station, where he was physically assaulted, denied access to a lawyer, and received no medical attention. After 40 minutes in detention, Mtvlishvili was thrown out of the police station; his camera had been returned to his car, and the pictures of the police station as well as video recordings of the quarrel before his arrest had been erased. The Georgian Ministry of Internal Affairs (MIA) later released a statement blaming the incident on Mtvlishvili, stating that he had failed to identify himself and claiming that he had been released promptly but refused to leave the police station.¹³⁵

Journalists covering political protests were subjected to violations as well. As Georgian media are split along political lines, the authorities treat journalists from opposition-friendly media outlets as representatives of the

¹³³ Human Rights Center, "Studio Monitor Burglarized," July 24 2012, <http://www.humanrights.ge/index.php?a=main&pid=15215&lang=eng>

¹³⁴ Interview with Mari Otarashvili, October 2012

¹³⁵ FIDH, "Arbitrary Detention and Assault of Journalist and Human Rights Defender Gela Mtvlishvili", June 12, 2012, <http://www.fidh.org/Arbitrary-detention-and-assault-of.html>

opposition. In 2011, opposition activities throughout the spring culminated in a large demonstration in central Tbilisi on May 26, 2011, during which participants called on President Mikheil Saakashvili to resign. The protest was violently dispersed and 18 journalists suffered injuries at the hands of the police. Several journalists had their equipment broken and some were attacked even after having shown their credentials, which indicates that the police deliberately targeted them.¹³⁶ In the run-up to the 2012 elections, journalists encountered similar problems.¹³⁷

On July 12, 2012, several journalists, representing among others the opposition news agency Info 9 and TV Channel 9, covered a visit by Georgian Dream (GD) representatives to Karaleti village near Gori. The GD delegation was soon accosted by supporters of the ruling United National Movement (UNM), who verbally abused GD supporters and told them to leave the site. The journalists were recording the altercation and came under attack as the verbal confrontation escalated into physical violence. Although the police ultimately arrested two of the attackers, the journalists' footage identified other offenders, some allegedly with ties to local government, who were never apprehended.¹³⁸

Lawyers

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

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

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

¹³⁶ Human Rights Watch, "World Report 2012: Georgia", 22 January 2012, <http://www.hrw.org/world-report-2012/world-report-2012-georgia> and Human Rights House Network, "International HR Organisations Condemn Police Violence Against Demonstrators", June 7, 2011, <http://humanrightshouse.org/Articles/16542.html>

¹³⁷ These problems prompted a reaction from the OSCE Representative on Freedom of the Media. See OSCE, "OSCE media freedom representative concerned by repeated violence, intimidation against journalists in Georgia", July 16, 2012, <http://www.osce.org/fom/92206>

¹³⁸ GYLA, "GYLA Condemns the Incident in Karaleti," July 13, 2012, http://gyla.ge/index.php?option=com_content&view=article&id=1386%3Agyla-condemns-the-incident-in-karaleti-&catid=45%3Anews-eng&Itemid=1&lang=en

The Georgian prison system received significant public attention in September 2012 after the release of multiple videos showing torture and abuse of prisoners by prison guards in a Tbilisi prison.¹³⁹ President Saakashvili fired several top government officials and promised to reform the system. At the time of writing, at least 18 prison guards are now facing criminal charges. However, harassment of lawyers was not discussed and few reforms to the prison system were implemented.

B. Smear Campaigns against Human Rights Defenders

Human Rights Organizations

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

In June 2012, a member of Parliament accused "Article 42 of the Constitution" (a human rights NGO and member of the South Caucasus Network) of homophobia in a meeting with the U.S. Ambassador. The MP cited a statement made by a former executive director of the organization in her personal capacity as support for his position. Article 42 vigorously disputed the assertion, and in fact in 2011 Article 42's lawyers filed the first case from Georgia alleging discrimination based on sexual orientation with the ECHR. Article 42 has reason to believe that other prominent members of government may have made similar statements slandering the organization in private meetings with donor organizations.¹⁴⁰

Following the protest dispersal on May 26, 2011, the Georgian Young Lawyers' Association (GYLA) launched its own investigation into the death of one of the protesters, Nika Kvintradze. According to official statements, Kvintradze's body was found on a roof near the site of the protests, and the autopsy showed that he had been electrocuted. A friend of Kvintradze implicated the police in Kvintradze's death, claiming that he had seen Kvintradze in police custody after the demonstration was dispersed and in subsequent images broadcast on Georgian television. This testimony suggested that after the dispersal of the demonstration, Kvintradze may have died in police custody.¹⁴¹ GYLA enlisted forensic expertise from abroad to analyze the images. After GYLA presented the results¹⁴² of the analysis and suggested that police brutality was behind the protester's death, one MP from the ruling party publicly accused the organization of political bias, called GYLA's information "fabrications" and "slander", and demanded that the organization apologize.¹⁴³ A Ministry of Internal Affairs (MIA) official claimed that the images showed another person, Giorgi Bakradze, and soon released a recent interview wherein Bakradze confirmed that he was indeed the man in the picture. Government-friendly television channels aired this information without allowing any rebuttal from GYLA.¹⁴⁴

¹³⁹ See, for example, Human Rights House Network, "Concern about torture and ill treatment in Georgian prisons," September 26, 2012, <http://humanrightshouse.org/Articles/18662.html>

¹⁴⁰ Article 42 of the Constitution, "Special Announcement," June 6, 2012,

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

¹⁴¹ Statement Of The Ministry Of Internal Affairs on September 6, 2011, <http://police.ge/index.php?m=8&newsid=2769&lng=eng>

¹⁴² Report available at: http://www.gyla.ge/attachments/1041_Report%20ENG.pdf

¹⁴³ Messenger.com.ge, "Ruling Authorities React Angrily to Revelations about May 26 Events," September 8, 2011,

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

¹⁴⁴ Rustavi2.com, "MP Gabashvili Demands Apology from GYLA," September 6, 2011,

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

The media also has stigmatized defenders and human rights organizations.

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

Lawyers

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

C. Legal Actions against Human Rights Defenders

Human rights defenders, in particular lawyers, face continued suffering at the hands of a judicial system that is marred by problems. In Georgian courts, prosecutors have a strong influence on judicial rulings and police testimony is often the only evidence taken into consideration in criminal cases. According to a 2010 Transparency International report, the acquittal rate in criminal cases stands at 0.1%.¹⁴⁵ Moreover, the use of plea bargains to settle cases has, since the introduction of plea bargaining shortly after the Rose Revolution, steadily increased.¹⁴⁶ In 2011, 87.5% of criminal cases ended in plea bargains.¹⁴⁷ In practice, defendants accept a plea bargain by paying a sum of money to the State budget in exchange for a reduced prison sentence or no prison time at all.

Criminal Trials

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

In early 2011, Suleyman Barbakadze, the president of Vatan, an organization working on the repatriation¹⁴⁸ of Meskhetians to Georgia, was sentenced to prison and fined for

¹⁴⁵ The report was based on data from the Supreme Court of Georgia. Transparency International Georgia, "Zero Tolerance and (near) Zero Acquittal," November 30, 2010, <http://transparency.ge/en/blog/pzero-tolerance-and-near-zero-acquittalp>

¹⁴⁶ Transparency International Georgia, "Plea-Bargaining in Georgia: Negotiated Justice," pp.10-12, December 15, 2010, http://transparency.ge/sites/default/files/post_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf

¹⁴⁷ Supreme Court of Georgia, "Saqartvelos I instanciis sasamartloebis saproceso setanxmebit ganxiluli saqmeebi (procenti sul ganxiluli saqmeebsi)," <http://www.supremecourt.ge/files/upload-file/pdf/6-saproc11.pdf>

¹⁴⁸ Following accession to the Council of Europe, Georgia committed to allowing for repatriation of any person deported from Georgia by Soviet authorities in the 1940s, some 100,000 people, of which a majority were Meskhetians. In 2007, the Parliament adopted a law that codified Georgia's obligations, adding that descendants of those deported in the 1940s were also eligible for

alleged fraud and forgery. Through Vatan, Barbakadze had been buying up property in Akhaltsikhe in an effort to help Meskhetians returning to Georgia. According to human rights defender Emil Adelkhanov, who observed the trial, Barbakadze was convicted of fraud based on insufficient evidence. His conviction for forgery was due to attempts to evade the equivalent of a few hundred dollars in taxes on the property transaction, which is reportedly common in Georgia. Barbakadze was found guilty of fraud and three counts of forgery, and handed an 11-year prison sentence in addition to a 26,000 USD (equivalent of 43,000 GEL) fine. The harsh sentence raised suspicions that the case against Barbakadze was politically motivated. Civil society representatives placed it in the context of similar cases whereby the government aimed to discourage Meskhetians from buying property in Georgia.¹⁴⁹

In July 2011, four photographers were arrested and charged with espionage in another suspected instance of criminal charges brought against HRDs.¹⁵⁰ The photographers were accused of having leaked sensitive information to Russian intelligence services. Two of the photographers, Irakli and Natia Gedenidze, confessed soon after their arrest. The other two photographers, Giorgi Abdaladze and Zurab Kurtsikidze, maintained their innocence. Abdaladze claimed that the charges had been brought against him in retribution for taking pictures during the May 26 protest dispersal. Two weeks after their arrest, however, both photographers entered plea bargain deals and were released on three-year conditional sentences. They also were barred from speaking about the details of the case. As the case never went to trial, no evidence was made public. In September 2012, Abdaladze told an interviewer that he confessed the crime due to coercion. Abdaladze reiterated that he was arrested because the photographers had taken pictures of May 2011 protests, pictures that were seen abroad and embarrassed the government.¹⁵¹

Administrative Offenses and Detention

Authorities have continued to use the Code of Administrative Offenses to prevent human rights advocacy. Defenders frequently are charged with minor infractions of the Code, such as disobeying police orders, and are subject to imprisonment for up to 90 days at judicial discretion. NGOs have alleged that the Code allows arbitrary detention of activists and political dissidents. Further, NGOs state that administrative proceedings do not respect the rights to due process and a fair trial.¹⁵²

In September 2011, police broke up a lawful strike in Kutaisi, the second-largest city in Georgia. The demonstrators were protesting against poor work conditions and showing support for employees who had been dismissed for organizing a local union at a steel mill. Police officers, led by the local governor, detained several workers. Subsequently, officers were stationed at the factory to supervise workers' compliance with a non-strike

return. An application process was created and by its close on January 1, 2010, 5,841 applications had been received for a total of 9,350 individuals interested in repatriation; <http://www.repatriation.ge/index.php?m=30&lng=eng>

¹⁴⁹ Interview with Emil Adelkhanov, September 2012

¹⁵⁰ Human Rights House Network, "Photo-reporters detained in Georgia", July 7, 2011, <http://humanrightshouse.org/Articles/16660.html>

¹⁵¹ Media.ge, "Giorgi Abdaladze Says He was Forced to Write Plea of Guilty", September 24, 2012, <http://www.media.ge/en/stories/giorgiabdaladzesaysheawas>

¹⁵² For example, the U.N. Working Group on Arbitrary Detention discussed concerns about the use of administrative proceedings in Georgia. See Report of the Working Group on Arbitrary Detention: Mission to Georgia, January 27, 2012, pp. 63-68; or Human Rights Watch's report "Administrative Error: Georgia's Flawed System for Administrative Detention", January 4, 2012, <http://www.hrw.org/news/2012/01/04/georgia-flawed-misdemeanor-system>

policy.¹⁵³ Following this police intervention, on September 17, three union leaders engaged in raising awareness about the plight of unionized workers at the plant, Emile Gumberidze, Irakli Iobidze, and Malkhaz Gogiava, were arrested on drug charges and taken to a police station to undergo a drug test. Upon passing the test, the three were held on charges of “disrespecting the police” and on September 19 were sentenced to administrative imprisonment for ten days.¹⁵⁴

In September 2012, a series of large protests were held in Tbilisi after videos of prison guards abusing prisoners surfaced on the Internet and Georgian TV. Several activists who protested against prison torture were detained for violations of the Code of Administrative Offenses. Dachi Tsaguria, a protest organizer, was sentenced to 10 days of administrative detention for insulting a police officer and disobeying a police order. Tsaguria, who also was active in supporting the opposition party “Georgian Dream,” alleged that the detention was politically motivated. Another protester, Bekar Aladoshvili, was detained and sentenced with Tsaguria. According to the Georgian Young Lawyers’ Association, “analysis of the cases creates a reasonable doubt that the individuals concerned were arrested due to their political and civil activities, as opposed to a violation of law.”¹⁵⁵ The detention of protesters occurred amidst a series of administrative detentions of opposition activists, who were accused of similar public order offenses.

Risk of Legal Sanctions

Late in 2011, Parliament passed a Law on Political Unions of Citizens, which regulates political party financing. The law gave unprecedented authority to the State Audit Office (SAO; formerly Chamber of Control) to monitor compliance with the new regulations. The SAO froze bank accounts and fined mainly opposition parties and individuals as well as organizations connected to them, in a few instances in blatant violation of its own regulations. This caused some NGOs to voice concerns that they could be targeted as well if, for instance, they supported opposition activists whose rights had been violated.¹⁵⁶

D. Other Restrictions on Human Rights Defenders’ Activities

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

Prison Regulations

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

¹⁵³ The International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), “ICEM Scorns Blatant Police Repression in Putting Down Georgian Metal Strike”, September 18, 2011, <http://www.icem.org/en/4-Chemicals-Pharmaceuticals/4667-ICEM-Scorns-Blatant-Police-Repression-in-Putting-Down-Georgian-Metal-Strike>

¹⁵⁴ ICEM, “Georgian Trade Union Leaders Jailed for Passing Drug Test”, September 26, 2011, <http://www.icem.org/en/78-ICEM-InBrief/4673-Georgian-Trade-Union-Leaders-Jailed-for-Passing-Drug-Test> (http://groups.yahoo.com/group/HR-Georgia-rus/message/11127#newsletter_4169)

¹⁵⁵ GYLA, “GYLA Protesting Against Administrative Detention of Davit Patsatsia, Dachi Tsaguria and Beka Aladoshvili,” September 24, 2012, http://gyla.ge/index.php?option=com_content&view=article&id=1478%3Agyla-protesting-against-administrative-detention-of-davit-patsatsia-dachi-tsaguria-and-beka-aladoshvili&catid=45%3Anews-eng&Itemid=1&lang=en

¹⁵⁶ Transparency International Georgia, “Chamber of Control’s Investigation of NGOs”, February 9, 2012, <http://transparency.ge/en/node/1753>

Independent monitoring of prisons was abolished in 2007, and the Public Defender of Georgia has the primary responsibility to monitor prison conditions. Although the Public Defender wrote numerous reports detailing prison abuse, the government has ignored the reports and their recommendations. In 2012, a coalition of 13 human rights NGOs, including Article 42 of the Constitution and the Human Rights Center (South Caucasus Network members), sought to initiate independent monitoring of Georgian prisons. These NGOs believe that independent and alternative monitoring is necessary to eradicate abuse in the prison system. The coalition requested permission to enter the prisons from President Saakashvili on September 3, 2012, but received no response. Following the September 2012 prison video scandal,¹⁵⁷ there was increased public attention on prisons and increased political will to institute reforms, and the Minister of Corrections and Legal Assistance set up a new prison monitoring group under his authority. At the time of writing, NGOs continued to advocate for the creation of a permanent monitoring group that would be independent from government ministries.

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

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

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

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

Minority Regions

Some HRDs allege that work in regions with large populations of ethnic Armenians and Azerbaijanis is limited due to fear of reprisals from the authorities. The Georgian government has made significant investments in these regions; it has provided new infrastructure, made commitments to improve education, and created a special admissions process to universities. Thus, the situation has improved, tensions have gone down, and the government continues implementing its national strategy and action plan for minority rights. However, in the process of consolidating government power following the Rose Revolution, the authorities cracked down on people who they thought had a separatist agenda or otherwise disturbed the control that the government sought to establish. In the wake of the 2008 war with Russia, secessionist fears were renewed and generated

¹⁵⁷ Human Rights House Tbilisi, "Special Statement of NGOs on Torture and Inhuman Treatment of Prisoners in Georgia," September 19, 2012, <http://humanrightshouse.org/Articles/18619.html>

more tension. In 2010, for instance, Arnold Stepanian, the leader of Public Movement Multinational Georgia (PMMG; a South Caucasus Network member), was the target of a smear campaign that labeled him as a Russian spy.¹⁵⁸

Although much tension has subsided, past targeting of political activists and human rights defenders still resonates in the regions. An International Crisis Group report on the Javakheti region (dominated by ethnic Armenians) showed that crackdowns have intimidated activists, who are now hesitant to stage protests out of the concern that their activism will be interpreted as “anti-Georgian,” which could create tension between ethnic groups.¹⁵⁹ Interviewees believe that similar dynamics hinder human rights defenders in other minority regions. Defenders remain intimidated by incidents of harassment that occurred prior to the reporting period and consequently are reluctant to complain about new violations. This is especially true for those defenders whose names are not known in international circles, whom the government could potentially retaliate against without much unfavorable effect on its international reputation.

Media Environment

Human rights organizations have faced some difficulties in communicating their message to the public, due to the media environment. Most media outlets are viewed either as pro-government or pro-opposition,¹⁶⁰ and media outlets loyal to the government failed to report about HRDs’ advocacy on behalf of victims of human rights violations. These media outlets exclusively invited government ministers or organizations closely tied to the government to provide commentary on important national issues affecting human rights during the reporting period. For example, Article 42 of the Constitution would see pro-government media attend press conferences that the organization held on business law, only to notice the media’s absence when the topic of the press conference was human rights violations.

Politics and the Democratic Process

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

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

¹⁵⁸ U.S. Department of State, “2010 Human Rights Report: Georgia,” April 8, 2011, <http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154425.htm>

¹⁵⁹ International Crisis Group, “Georgia: The Javakheti Region’s Integration Challenges,” p.4, May 23, 2011, [http://www.crisisgroup.org/~media/Files/europe/caucasus/georgia/B63%20Georgia%20-%20The%20Javakheti%20Regions%20Integration%20Challenges.pdf](http://www.crisisgroup.org/~/media/Files/europe/caucasus/georgia/B63%20Georgia%20-%20The%20Javakheti%20Regions%20Integration%20Challenges.pdf)

¹⁶⁰ On this issue, a 2012 preliminary report of OSCE-ODIHR discussed the pre-election and election media coverage, stating that “The media environment was diverse, yet some private television (TV) channels had limited coverage within the country thus preventing full access to the wide variety of information available to citizens. The OSCE/ODIHR EOM’s media monitoring indicated that only the Georgian Public Broadcaster (GPB) provided politically balanced news coverage of the campaign. No other monitored TV channels provided balanced news coverage, contrary to their legal obligations.” Statement available at: <http://www.osce.org/odihr/94593>

campaign managed to raise public awareness about the implications of the law and force the government to reconsider it. When the law was finally revised, many of the campaign's demands were met.

"This Affects You Too" went on to play a significant role in advocating for free and fair elections. Among other things, it pushed for "must-carry" rules ensuring that cable TV providers offered viewers access to varied media during the campaign before elections on October 1, 2012. Prior to adoption of the rules, many television providers operating outside the capital only offered access to pro-government media outlets. These rules were passed by the Georgian government in July 2012 and were set to expire on Election Day. Following the election, cable providers continued carrying a variety of news channels, even though they had no legal obligation to do so.¹⁶¹

¹⁶¹ To read more on "This Affects You Too" in Georgian, see the campaigns website at <http://www.esshengexeba.ge/>. In English, see for example: Campaign report for first month, http://transparency.ge/sites/default/files/post_attachments/Report%20ENG.pdf; <http://www.civil.ge/eng/article.php?id=25119>; and <http://www.civil.ge/eng/article.php?id=24522>.

RECOMMENDATIONS

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

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

We call upon the European Union to:

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

Recommendations to the Government of Armenia:

- Implement the recommendations of the U.N. Special Rapporteur on the situation of human rights defenders, which were released after her 2010 country visit;
- Develop comprehensive anti-discrimination legislation that prohibits discrimination based on sexual orientation and gender identity, including hate crimes and hate speech;
- Revise the law on the activities of advocates to ensure that non-lawyers can defend human rights victims in courts;
- Ensure the protection of human rights defenders, in particular those protecting the rights of vulnerable groups, such as LGBT persons;
- Ensure that slander and defamation against human rights defenders is investigated effectively and transparently;
- Carry out objective, transparent and effective investigations in all cases of violations of HRDs' rights and restrictions of their activities, and ensure that investigations are conducted by an independent body;

- Organize meetings and dialogues with a variety of non-governmental organizations working on different human rights issues, also covering cases in the regions, in order to raise government officials' awareness about the implementation of international human rights standards, implementation of those standards, and mechanisms for enforcing them;
- Establish a complaints mechanism in cooperation with non-governmental organizations to ensure that violations by police and law enforcement are investigated independently, effectively and transparently. Non-governmental organizations should be able to monitor the implementation of such a mechanism, including by having access to information and by being represented in the mechanism.

Recommendation to the Armenian Public Defender:

- Release a separate annual report dedicated to analyzing the situation of human rights defenders in Armenia, paying particular attention to the steps taken to follow up on the recommendations issued by the UN Special Rapporteur on the situation of human rights defenders after her country visit in 2010.

Recommendations to the Government of Azerbaijan:

- Ensure the protection of human rights defenders, journalists and lawyers; in particular:
 - Cease the practice of using lawsuits against journalists and media workers with the aim of pressuring them and limiting their right to freedom of expression,
 - Allow civil society events, such as trainings and discussions, to take place in the regions of Azerbaijan in accordance with existing legislation, i.e. without the need for permission from local authorities;
- Take the necessary steps to prevent threats, physical attacks, and killings of journalists and mass media workers; give priority to the issue and react promptly to such cases;
- Improve the conditions for protecting human rights and allow human rights defenders to conduct their work more effectively:
 - Ensure that national legislation is in line with Azerbaijan's international human rights obligations;
 - Eliminate the practice of arbitrary delays or refusals in the registration of national and international non-governmental organizations, in particular those organizations that defend human rights;
 - End the use of mass media to discredit human rights defenders, including journalists and non-governmental organizations;

Ensure the independence of lawyers as well as the Bar Associations and end the Bar Association's use of disciplinary measures and disbarment as mechanisms for exerting pressure on lawyers who litigate sensitive cases.

Recommendations to the Government of Georgia:

- Seize the momentum of the current post-election political climate and ensure access and effective participation of human rights defenders and lawyers in the work of governmental bodies on reforms, including legal reforms;
- Strengthen civil monitoring of the penitentiary system by amending the Code of Imprisonment to permit an independent monitoring mechanism for prisons and allow prisoners in administrative detention to communicate with local NGOs;
- Guarantee the right to a fair trial for all defendants by:
 - Ensuring confidentiality between lawyers, human rights defenders and their clients in prison;
 - Ensuring transparency of court proceedings by increasing public oversight of legal processes; in particular, ensure proper audio-video recording of all trials, including criminal cases, with the appropriate safeguards for protecting victims and witnesses;

- Review the use of administrative detention (currently as long as 90 days) as a penalty for violations of the Code of Administrative Offenses to ensure that it does not directly or indirectly cause human rights violations;
- Publicly and unequivocally recognize that defenders of minority rights are not anti-Georgian;
- Send a clear message to police that they must not hinder the work of journalists. Law enforcement's duty is to protect freedom of expression, not limit it.

Recommendations to Georgian Journalists and Media:

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

South Caucasus Network of Human Rights Defenders

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

Members of South Caucasus Network of Human Rights Defenders:

Armenia:

Armenian Helsinki Assembly, Yerevan
Armenian Helsinki Association
Asparez Journalist Club Gyumri region
Democracy Today
Helsinki Citizen Assembly Vanadzor
Jurists against Torture
Public Information and Need of Knowledge (PINK)
Socioscope
Wives of Armenia's Political Prisoners
Women's Resource Center Armenia

Azerbaijan:

Association for the Protection of Women's Rights in Azerbaijan after D. Aliyeva
Democracy and HR Resource Centre Public Union (Sungait)
Human Rights Center
Institute for Peace and Democracy
International Student Cooperation
Legal Education Society
Media Rights Institute
Public Association for Assistance to Free Economy
Society for Humanitarian Research

Georgia:

Anti-violence Network of Georgia (AVNG)
Article 42 of the Constitutions
Caucasian Center for Conflict and Human Rights
Center for the protection the constitutional rights
Former Political Prisoners for Human Rights
Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT)
Human Rights Center (HRIDC)
Multinational Georgia
Studio Reporter

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