



**THEMATIC REPORT**

***THE SITUATION OF HUMAN RIGHTS  
DEFENDERS IN GEORGIA - BARRIERS  
AND CHALLENGES***

2020



**HUMAN  
RIGHTS  
HOUSE**  
Tbilisi

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#### ABOUT HUMAN RIGHTS HOUSE TBILISI:

Human Rights House Tbilisi is a membership-based organization established in 2010 with the support of Human Rights House Foundation. Currently, 17 Houses are operating in 11 countries worldwide.

Human Rights House Tbilisi unites five organizations: „Human Rights Center“, „Rights Georgia“, „Media Institute“, „Sapari“, and „Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims“. Human Rights House Tbilisi helps protecting and strengthening human rights defenders and groups through its member organizations and conducts educational programs that raise awareness on human rights.



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## DISCLAIMER:

The document is developed by Human Rights House Tbilisi, with financial support from Human Rights House Foundation. The views expressed in this document are those of Human Rights House Tbilisi and may not necessarily reflect the views of the Foundation.

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## ABOUT THE REPORT

The report was developed in the framework of the project – "Assessment to Action: Improving the Protection and Empowerment of Human Rights Defenders in Croatia." The report is part of an international study conducted by Human Rights House Tbilisi with the support from Human Rights House Foundation (Oslo) and done in cooperation with Human Rights House Zagreb and Human Rights House Belgrade.



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## INTRODUCTION

Human rights defenders<sup>1</sup> are people who, individually or in association with others, fight against human rights violations through various peaceful activities. This is how the 1998 UN Declaration on Human Rights Defenders<sup>2</sup> (Article 1) describes the activities of human rights defenders. The Declaration above regards human rights defense as any type of activity, profession, or field through which individuals, groups, or associations strive to protect human rights, both locally and internationally. The fact that human rights defenders have an essential role in defending democracy and rule of law, promoting peace and the effective protection of human rights and freedoms, is recognized by a number of international instruments and mechanisms.<sup>3</sup> These documents, including the 1998 UN Declaration on Human Rights Defenders, clearly set out the basic principles necessary for the protection and support of human rights defenders.

Despite the establishment of international instruments that aim to guarantee the protection of human rights defenders, the trend of persecution and harassment of human rights defenders is still relevant in many countries worldwide.<sup>4</sup> This issue has become a pressing matter for Georgia as well, especially in recent years. Thus, a separate chapter on human rights defenders was added to the 2018 Parliamentary Report of the Public Defender of Georgia. According to the Report: "Organizations and their managers working in the field of human rights protection, often become targets of attacks, including those carried out by the authorities. ... Employees of non-governmental organizations or independent activists in Georgia have faced numerous challenges, such as discreditation, physical or verbal assault, intimidation, etc."<sup>5</sup>

Smear campaigns against Georgian human rights defenders, discreditation of the work done by human rights organizations by the representatives of state institutions and high-ranking officials – these are the problems that have repeatedly come into being in recent years and have been stressed, by local and international non-governmental organizations in their

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<sup>1</sup> The term "Human Rights Defender" also refers to an activist, which is commonly used.

<sup>2</sup> The full name of the declaration is "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," adopted by the UN General Assembly on December 9, 1998, with Resolution A / RES / 53/144.

<sup>3</sup> The mandate of the United Nations Special Rapporteur on the situation of human rights defenders, together with the relevant reports and recommendations is especially important. Learn more here: <https://bit.ly/3lgqqLn>

<sup>4</sup> Learn more in the 2018 Report by the United Nations Special Rapporteur on the situation of human rights defenders here: <https://bit.ly/3pZzpEl>

<sup>5</sup> See the Report of the Public Defender: <http://ombudsman.ge/res/docs/2020040215365449134.pdf>

statements.<sup>6</sup> It is important to note the rising number of cases of violence perpetrated by ultranationalist and homophobic groups. These include the cases of physical assault on human rights defenders. LGBTQ+ rights defenders and activists are especially prone to this type of pressure and threat.<sup>7</sup>

To improve the legal protection of human rights defenders and enable them to exercise human rights activities in a safe environment, it is essential that they enjoy public and state support. The Thematic Report by Human Rights House Tbilisi aims to identify the main challenges and barriers faced by human rights defenders living in Georgia. We hope the Report will facilitate discussions on improving the situation of human rights defenders and contribute to initiating multilateral dialogues between different sectors in the near future.

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<sup>6</sup> See the statements by Human Rights House Tbilisi:

“NGOs request an adequate response to the violence against the peaceful protest participant in Gori,” October 24, 2018: <https://bit.ly/3lPmsK8>

“Human Rights House Tbilisi and its member organizations assess the ‘arrests’ in the country as repression of people critical of the government,” August 9, 2019: <https://bit.ly/368qtEX>

“Defamatory and degrading statements towards human rights defenders by the Chair of the Human Rights Committee are alarming,” February 6, 2019: <https://bit.ly/3qGcChw>

<sup>7</sup> “Tbilisi Pride: The state should protect the rights of the LGBT community and the defenders of their rights in Georgia,” June 19, 2019: <https://bit.ly/3gpUYK2>

## ABOUT THE REPORT

The following report is based on the study of international documents regarding human rights defenders, as well as the research of reports/information available on the human rights situation in Georgia and eleven in-depth interviews with Georgian human rights defenders and activists.

As the respondents for the in-depth interviews, Human Rights House Tbilisi selected human rights activists who are working on issues deemed especially problematic by various reports,<sup>8</sup> including the Report of the Public Defender. These issues are: the rights of ethnic and religious minorities, LGBTQ+ rights, freedom of expression, the judicial system, equality, women's rights, etc.

The in-depth interviews carried out by Human Rights House Tbilisi rely on the standards developed by Human Rights House Foundation. These standards aim to implement and promote internationally recognized human rights principles and mechanisms at the national level. These standards also contribute to raising awareness about international principles, which is especially important in light of the global trend of shrinking space for the civil society, including human rights defenders. The respondents referred to these standards when assessing the trends and problems for human rights defenders in Georgia in the years 2018-2020.

### ***Standards Protecting Human Rights Defenders:***<sup>9</sup>

- 1) Publicly support human rights defenders
- 2) Do not criminalize defending human rights
- 3) End restriction on NGO funding
- 4) Respect NGO independence
- 5) Avoid registration and legal restrictions
- 6) End all forms of reprisals

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<sup>8</sup> e.g. Reports by Human Rights Center: <https://www.hridc.org/index.php?a=main&pid=137&lang=ge>  
Analytical documents by Human Rights Education and Monitoring Center: <https://emc.org.ge/ka/topic?type=33>  
Annual reports by Transparency International Georgia: <https://transparency.ge/ge/annual-reports> and more.

<sup>9</sup> The source of inspiration for the standards are important resolutions related to human rights defenders and their activities. See the report Rights of Defenders, 2019 here: [https://humanrightshouse.org/wp-content/uploads/2018/12/Rights-of-Defenders\\_GEO.pdf](https://humanrightshouse.org/wp-content/uploads/2018/12/Rights-of-Defenders_GEO.pdf)

- 7) End arbitrary detention and arrest
- 8) Accept dissenting views
- 9) Ensure free access and choice of media
- 10) Facilitate peaceful protests
- 11) Fight against impunity, show accountability
- 12) Uphold responsibility of business
- 13) Protect women human rights defenders
- 14) Protect human rights lawyers
- 15) Protect defenders of minorities
- 16) Protect family members of human rights defenders

The initial stage of research and interview planning focused on the most problematic issues in Georgia. Therefore, interviews with the respondents focused on the discussion of these topics. The topics/chapters reviewed in the following report consist of the problems identified through thematic analysis of the responses collected through interviews.

***Respondents:***

- Human Rights Center
- EMC - Human Rights Education and Monitoring Center
- Tbilisi Pride
- Nata Peradze - Guerrilla Gardeners
- Media Institute
- PHR - Partnership for Human Rights
- Samira Bairamova - Civil Activist
- Sapari
- GDI - Georgian Democracy Initiative
- The Shame Movement
- Rights Georgia



## KEY FINDINGS

- Human rights defenders and activists lack public support from high-ranking government officials, even though this would strengthen them and ensure better protection of human rights in the country. Moreover, the respondents note that instead of having healthy discussions, high-ranking government officials often sharply oppose human rights organizations and their representatives due to their dissenting views expressed on various topics.
- According to the respondents, human rights defenders lack public support from other sectors/fields as well. In general, cooperation between human rights defenders and representatives of the private sector is rare.
- The majority of the respondents believe the public is not adequately informed about the work of human rights defenders. Another challenge that the human rights defenders face, according to the respondents, is the absence of a policy document or a legal regulation to support human rights defenders at the national level. The establishment of such a policy document/regulation would grant human rights defenders a better work environment and allow for better monitoring of the crimes committed against them. The existence of such a policy document/regulation would also ensure effective investigation of crimes perpetrated against human rights defenders. The majority of the respondents identified this as a significant challenge today.
- Almost all the respondents note that ultranationalist, homophobic groups have recently become particularly active. These groups openly oppose human rights defenders and people with liberal ideas in general. The case of the murder of human rights defender Vitali Safarov by members of a neo-Nazi group is particularly worth noting here. Tbilisi City Court found no motive for ethnic intolerance and/or xenophobia in this case, which would serve as an aggravating circumstance. The defendants were found guilty only of the charge of group murder.
- The majority of the respondents note that human rights defenders and activists often become targets of organized, coordinated assaults and defamation on social media, especially by ultranationalist groups. According to the respondents, the state structures do not properly investigate the crimes by violent/ultranationalist groups. So far, the state has not taken any specific and effective steps towards solving this problem.

- Defenders of LGBTQ+ rights are constantly exposed to pressure, threats and oppression. The state does not ensure the protection of their constitutional rights. Most of the respondents recall the events of June 2019, when the Pride March was canceled in Tbilisi after the Ministry of Internal Affairs informed the organizers from Tbilisi Pride that they would not be able to ensure their freedom of assembly. Emboldened homophobic groups openly threatened LGBTQ+ rights defenders and pursued persecution campaign against them via various media sources.
- Ethnic and religious minority rights defenders also fall prey to xenophobic attacks and persecution. Human rights defenders who themselves are minorities and are vocal in speaking out against discrimination on ethnic and religious grounds are most likely to suffer persecution.
- During the interviews, the respondents repeatedly mentioned that government officials often cooperate with non-governmental organizations and human rights defenders. Still, they find it hard to cooperate openly on the issues of principle - issues on which the non-governmental sector has a critical stance. Also, most of the respondents believe government officials do not often share/take into account the dissenting views of human rights defenders, which they consider as a significant problem. Activists note that their opinions/positions are not tolerated when they try to publicly post their views on social media pages belonging to government officials. The page admins often block them as a result.
- The analysis of the interviews reveals the state has disproportionately restricted freedom of assembly on numerous occasions. Even in circumstances with a legal basis for dispersing the protest, the force used by the state went beyond the standard of proportionality. Most of the respondents recalled the rally on the night of June 20, noting the police did not use proportional force against the protesters. Protesters were not issued a warning before the dispersal of the rally, which is a mandatory action under the Law of Georgia on Police.
- The majority of the respondents believe critical media outlets or journalists in Georgia often face pressure from the government. Various steps taken by the authorities evoke a feeling as if the government is not ready to ensure a free media environment in the country. In this regard, the respondents find the summer of 2019 especially problematic, when, in the wake of political processes, the government took a stand against media outlets that supported people in opposition.

- The majority of the respondents believe women's rights defenders are victims of a double stigma. Public criticism against them often carries signs of gender discrimination. Several respondents think women human rights defenders are often criticized not because of their work but on the account of their appearance, personal life, sexuality, or clothes.

## STANDARD: PUBLICLY SUPPORT HUMAN RIGHTS DEFENDERS

### *LEGAL FRAMEWORK*

The legal framework in Georgia does not take into account special normative protection for human rights defenders. The legislation of Georgia does not define or recognize the peculiarities and risks that complement human rights work. The Public Defender of Georgia took a positive step towards acknowledging the role and the importance of human rights defenders in 2018. With her initiative, a separate chapter on human rights defenders was added to the annual Parliamentary Report.<sup>10</sup> This amendment emphasized that any impediment to the work of human rights defenders is a specific type of problem, and that the government has the obligation to prevent and uproot this problem.

It is also worth noting that the Human Rights Division under the General Prosecutor's Office of Georgia began recording and monitoring the statistics of crimes committed against human rights defenders in 2018. The Human Rights Division developed a recommendation on effective investigation and prosecution of crimes against human rights defenders.<sup>11</sup> This recommendation describes international standards and peculiarities that accompany the crimes committed against human rights defenders.

Although the above-mentioned recommendation provides definitions of the activities and protection standards of human rights defenders, no such definitions exist at the normative and policy levels. Consequently, this recommendation document fails to provide effective accounting and monitoring of crimes against human rights defenders as of yet.

Interviews with human rights defenders and activists conducted in the framework of this report emphasized the need for a specific mechanism, policy document or legislation to protect human rights defenders in order to form a better environment for their work and address their challenges in practice. For example, according to the Criminal Code, unlawful interference with a journalist's professional activities is a punishable offense. According to some of the

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<sup>10</sup> See the 2019 Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia: <http://ombudsman.ge/res/docs/2020040215365449134.pdf>

<sup>11</sup> “Deputy Prosecutor General Natia Merebashvili participated in an online meeting on human rights defenders organized by the public defender,” October 8, 2020: <https://bit.ly/2LlrqC1>

surveyed human rights defenders, it is necessary to have a similar protection standard, regulating the activities of human rights defenders specifically.

While discussing the safe environment for human rights activities, it was noted that the investigative bodies often ask human rights activists to reveal their sources. The fact that the Criminal Procedure Code of Georgia does not recognize the term 'human rights defender' is another problem. Human rights defenders are not placed under the same exceptional rule as, for example, journalists are. (e.g., Article 95 under the Criminal Code - a journalist has no obligation to disclose information obtained in the course of his/her professional activity and he/she cannot be summoned as a witness in the case). During the interview, the representative of the Georgian Democracy Initiative noted that due to the absence of such a mechanism, there are cases when a human rights activist is summoned to investigative structures and forced to reveal their sources.

Professional work of human rights defenders often entails access to sensitive information, just like it is the case with journalists. It is noteworthy that the Law on Freedom of Speech and Expression mentions the term 'human rights defender' among other exceptions and emphasizes that "professional secret is the secret of confession, information disclosed to a human rights defender with regard to their professional activity, as well as information of professional value, which became known to a person under the condition of privacy protection in relation to carrying out his/her professional duties and the disclosure of which may damage the person's professional reputation" (Article 1).

This law protects the source of professional secrets of human rights defenders. However, practice shows that human rights defenders often find it hard to ensure protection of professional secrets since such a standard cannot be found in the Criminal Procedure Code. According to several respondents, the fact that human rights activities and the concept of human rights defenders are not defined at the normative level further complicates this situation.

### *STATE SUPPORT FOR HUMAN RIGHTS DEFENDERS*

According to the Resolution of the UN General Assembly and the Human Rights Council, to further protect and strengthen human rights defenders, it is important that public officials emphasize in their statements the positive role of human rights defenders in building democracy and the rule of law. In cases of violence and discrimination against human rights

defenders, political leaders must "take a clear stance in rejection of such practices." Political leaders have the responsibility to publicly acknowledge the important role of human rights defenders in strengthening democracy, the rule of law, and human rights.<sup>12</sup>

At the same time, Georgia, together with other member states of the Council of Europe, has committed to "ensure an enabling environment for the work of human rights defenders, in particular by ... refraining from organizing smear campaigns against defenders and other civil society activists and firmly condemning such campaigns organized by non-State actors."<sup>13</sup>

As the analysis of the interviews with human rights defenders and activists showed, the public discrediting of human rights defenders by high-ranking government officials remains an unresolved concern in Georgia. Smear campaigns against human rights organizations are particularly concerning. Respondents recalled complicated cases of discrediting human rights defenders in recent years:

On October 1, 2018, non-governmental organizations issued a joint statement, where signatory organizations expressed concern over the severe crisis facing democratic institutions in Georgia.<sup>14</sup> The joint statement emphasized the high level of corruption and informal governance in the country, prompting the government to respond appropriately.

In response to this criticism from human rights defenders, high-ranking government officials in Georgia launched a smear campaign against civil society. On October 2, 2018, Irakli Kobakhidze, the Chair of the Georgian Parliament at the time, accused thirteen NGO leaders of 'political interest' and labeled the organizations as 'political unions' rather than 'civil society'.<sup>15</sup>

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<sup>12</sup> These commitments are set out in Human Rights Council Resolution of April 2013 (UN Doc: A/HRC/RES/22/6), OP 5; and in UN General Assembly Resolution of December 2015 (UN Doc: A/RES/70/161), OP 4 and OP 21.

<sup>13</sup> Resolution 2225 (2018) by the Parliamentary Assembly of Council of Europe on protecting human rights defenders in Council of Europe member states, Article 5.

<sup>14</sup> "Informal rule has triggered a crisis of democratic institutions," October 1, 2018. Learn more here: <https://bit.ly/33PBrgP>

<sup>15</sup> "Irakli Kobakhidze: Citizens' political union 'non-governmental sector' is established in Georgia," October 3, 2018. Learn more here: <https://ghn.ge/news/212342>

Tea Tsulukiani, the Minister of Justice of Georgia at the time, also criticized civil society representatives and stated: "They represent political forces; [...] We are ready to register them as political parties."<sup>16</sup>

Kakha Kaladze, the Mayor of Tbilisi, also publicly criticized the NGOs, saying "they (the NGOs) are mainly established by the National Movement. They are either charmed by the Movement or feel indebted towards them."<sup>17</sup> The severity of these statements can be explained by the pre-election period. While analyzing the pre-election period of the 2018 presidential election, the International Society for Fair Elections And Democracy (ISFED) published a report on unprecedented pressure on civil society by high-ranking officials, showcasing the attacks by political leaders against non-governmental organizations. The report describes how challenging the pre-election period was for the election observers and the unprecedented coordinated attacks they faced while operating.<sup>18</sup>

The vast majority of the respondents believe that public officials not only refrain from publicly supporting the non-governmental sector in their statements but rather openly oppose them. Unfortunately, hostile rhetoric against civil society and its leaders is no news: In 2015, high-ranking government officials accused NGOs of 'undermining' the state.<sup>19</sup>

*"The government wants to direct the course of the work done by human rights defenders."* - Eduard Marikashvili, Georgian Democracy Initiative (GDI), Strategic Litigation Program Director.

During the interviews, the representative of Partnership for Human Rights (PHR) recalled the defamatory statement by Sophio Kiladze, former member of the Georgian Parliament and the Chair of the Committee on Human Rights and Civil Integration, where she attacked professional reputation, insulted personal dignity, and discredited the work of human rights defenders.

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<sup>16</sup> "Tea Tsulukiani: 13 non-governmental organizations represent political parties actually," October 3, 2018. Learn more here: <https://bit.ly/3gqF5mM>

<sup>17</sup> "Kakha Kaladze – non-governmental organizations are mainly established by the National Movement. They are either charmed by the Movement or feel indebted towards them. We should not be surprised by their silence on this horrible statement," October 8, 2018. Learn more here: <https://bit.ly/3kr08FQ>

<sup>18</sup> "2nd Pre-Election Interim Report - 2018 Presidential Election," October 8, 2018. Learn more here: <http://old.isfed.ge/main/1421/geo/>

<sup>19</sup> "This affects you too, they are still wiretapping" is undermining the state – Irakli Gharibashvili," May 1, 2014. Learn more here: <http://www.media.ge/ge/portal/articles/302606/>

Sophio Kiladze insulted the representatives of Partnership for Human Rights for expressing their critical position and remarks at the meeting of Parliament to discuss the Code on the Rights of the Child. This criticism was followed by insults and discrediting of human rights activists by Sophio Kiladze.<sup>20</sup> She noted that human rights activists were 'instructed' to play a 'destructive role' while discussing the Code. Kiladze added, she does not want to listen to 'people not considered politically objective' and will not accept their criticism.

Respondents agree that the Public Defender publicly supports human rights defenders and activists in Georgia. The Public Defender often becomes a victim of public attacks over her statements supporting marginalized, vulnerable groups. The Public Defender is often publicly attacked by high-ranking officials in Georgia as well. There are cases when she is attacked for exactly the same reasons as non-governmental organizations - government officials have often compared the Public Defender to a political force and have referred to her statements as 'shameful.'<sup>21</sup>

Almost all the respondents think the government officials often cooperate with non-governmental organizations and human rights defenders. Still, they find it hard to cooperate openly on the issues of principle - issues on which the non-governmental sector has a critical stance. NGOs are involved in state activities like working groups on legislative changes or other forms of discussions. However, the respondents believe that the state should work in a more active dialogue format on important issues of principle and support the engagement of the non-governmental sector in the decision-making process as much as possible. The openness of the government, which is very important, should be translated into the responsibility of the state towards human rights defenders.

Civil activist Nata Peradze mentioned that the Tbilisi City Hall and the City Assembly are particularly closed structures, not enabling the interested people, human rights defenders, and activists to get involved in the urban planning processes.

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<sup>20</sup> "It would be nice if you refrain from insulting MPs on Facebook – Sophio Kiladze's advice for NGO," February 4, 2019. Learn more here: <https://bit.ly/2K2sBFG>

<sup>21</sup> "Irakli Kobakhidze criticizes the Public Defender," September 26, 2019. Learn more here: <https://civil.ge/ka/archives/370737>



## *STATE SUPPORT FOR HUMAN RIGHTS DEFENDERS IN THE OCCUPIED TERRITORIES*

The occupied territories remain the most important problem for Georgia. The state has no opportunity to exercise effective control and jurisdiction in the de facto republics of Abkhazia and South Ossetia. Accordingly, the protection of human rights defenders holding Georgian citizenship and living in the occupied territories is a double challenge for the country. The respondents note that despite not having the opportunity to control the occupied territories effectively, the government of Georgia is obligated to use all available legal and diplomatic mechanisms to ensure the protection of its citizen human rights defenders in the occupied territories.

Respondents recalled the case of Tamara Mearakishvili, who lives in the occupied territories and whom the government of Georgia is not able to protect. Georgian activist and human rights defender, Tamara Mearakishvili, was detained by the de facto South Ossetian government in 2017 after she criticized the de facto government in the media. A travel ban is placed upon Mearakishvili since 2017 (she is not able to leave the territory of de facto South Ossetia). Participants of the study noted that Georgia has a responsibility to exercise all the possible mechanisms of international law and international community to protect Georgian human rights defender persecuted by the de facto government.<sup>22</sup>

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<sup>22</sup> “Statement of the human rights houses network regarding the case of Tamara mearakishvili,” February 3, 2020. Learn more here: <https://bit.ly/3lsEORI>

**STANDARD: FIGHT AGAINST IMPUNITY, SHOW ACCOUNTABILITY**

Interviews with the respondents revealed that crimes against human rights defenders often go unpunished in Georgia. Two reasons mainly cause this problem: on the one hand, the state does not have the appropriate policy to prevent crimes against human rights defenders (the state openly opposes human rights defenders and does not recognize their public role); on the other hand, the state does not effectively investigate the crimes against human rights defenders.

The kidnapping of an Azerbaijani activist and journalist, Afgan Mukhtarli, from Georgia is particularly concerning. The respondents believe Georgia was obliged to protect the journalist in Georgia. On May 29, 2017, Afgan Mukhtarli disappeared from the center of Tbilisi. Afterwards, he was found on the territory of Azerbaijan, where he was arrested. His testimony revealed that he was abducted from Tbilisi by people dressed in Georgian law enforcement uniforms.<sup>23</sup> Azerbaijan charged Afgan Mukhtarli with smuggling, crossing the Georgian-Azerbaijani border illegally, and resisting border guards.

Georgia has commenced an investigation over the abduction of Mukhtarli in 2017 and initiated a criminal case. Although Afgan Mukhtarli was released from prison in Azerbaijan in March 2020, Georgia still has not investigated who is responsible for kidnapping the activist and journalist from the country.

A lawsuit was filed against Georgia and Azerbaijan in the European Court of Human Rights regarding the disappearance of Afgan Mukhtarli in Georgia and his arrest in Azerbaijan (Case 39503/17). On August 30, 2017, the European Court informed the plaintiff that the application had been accepted with a priority status.

The respondents cited inappropriate response to various groups trying to discredit human rights defenders as an important issue. Some of the respondents believe that aggressive, ultra-nationalist groups, which discredit non-governmental organizations, have become stronger in Georgia as of recent, but the law enforcement agencies do not respond to their activities adequately. According to several respondents, these ultranationalist groups enjoy special support from the government.

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<sup>23</sup> “The case of Afgan Mukhtarli, facts and evaluation,” Human Rights House Tbilisi, May 2018. Learn more here: [https://hrht.ge/wp-content/uploads/2018/10/GEO\\_Online.pdf](https://hrht.ge/wp-content/uploads/2018/10/GEO_Online.pdf)

Respondents emphasized that public officials ignore the attacks by ultranationalist groups. High-ranking government officials do not issue statements and do not call on ultranationalist groups to respect NGOs fighting for human rights. This position of the state further encourages violent groups to use hate speech and aggressively respond to any event that is unacceptable to them, whether it is the gathering of LGBTQ+ people, the adoption of the Code on the Rights of the Child,<sup>24</sup> or something else entirely.

Human rights defenders and activists are often discredited through social media. Social media is accessible for anyone to spread information, and therefore, it is challenging to control abusive, threatening, or other controversial opinions there. However, the respondents believe that smear campaigns targeting human rights defenders serve beneficial for the government, as can be seen in the work of the government officials, their public statements, and policies. Organized attacks often take place against those activists and human rights defenders, who are active in public, oppose high-ranking government officials, and criticize their decisions. The state seldom condemns and investigates organized campaigns against human rights defenders on social media networks.

*"Several activists, who made frequent appearances in the media, were victims of organized attacks. Fake photos and posts were circulating on social media denouncing these activists as drug users and members of the LGBTQ+ community. There was an attempt to change the public opinion over the Shame Movement and its leaders."* Mariam Bajelidze, The Shame Movement.

In 2019, Facebook deleted social media pages run by ultranationalist and anti-Western groups. Disinformation campaigns led by these pages and their coordinated inauthentic behavior served as the reason for their removal.<sup>25</sup>

While discussing impunity, several respondents also recalled the case of Giga Makarashvili. On October 10, 2018, civil activist Giga Makarashvili participated in a rally outside the Gori City Hall, where activists protested against the statement of the Gori Mayor accusing Georgia of starting the August 2008 war.

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<sup>24</sup> "Hate groups rallied in front of UNICEF Office," March 3, 2019. Learn more here: <http://www.tabula.ge/ge/story/145155-sidzulvilis-jgufebma-unicef-is-ofistan-aqcia-gamartes>

<sup>25</sup> "Removing Coordinated Inauthentic Behavior from Georgia, Vietnam and the US," June 20, 2019. Learn more here: <https://bit.ly/37ISgLH>

At the end of the rally, when the activists were cleaning up the territory, the Head of Legal Services at the Gori City Hall, Teimuraz Manvelishvili, placed a garbage bin on Giga Makarashvili's head.<sup>26</sup> Although his behavior was videotaped, the jury acquitted Teimuraz Manvelishvili in court.<sup>27</sup> Based on the analysis of the interviews, it can be said that the strengthening of various groups that target human rights defenders and activists is fueled by the inadequate government response to the crimes or acts of physical abuse perpetrated against human rights defenders.

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<sup>26</sup> “Head of administration at the City Hall puts a garbage bin over the protestor’s head,” TV Dia, October 10, 2018. Learn more here: <https://www.facebook.com/watch/?v=258045738227221>

<sup>27</sup> “The jury acquitted Teimuraz Manvelishvili,” December 18, 2019. Learn more here: <https://bit.ly/36p6pgq>

**STANDARD: PROTECT DEFENDERS OF MINORITIES***BARRIERS AGAINST THE DEFENDERS OF ETHNIC AND RELIGIOUS MINORITIES*

Minority rights defenders and activists were interviewed within the framework of the study. They stressed that attacks against human rights defenders who intensively work with vulnerable groups have recently become more frequent in Georgia. The protection of ethnic and religious minorities is linked to a number of challenges. These groups represent the minority in the country and their needs often do not coincide with the dominant group's needs, which leads to the attacks against them.

Various ultranationalist, sexist, and other social groups that resort to using hate speech, carry out negative campaigns against human rights defenders in Georgia. The issues that human rights defenders are occupied with become the basis for the discrimination against them. If organizations/human rights defenders protect a vulnerable community - ethnic or religious minorities - they become victims of public xenophobic attacks.

It is important that high-ranking government officials support the protection of the rights of vulnerable groups in their public statements, ensure their integration and thus guarantee the protection of human rights defenders as well. According to the respondents, this is not really the case in Georgia. The interviews revealed that some public officials recognize fundamental human rights and take special care to protect the rights of minorities. However, as a rule, these public officials are not in high political positions.

Unfortunately, those public officials who hold high-ranking positions and/or come into positions of power through elections are less likely to protect the interests of vulnerable groups. According to the respondents, this is likely because they do not want to make statements unacceptable to the dominant group of society and try to maintain the legitimacy received from the majority in this way. Support for minority rights can often prove unpopular for high-ranking government officials.

Recently, representatives of ethnic and religious minorities in Georgia have become more actively involved in civic activism. There are young representatives of ethnic and religious minorities who are vocal in their criticism of the government. Part of the society often attacks such people on xenophobic grounds. Interview with the activist working on the rights of

ethnic Azerbaijanis reveals that they often face opinions such as "what do ethnic minorities want in Georgia?" "they should return to their homeland," etc.

These statements concern the defenders representing ethnic minorities with Georgian citizenship. Unfortunately, high-ranking government officials also share such a position. For example, Mariam Jashi, Chair of the Education, Science and Culture Committee of the Georgian parliament, noted in her statement in 2019 that "the rights of Georgians living in Azerbaijan should be equal to the rights of Azerbaijanis living in Georgia, both in terms of education and other services."<sup>28</sup>

This statement by Mariam Jashi is problematic because it involves the wrong message. On the one hand, it singles out the citizens of Georgia (and strengthens the stigma against ethnic minorities). On the other hand, it suggests ethnic minorities receive counter-benefits. The Public Defender highlights that the state is responsible for protecting the rights of ethnic minority citizens, and "we should not do this only to show Azerbaijan or any other state how good we are, or to get counter-benefits, even if these interests are fully legitimate."<sup>29</sup>

Examination of human rights defenders by the investigative structures in June 2020 was alarming.<sup>30</sup> Director of Equality Policy at Human Rights Education and Monitoring Center (EMC) was invited to the State Security Service (SSS). According to the general statement by SSS, they got interested in human rights activities for the ongoing investigation of racial discrimination in an ethnic minority region. According to SSS, particular individuals tried to stir up ethnic strife in Kvemo Kartli and Kakheti.

The investigation was preceded by the ultimatum of the Archbishop of Marneuli. He set a deadline for government officials to take down the monument of Nariman Narimanov. This statement was assessed as xenophobic in a region populated by ethnic minorities.<sup>31</sup> Anti-liberal groups on social media launched ethnic strife campaigns, facilitating ethnic controversy and stigma.

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<sup>28</sup> "Coalition for Equality refers to Mariam Jashi's discriminatory statement," February 27, 2019. Learn more here: <https://bit.ly/2JVZtjb>

<sup>29</sup> "Mariam Jashi - the rights of Georgians living in Azerbaijan should be equal to the rights of Azerbaijanis living in Georgia," February 27, 2019. Learn more here: <https://bit.ly/32EhLw2>

<sup>30</sup> Learn more here: <https://bit.ly/2UkvIup>

<sup>31</sup> "Case of racial discrimination and ethnic incitement – what and how SSS investigates," June 16, 2020. Learn more here: <https://www.tabula.ge/ge/story/173230-rasobrivi-diskriminaciisa-da-etnikuri-shughlis-gaghvivebis-saqme-ras-da-rogor-idziebs>

During the interview, the representative of the Center for Human Rights Education and Monitoring (EMC) noted the organized attack on human rights defenders by the public was alarming. The representative added that inviting human rights defenders at investigative structures for questioning during the investigation on ethnic incitement is also problematic. Such interference in human rights activists' work might serve as a mechanism to take control over their freedom of expression.

*"Clearly, the application of such a procedural mechanism is aimed at taking the investigation process out of the public control and deprives the respondents of the opportunity to defend their positions and express dissatisfaction,"* mentions the statement by EMC.<sup>32</sup>

Respondents also highlighted the problematic aspects of the investigation and court decision on Vitali Safarov's case. On September 30, 2018, 25-year-old human rights activist Vitali Safarov was murdered in Tbilisi. The conflict started in one of the bars in the center of Tbilisi and later continued in the street, witnesses recall. Along with his human rights activities, ethnic background, and liberal views, the violence against Vitali Safarov by the neo-Nazi/ultranationalist group lies in the fact that Safarov did not speak Georgian with his foreign guests.

The murder of Vitali Safarov is particularly noteworthy because it deals with the murder of a human rights activist on the grounds of racial intolerance, which is essentially a hate crime. Despite such factual circumstances, the Tbilisi City Court did not find that the defendants had committed murder on the grounds of ethnic intolerance and/or xenophobia on June 22, 2019, which should be an aggravating circumstance under the Criminal Code (Article 53<sup>1</sup> (1)). They were only found guilty of group murder. This decision did not meet Georgia's international obligation to proactively fight and eliminate ethnic discrimination.<sup>33</sup>

Ultranationalist groups in Georgia are particularly aggressive towards liberals and minority rights activists, thus posing a significant threat to human rights defenders and activists. The state does not pay proper attention to these crimes and an adequate response is missing: when sentencing the offenders, the main motive preceding the crime is not identified. Consequently,

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<sup>32</sup> "EMC responds to the ongoing investigation at State Security Service and examination of Tamta Mikeladze," June 16, 2020. Learn more here: <https://bit.ly/2UkvIup>

<sup>33</sup> "Overview of international standards on ethnic minority rights," EMC Report, 2019. Learn more here: [https://emc.org.ge/uploads/products/pdf/GEO\\_WEB\\_1552474567.pdf](https://emc.org.ge/uploads/products/pdf/GEO_WEB_1552474567.pdf), p 13-23.

no steps are taken to prevent crimes of this nature since the state does not classify and study them separately.

Research of the legal safety situation of human rights defenders of ethnic and religious minority groups identified positive achievements as well. Article 53<sup>1</sup> was added to the Criminal Code of Georgia, and discrimination is considered an aggravating circumstance for respective crimes. However, in practice, it still remains problematic for the investigative bodies and the representatives of the Prosecutor's Office to determine the real motive of the crime when discriminatory signs are presented.

According to the respondents, as the state has made a commitment to exercise all the necessary measures and implement a policy eliminating all forms of discrimination, it is important that the state identifies crimes committed on the basis of discrimination. It is especially important to identify crimes against human rights defenders on the grounds of discrimination. On the one hand, such crimes threaten the vulnerable group. On the other hand, human rights defenders are harassed as defenders of this particularly vulnerable community, leading to further weakening of this group.

### *LEGAL STATE OF LGBTQ+ RIGHTS DEFENDERS*

Despite the successful steps taken in recent years to combat discrimination,<sup>34</sup> the LGBTQ+ community in Georgia and defenders of their rights are still unable to enjoy the freedom of peaceful assembly and expression. All the respondents of the study clearly stated that the LGBTQ+ community is the most marginalized group in Georgia today. Defenders of their rights face the danger as well: human rights defenders and activists become victims of hostility, stigma, and physical aggression.

As part of the study, we spoke to human rights defenders working on the problems of this community. The fight for LGBTQ+ rights is so unpopular in Georgia that the number of barriers for human rights defenders leads to their demoralization. Human rights defenders and activists, who are unable and unwilling to deal with this daily stress, are leaving the country

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<sup>34</sup> In 2014, the Parliament of Georgia adopted the Law of Georgia on the Elimination of All Forms of Discrimination



en masse. According to the respondents, LGBTQ+ rights defenders in Georgia have to deal with constant pressure, fear, surveillance, aggression, and severe stress.

It is problematic for LGBTQ+ people to enjoy such a fundamental right as freedom of assembly. All the respondents noted the human rights defenders of this community in Georgia face a real physical threat daily. No effective advancements have occurred in Georgia since the confrontation between the LGBTQ+ community and the aggressive ultranationalist group on IDAHO Day (International Day Against Homophobia and Transphobia) in 2012-2013.<sup>35</sup>

According to the European Convention on Human Rights, states must ensure freedom of peaceful assembly and association without discrimination.<sup>36</sup> In 2012, the European Court of Human Rights ruled that Georgia had violated the rights of protesters with the cancellation of an event dedicated to IDAHO Day.<sup>37</sup>

The court noted that officials had prior information about the demonstration and its possible risks, but Georgian authorities failed to "contain homophobic and violent counter-demonstrators" and provide adequate measures to "ensure that the march dedicated to the International Day Against Homophobia could take place peacefully" and "in view of those omissions, the authorities fell short of their positive obligations under Article 11 taken in conjunction with Article 14 of the Convention [Prohibition of Discrimination]."

Large-scale attacks on IDAHO activists in 2013 are still pending before the European Court of Human Rights.<sup>38</sup>

Due to physical confrontation and threats by violent groups, IDAHO Day either was not celebrated in Georgia in 2014-2018 or comprised only small-scale demonstrations in the environment of constant surveillance and active involvement of police, depriving people gathered the possibility to move freely. However, religious groups, including those with

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<sup>35</sup> History of the controversies happening on May 17 in different years in Georgia: "8-year chronicle of May 17," May 17, 2019. Learn more here: <https://bit.ly/3nfRVX5>

<sup>36</sup> "Convention for the Protection of Human Rights and Fundamental Freedoms," Article 11. Learn more here: <https://matsne.gov.ge/ka/document/view/1208370> ,

<sup>37</sup> The case "Identoba and others VS Georgia," № 73235/12, 12. 05 2015

<sup>38</sup> "According to the majority, the May 17, 2013 raid was a hate crime – a survey." Learn more here: <http://www.equality.ge/2908>

violent and homophobic rhetoric, were able to demonstrate freely in the streets of Tbilisi on the same day.<sup>39</sup>

Even today, the state fails to guarantee the constitutional rights of LGBTQ+ individuals and their defenders. This is clearly illustrated by the recent history of the struggle of LGBTQ+ individuals and the defenders of their rights and the alarming facts highlighted not only by the representatives of Tbilisi Pride but by all other respondents as well.

Tbilisi Pride announced the first Pride Week in Georgia at the beginning of 2019. The week would comprise a variety of cultural events, including an international conference and the March for Dignity. According to the organizers, after a long process of negotiations, the Ministry of Internal Affairs informed them that law enforcement agencies could not ensure the freedom of assembly of the LGBTQ+ community due to the high risk and danger posed by radical homophobic groups. Law enforcement agencies offered to hold an indoor event.<sup>40</sup>

One week prior to the Tbilisi Pride, growing threats were identified, and the cases of threats and attacks against the LGBTQ+ community were reported. On June 14, LGBTQ+ activists gathered in front of the Chancellery of the Government of Georgia and demanded security guarantees from the police during the announced March for Dignity. The gathered activists were confronted by a violent group of counter-demonstrators. They verbally abused the activists and even threatened them. Eventually, police pulled the activists out of the rally again. On June 15, homophobic ultranationalist groups formed vigilante groups armed with clubs. They threatened the organizers of the Pride Week and started patrolling to 'punish' LGBTQ+ people.<sup>41</sup>

The Ministry of Internal Affairs launched an investigation of the formation of vigilante groups.<sup>42</sup> However, the study participants noted that the main problem is the fact that the government called on the LGBTQ+ community not to hold Tbilisi Pride and, specifically, the March for Dignity. According to the respondents, this attitude of the Georgian government

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<sup>39</sup> “Day created as a counterweight to the anti-homophobic action - the procession of the Patriarchate on May 17,” May 17, 2018. Learn more here: <https://bit.ly/3o1JWgw>

<sup>40</sup> “Gakharia about the Pride: MIA aims to balance freedom of expression and security,” May 2, 2019. Learn more here: <https://netgazeti.ge/news/368925/>

<sup>41</sup> “According to Levan Vasadze, vigilante groups start patrolling in Tbilisi,” June 16, 2019. Learn more here: <https://bit.ly/3lrn1u7>

<sup>42</sup> “MIA launched an investigation on forming vigilante groups mentioned in Levan Vasadze’s statement”, JUNE 17, 2019. Learn more here: <https://bit.ly/2JXCqVb>

does not coincide with international and national human rights obligations. The representatives of the Ministry of Internal Affairs called on the defenders of LGBTQ+ rights to avoid the potential threat themselves and refuse to enjoy their constitutional rights. It is noteworthy that, by doing so, the state put the responsibility on LGBTQ+ people. From the Ministry's perspective, defenders of LGBTQ+ rights as the organizers of the March for Dignity would be charged for threats that might not be avoided.

Government agencies are committed to prove they support the freedom of peaceful assembly and expression of the LGBTQ+ community and express readiness to uphold their rights in case of any necessity. Respondents believe that the events of June 2019 was not the only time when the LGBTQ+ community failed to enjoy their rights. The state chooses not to notice the activities of groups with radical, homophobic, ultranationalist, and neo-Nazi ideologies, which have become increasingly active in Georgia recently.

The Ministry of Internal Affairs has launched investigations on various cases, however, these cases remain to be investigated and the perpetrators are rarely charged for their aggressive actions. In contrast, the LGBTQ+ community in Georgia still does not have an opportunity to enjoy its constitutional right. LGBTQ+ community representatives become targeted by threats and violence to which the government does not respond. People voicing aggressive statements and calling on others to start punitive patrols in the streets appear in the media, but high-ranking government officials do not publicly condemn their statements, do not respond to their aggressive threats and do not urge them to obey the law and enable the activists to enjoy their constitutional right.

In November 2019, aggressive homophobic groups gathered again and violently tried to disrupt the premiere of the Georgian-Swedish film *And Then We Danced*, the subject of which is homosexual love. A particularly aggressive and crowded group gathered at the Amirani Cinema, where human rights defenders Ana Subeliani and Tamaz Sozashvili were to attend the film screening together with the LGBTQ+ community. Several aggressive individuals recognized Ana Subeliani and Tamaz Sozashvili as LGBTQ+ rights defenders and deliberately attacked them.<sup>43</sup>

The person arrested in the case of Ana Subeliani was sentenced to imprisonment for a crime committed on the grounds of discrimination. The court decision is in line with the motive of

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<sup>43</sup> “Statement on the November 8 incident against human rights defenders Ana Subeliani and Tamaz Sozashvili”, November 13, 2019. Learn more here: <https://bit.ly/377v4qc>

the crime committed, which is to be welcomed.<sup>44</sup> However, the court has not made a decision on Tamaz Sozashvili's case yet.

During the study, respondents mentioned that LGBTQ+ people live under constant stress. Ultranationalist groups often hold rallies in front of the Tbilisi Pride office because the LGBT movement symbol - a rainbow flag - hangs from their balcony. They throw eggs and tar at the office.<sup>45</sup> According to the Public Defender of Georgia, the state has an obligation to protect human rights defenders from such types of attacks so that they can carry out their human rights activities. She also stressed, "This continuing violence has a negative impact on the Tbilisi Pride staff, activists and human rights defenders, as well as the LGBTQ+ community and their legal state in general."<sup>46</sup>

On November 20, the Transgender Day of Remembrance, Tbilisi Pride employees received a video via social media where radical groups are burning a poster made by the organization with the caption "We Remember" in the Tbilisi underground passage.<sup>47</sup> Such public and non-public attacks comprise the daily life of LGBTQ+ rights defenders. The interviews clearly show how much effort is needed from the state and how many steps need to be taken to make LGBTQ+ human rights defenders feel safe in the country.

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<sup>44</sup> "Statement on the November 8 incident against human rights defenders Ana Subeliani and Tamaz Sozashvili", November 13, 2019. Learn more here: <https://bit.ly/377v4qc>

<sup>45</sup> "Eggs were thrown at the Tbilisi Pride office," July 22, 2020. Learn more here: <https://bit.ly/3fkavKP>

<sup>46</sup> "The Public Defender met with Tbilisi Pride representatives," September 2, 2019. Learn more here: <https://bit.ly/35oGqGM>

<sup>47</sup> "Received a video how the poster on Transgender Day of Remembrance is being burnt – Tbilisi Pride," November 24, 2020. Learn more here: <https://bit.ly/2JbiwGd>

## STANDARD: PROTECT WOMEN HUMAN RIGHTS DEFENDERS

On December 18, 2013, the UN General Assembly adopted a Resolution on Women Human Rights Defenders.<sup>48</sup> The resolution states that women human rights defenders often face increased risk due to their activities. Particular attention is needed for women human rights defenders as they experience different pressures: they face gender threats. Also, they are more likely to be abused than their male counterparts. Pressure on women and various forms of violence, including physical violence, can have negative social consequences: further stigmatization of women human rights defenders and their rejection from civil society.

Gender stereotypes are still deeply rooted in the minds of the majority of the population in Georgia, shaping daily barriers for almost every woman at some point. It is not surprising that each and every human rights activist or politically active woman in general, is striving to overcome these barriers.

When discussing the situation of women human rights defenders and activists, the director of the women's rights organization Sapari noted that women human rights activists are under double pressure. On the one hand, part of the society perceives them as politically subjective individuals who act in line with specific political party interests and undermine the interests of the state. On the other hand, women human rights defenders additionally face gender stereotypes on how the "ideal woman" should behave.

*"Women pursuing human rights activism, or political activism in general, step beyond the publicly accepted gender roles in Georgia, which leads to their becoming prey to sexist attitudes."* - Baia Pataraiia, Director of the NGO Sapari and Chair of Human Rights House Tbilisi.

Women human rights defenders and activists are often criticized not only for their activities but for their appearance as well. Personal life, appearance, sexuality, fashion, etc., often become weapons against women. Women are also more likely to become victims of verbal assault, since these assaults carry gender connotations and are actively used to confront women human rights defenders: rape threat, slander, harassment, defamation, etc.

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<sup>48</sup> Resolution on Women Human Rights Defenders adopted by UN General Assembly on December 18, 2013, with the Resolution A/RES/68/181

People opposing women human rights activists often appeal that "such women have no one to take care of them," and that "it is a shame they have the permission from the family to be so active," etc. Repelling such attacks is even more difficult for women involved in human rights work as they have to deal both with public stereotypes and stereotypes in their own families. The family often becomes a barrier for socially active women. Women human rights defenders and activists often have to listen to stereotypical views from family and relatives, disguised as good intentions and as attempts of "caring for women." Relatives often offer 'friendly' advice, suggesting that social activism is too difficult a process for a woman and a mother, and these challenges are not worth it, especially in the circumstances when "family needs care."

Considering the particular challenges facing women human rights defenders, government agencies are required to consult with women human rights defenders to establish gender-sensitive, effective mechanisms to facilitate the work of women activists in the civil sector. The state should take particularly strong steps against gender-based oppression of women - the authorities themselves should not speak in a way that reinforces the stigma of women as "the weaker sex". Also, high-ranking government officials should publicly support women human rights defenders and recognize their particularly important role in developing an inclusive and pluralistic society.

## FACILITATE PEACEFUL PROTESTS

Exercising freedom of assembly and expression in Georgia is accompanied by the barriers often facing human rights defenders and activists. Respondents believe the disproportionate restriction of freedom of assembly occurs when the state aims to disperse rallies/demonstrations. Even in the circumstances with a legal basis for dispersing the protest, the force used by the state usually goes beyond the standard of proportionality.

During the interviews, the respondents recalled several rallies and demonstrations from recent years where the state displayed shortcomings:

The Inter-Parliamentary Assembly of Orthodoxy was to be held in Georgia in June 2019. The Assembly was chaired by Sergei Gavrilov, a member of the Russian Duma opposing the territorial integrity of Georgia. The Assembly was held in the hall of Parliament of Georgia where Sergei Gavrilov, as the Chair of the Assembly, took the place of the Speaker of Parliament of Georgia. More than ten thousand protesters gathered in front of the Georgian Parliament in Tbilisi on June 20 to protest this fact.

Some protesters tried to break into the Parliament, in response to which police used rubber bullets, tear gas, and water cannons against both protesters and passers-by. As a result of the dispersal of the rally, 240 people were taken to medical facilities, and several people lost their vision in one eye. In addition, more than 30 journalists and media representatives were injured. The most serious injuries to people were caused by rubber bullets used by police officers.<sup>49</sup>

The majority of the respondents noted that the police did not use proportional force against the protesters on the night of June 20, and the protesters were not warned in advance about dispersing the rally, which is a mandatory action under the Georgian Law on Police. By using special means, the state endangered the lives of the protesters and violated its obligation to ensure the freedom of assembly and restrict the exercise of this right only on appropriate legal grounds and through the use of proportional force.

According to the respondents, the freedom of assembly was restricted, and disproportionate force was used by the state in November 2019 as well. During this period, civil society was holding rallies in front of the Parliament because the ruling party did not fulfill its public

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<sup>49</sup> “Statement to the Human Rights Council on the events of June 20,” July 31. Learn more here: <https://bit.ly/2JXQTk1>

promise to the people<sup>50</sup> and did not amend the system of parliamentary elections in Georgia with a fully proportional system.

Several protesters tried to picket the parliament during the protest. Law enforcement officers responded with water cannons. The respondents noted, despite the justified grounds for using special means due to the picketing of the Parliament, cold water cannons on a November night was disproportionate use of force. In addition, protesters were detained at the rally. Some of them were later sentenced to administrative detention by the court.

Public Defender's statement regarding administrative detentions is worth mentioning here. The statement emphasizes that significant violations were revealed in the court trials of the activists detained during the demonstrations: "Court hearings once again reminded the public of the shortcomings in the Soviet-era Administrative Offences Code. The Public Defender has been talking about the need to amend the Code for years. The ongoing processes in the country and the above-mentioned court hearings show that the Code does not meet even the minimum standards and that a new normative act should be adopted by the Parliament as soon as possible."<sup>51</sup>

The representative of the Georgian Democracy Initiative also discussed the shortcomings of the Administrative Offences Code, noting that the state often uses this code against demonstrators because it does not oblige the state to adhere to as high a standard of proof when imposing a prison sentence as required by Criminal Procedure Code, for example.

Activists arrested during the November 2019 rallies were unable to fully exercise their right to a fair trial in court. Their lawyers did not have time to prepare, and the court used police testimonies as the only evidence against them.

Together with the Public Defender, non-governmental organizations have also made statements on the limitations of the Administrative Offences Code of Georgia.<sup>52</sup> This law is also being reviewed by the Constitutional Court; however, this normative act adopted during the Soviet period is still in force.

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<sup>50</sup> "Proportional elections with zero threshold will be held in 2020 – Ivanishvili," June 24, 2020. Learn more here: <https://netgazeti.ge/news/374865/>

<sup>51</sup> "Public Defender responds to the trials of persons arrested during the November 18 rally outside the Parliament," November 22, 2019. Learn more here: <https://bit.ly/3kmPjof>

<sup>52</sup> "Statement of the Human Rights House Tbilisi and its member organizations regarding the recent trials," November 22, 2019. Learn more here: <https://bit.ly/3eT0QuH>



## STANDARD: ACCEPT DISSENTING VIEWS

*"A thoughtful ruler can take advantage of criticism,"* - Ana Abashidze, Partnership for Human Rights (PHR).

Respondents share the view that the Georgian government brings together such "thoughtful" rulers. The non-governmental sector easily cooperates with those trying to benefit from criticism, advance, and solve the challenges. However, the respondents think, unfortunately, there is a lack of such officials in high-ranking positions. Typically, the majority of public officials respond to criticism with hostility, while they are directly responsible for building a safe environment for human rights defenders who monitor public authorities, promote democracy and the rule of law in the country.

*"Human rights defenders must feel secure, protected, and empowered to peacefully express their views, without pressure, self-censorship, or fear of reprisals. This means creating an environment in which a vibrant and strong civil society can flourish."*<sup>53</sup>

The cases of blocking of activists on Facebook pages belonging to public structures is an example of restricting freedom of expression of human rights defenders and activists due to the lack of openness for critical opinions. During the interview, a representative of the Georgian Democracy Initiative recalled several cases when government officials blocked activists for expressing their critical views on public Facebook pages.

The Supreme Court of Georgia has reviewed such case and ruled that "the management of social media networks by administrative bodies is a public activity" and that "the Ministry of Justice potentially restricted the plaintiff's freedom of expression guaranteed by Article 17 under the Constitution of Georgia and by Article 10 under the Convention for the Protection of Human Rights and Fundamental Freedoms."<sup>54</sup>

Accordingly, the Supreme Court of Georgia defines that activists and human rights defenders should have the opportunity to express their opinion on public and social media pages of state

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<sup>53</sup> See the report Rights of Defenders, 2019, here: [https://humanrightshouse.org/wp-content/uploads/2018/12/Rights-of-Defenders\\_GEO.pdf](https://humanrightshouse.org/wp-content/uploads/2018/12/Rights-of-Defenders_GEO.pdf)

<sup>54</sup> "What happens when the state restricts your freedom of expression of Facebook?" August 7, 2019. Learn more here: <https://bit.ly/2K5dtHL>

structures or officials without being obstructed so that the page administrators do not block/delete their views. The management of administrative bodies' social media pages is a public activity, giving rise to the obligation of the state structures to accept different opinions expressed on these platforms.

When carrying out public activities, the state should be open to listening to any person, human rights defenders, and activists with different and critical positions. Public space enabling people to share opinions on the state's activities should not be restricted, and the state is obliged to involve human rights defenders and activists in the public decision-making process.

## STANDARD: ENSURE FREE ACCESS AND CHOICE OF MEDIA

Together with state institutions and public officials, the media has a leading role in shaping public opinion about human rights defenders and activists. To protect the rights of human rights defenders, the state should ensure that human rights defenders have "access to information technologies and media of their choice, including radio, television, and internet."<sup>55</sup>

The state should support freedom of media, as it represents "an integral part of the enjoyment of the enjoyment of the fundamental rights to freedom of opinion and expression."<sup>56</sup> States should not build barriers to the access and use of media and thus should not damage the interests of human rights defenders and activists.

Media is an important tool for human rights defenders, including traditional media platforms like television, newspaper, and radio, or new internet media. Human rights activists use the media to promote their own activities, participate in public debates, and advocate a variety of issues. Actions restricting the expression of their views through the media are aimed at reducing the influence of human rights defenders in shaping public opinion and limiting their contact with society.

The discussion with the respondents revealed that several types of media exist in Georgia. On the one hand, there is pro-government media (large televisions and online media). On the other hand, there are media outlets, the work of which actually comprises human rights activities (large televisions and online media also). There is also a third type of media exercising hate speech (online media or newspapers mostly).

A number of respondents noted that pro-government media outlets only cooperate with government-organized non-governmental organizations (so-called GONGOs).<sup>57</sup> In general, such media activities can not be considered as civic activism as they suppress critical thinking and refrain from keeping the government in check. Naturally, government officials do not oppose such pro-government media outlets due to their editorial policies.

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<sup>55</sup> March 2013 Human Rights Council resolution (UN Doc: A/ HRC/RES/22/6), OP 7

<sup>56</sup> *Ibid*

<sup>57</sup> Government-organized non-governmental organization

The government restricts the freedom of media outlets (especially televisions) critical of the government. Journalists are often attacked because they join civil society due to their work. For example, several respondents referred to Tbilisi Mayor Kakha Kaladze's "campaign against fake news" and its shortcomings, as a high-ranking government official attempted to take control over independent media. The Public Defender also made a statement on this.<sup>58</sup> Representatives of non-governmental organizations issued a statement in response to Kakha Kaladze's actions, noting that "such a campaign by a high-ranking political official against critical media outlets does not meet the expectations of a democratic society."<sup>59</sup>

Respondents repeatedly mentioned that critical media outlets or journalists in Georgia have recently come under pressure from the government. In the summer of 2019, following the political processes and protests, the government took several troublesome steps. Multiple events provoked the feeling<sup>60</sup> that the government was trying to suppress the civil protest and oppose the media outlets supporting those in opposition. For example, Nika Gvaramia, then the General Director of Rustavi 2, was charged after he announced the launch of a new television.<sup>61</sup> Vato Tsereteli, the founder of TV Pirveli, was also summoned for questioning.<sup>62</sup>

Recent cases of pressure on the media raise reasonable suspicions that the Georgian government confronts opposition-minded, independent media outlets. Recent developments on Adjara Public Broadcaster and Radio are particularly noteworthy. A number of journalists have been fired for their critical views. It has been revealed that critical views against the government were "persecuted"<sup>63</sup> on television. This is a serious problem, meaning the public broadcaster does not tolerate different opinions.

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<sup>58</sup> "Kaladze aims to harm particular media outlets, not to combat hate speech – Ombudsman," June 25, 2020. Learn more here: <https://formulanews.ge/News/32144>

<sup>59</sup> "We urge Kakha Kaladze to think about the security of the journalists," June 24, 2020. Learn more here: <https://bit.ly/3lt8FcP>

<sup>60</sup> "Human Rights House Tbilisi and its member organizations assess the 'arrests' in the country as repression of people critical of the government," August 9, 2019. Learn more here: <https://bit.ly/368qtEX>

<sup>61</sup> "Nika Gvaramia: A new television will be launched in Autumn," July 26, 2019. Learn more here: <https://bit.ly/3fjbhkh>

<sup>62</sup> "Vato Tsereteli: They will try to manipulate me by persecuting my father." Learn more here: <https://1tv.ge/news/vato-wereteli-mamachemis-winaaghmddeg-devnis-dawyebit-chemze-manipulirebas-sheecdebian/>

<sup>63</sup> "Alternative Trade Union rally outside Adjara TV," June 27, 2020. Learn more here: <https://civil.ge/ka/archives/357467>

Respondents believe the media outlets voicing discrimination on religious, ethnic, and other grounds, stirring up strife, and exercising hate speech, are influenced by Russia. They often spread fake news, especially about minorities and advocate for their rights.<sup>64</sup> Another problem is that high-ranking government officials do not publicly oppose such media outlets, and moreover, the government often cooperates with such media outlets by giving interviews and visiting their studios. These types of social media platforms and online publications often run organized attacks on human rights defenders.

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<sup>64</sup>See the 2018 Report on Hate Speech by Media Development Foundation here: <https://bit.ly/2K6T3hz>

## STANDARD: UPHOLD RESPONSIBILITY OF BUSINESS

Conversations with the respondents identified the problem of cooperation with the private sector, specifically the issue of social responsibility of business. Private actors can contribute to strengthening civil society. Moreover, they often participate in forming public opinion about human rights defenders.

The 1998 UN Declaration emphasizes that all individuals can practice human rights activities, without any special education. The main thing is that the individual should strive to promote the protection of fundamental rights in the country. This goal is so universal that the respondents believe the private sector - business, media, and religious organizations - should necessarily share their social responsibilities. Respondents particularly highlighted the Georgian Orthodox Church - the dominant religious group that promotes stereotypes about human rights defenders and stigmatizes them. For example, the Georgian Patriarchate openly opposes those who defend the rights of LGBTQ+ people. The controversy is exacerbated by the fact that the March of May 17 coincides with the celebration of the Family Holiness Day initiated by the Patriarchate to cover the significance of the day of struggle against homophobia and transphobia.

*"Corporate social responsibility lacks development. For example, private companies do not want to offer anything even for the victims of violence."* - Baia Pataraiia, director of the NGO Sapari and Chair of the Board at Human Rights House Tbilisi.

Sapari Director noted that corporate social responsibility is very important. Private companies operating in Georgia rarely show social responsibility and rarely offer support to human rights defenders and activists. There are a number of companies that demonstrate such responsibility, however, some companies do the opposite and instead engage in discrediting the civil society through their own advertising campaigns.

Better cooperation between the private and the civil sectors in Georgia is needed. Corporate social responsibility supporting women's rights or environmental campaigns is very important. The state should facilitate dialogue and cooperation between different sectors. The private sector should be encouraged, and research should be conducted in this area in the future.

The Thematic Report – "The Situation of Human Rights Defenders in Georgia - Barriers and Challenges" aims to ensure that more time is devoted to discussing challenges and obstacles facing human rights defenders and activists, which implies that representatives of various sectors engage in civic activities in the future. This is especially important since the Georgian

Human Rights Action Plan for 2018-2020 includes the chapter - Business and Human Rights. One of the goals of this chapter is to elaborate an appropriate amendment package concerning corporate social responsibility, including supporting women's empowerment (Goal 25.1.6).<sup>65</sup> To this end, according to the Action Plan, research should be conducted on mechanisms that promote corporate social responsibility, and that can potentially support the empowerment of women. It should also be noted that this goal should have been achieved in 2018-2020, however, the 2019 Monitoring Report on Georgian Human Rights Action Plan reveals the work has not started yet.<sup>66</sup>

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<sup>65</sup> “Georgian Human Rights Action Plan for 2018-2020.” Learn more here:

<http://myrights.gov.ge/ka/plan/Action%20Plan%202020>

<sup>66</sup> “2019 Monitoring Report on Georgian Human Rights Action Plan.” Learn more here:

<http://myrights.gov.ge/uploads/files/docs/5726HRAPAnnualReport-2019.pdf> , p 265.