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A lot to contest: Rights abuses in the run up to Georgia's 2012 Parliamentary Election

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Introduction

On 1 October 2012, Georgian citizens will go to the polls for the first genuinely contested election since Mikheil Saakashvili swept to power during the Rose revolution nine years ago. For the first time an opposition coalition, formed around political debutant and billionaire Bidzina Ivanishvili, poses a real challenge to the dominance of Saakashvili's United National Movement. Ivanishvili's "Georgian Dream" coalition has grown rapidly in size and stature since its formation earlier in the year.

Meanwhile, constitutional amendments made on 15 October 2010 ensure that, following the 2013 Presidential election, the parliament Georgians elect now, will choose a prime minister and form the government. Once amendments are implemented in 2013 this new government will have significantly increased powers at the expense of the Presidential office.

As a result, the 2012 elections are viewed as an important benchmark by concerned parties inside and outside the country. For many of the country's allies, who view Georgia as a key strategic partner in the volatile South Caucasus, the upcoming elections will be a litmus test. The way the electoral process has been conducted will be looked at as an indicator of whether the country has made genuine improvements in human rights standards and civil and political freedoms, or whether the widely acclaimed institutional reforms have masked the consolidation of one party rule.

In one very simple sense the emergence of the "Georgian Dream" coalition and the intensity with which the electoral campaign has been conducted is in itself indicative of progress towards a more pluralistic political environment and a livelier democratic space. At the same time, it is clear that this ostensibly positive development has been undermined by reciprocal and repeated allegations of abuses by the two main competing parties, with the UNM being accused of abusing the advantages of incumbency, and the institutions and administrative resources they control, and the "Georgian Dream" of unlawfully exploiting the wealth of its founder to influence voters and circumvent party funding regulations.

This briefing does not attempt to come to a conclusion as to whether the elections can be considered free and fair. This is a question that requires a broader analysis than Amnesty International is qualified to offer. Nor, for the same reason, is it concerned to estimate the extent to which abuses by either side are likely to influence the final result. Its narrower purpose is, simply, to document violations of the rights to freedom of expression, association and assembly that have occurred in the run up to the parliamentary elections. Inevitably, this analytical lens leads to a focus on abuses committed by the Georgian authorities and, by extension, the ruling United National Movement party, rather than those of the opposition. Such, however, are the responsibilities of being in government. Moreover, in so far as the United National Movement identification has been keen to promote itself both domestically and abroad as the founder and sole responsible guardian of democracy in Georgia, it should be prepared to be judged by the high standards it espouses.

There have certainly been numerous allegations and several well documented cases of harassment, intimidation, obstruction and unfair punishment of opposition members and supporters in the run up to the parliamentary elections.

While the responsibility for many of these incidents no doubt lies with over-zealous public and party officials keen to preserve their positions and power, it is difficult to avoid the conclusion that at least some of the patterns of abuse identified below point to coordinated campaigns of intimidation and obstruction intended to restrict the exercise of the freedom of expression, association and assembly of the "Georgian Dream" and its supporters.

While an Inter-Agency Task Force for Free and Fair Elections set up under the auspices of the National Security Council in May 2012 to "foster coordination among various government agencies and promote dialogue between the government and all stakeholders in the electoral process,"¹ has often responded well to individual allegations of abuses, it has been less

effective in pro-actively identifying and eliminating patterns of abuses within the public administration.

1. The adoption of new regulations on political party funding

Since the beginning of the electoral year, numerous legal and institutional changes have substantially increased the discretionary powers of the state bodies that monitor, control and punish political parties for violating political financing and campaigning rules.

As part of a broader set of reforms to the electoral law and legislation governing political parties, a first set of amendments to the Law on Political Unions was made on 28 December, changing the rules on political party funding and spending.

These amendments banned donations by legal entities, capped donations by private individuals and conferred new powers to the State Audit Organization (SAO) (formerly known as the Chamber of Control) to monitor political party and campaign financing, investigate violations and impose sanctions.

The new law also imposed stringent new restrictions on companies and individuals with “declared political and electoral goals” or, which are “directly or indirectly related to or under the control of a political party”. Such a broad definition risks curtailing the activities of civil society organizations, as well as ordinary people, merely for expressing political opinions or for their perceived political connections and was widely criticised, notably by the UN Rapporteur on the rights to freedom of peaceful assembly and association.²

These initial concerns were partly addressed by amendments in May 2012, which narrowed the definition of persons and entities liable to the scrutiny of the SAO, by removing the ambiguous term “directly or indirectly connected” from the definition and introducing an additional criterion, that the subject must be investing money and material towards the realisation of political goals.³

In the light of these amendments, the Law on Political Unions of Citizens, the SAO is authorised to “request information related to the finances of political parties from political parties, administrative authorities and commercial banks.” It may also “request information about the origin of transferred and received property” from “persons with declared political and electoral goals and objectives”, or persons related to them.

According to ruling party lawmakers, these changes were introduced as part of a long-standing and ongoing process to improve anti corruption and bribery regulations in line with international standards, quite unrelated to the entry of Mr. Ivanishvili into the political fray. However, several observers have expressed concern that the restrictions in the law have apparently been “motivated by a desire to control the political activities of a specific individual rather than for objective and sustainable reasons.”⁴ These concerns have been reinforced by the fact that the amendments package signed into law in a deal between the ruling party and other opposition parties in June 2011 to increase the cap on company donations,⁵ were completely scrapped by the December 2011 amendments, which banned legal donations from companies altogether.

Legitimate concern has also been expressed over the transfer of greater supervisory powers to the SAO on account of the fact that a number of the SAO’s current and recent senior officials have been or are United National Party members and candidates in the current elections.⁶ Several of the concerns documented below would suggest that the SAO has indeed, on occasion, failed to exercise its new powers appropriately or without bias.

2. Fines against opposition supporters and organizations associated with them

Bidzina Ivanishvili’s entry into politics was accompanied by a flurry of legal actions brought against him and organisations and individuals associated with him and his “Georgian Dream” coalition.

According to the most recent statistics disclosed by the SAO, since the beginning of the year it investigated more than 100 individual donors of “Georgian Dream” opposition coalition, of which the courts fined 68 for illegal donations. As for the ruling party, UNM, 10 donors were investigated of which 8 were fined.⁷

Amnesty International is concerned that many of the fines against the opposition supporters have been imposed following legal proceedings that failed to respect fair trial guarantees, or satisfy basic evidential requirements.

In two cases of illegal donations involving some twenty Georgia Dream donors reviewed by Amnesty International, SAO were not required by the Administrative Court to show that the funds allegedly unlawfully donated by them had been illegally sourced; rather the onus was on defendants to prove the funds had been legitimately sourced.⁸ In some instances, donors were fined even when they proved that they had sufficient income to make savings for donations in previous years, but had no declared income in recent years. For example a former Georgian Ambassador to Italy, Zaal Gogsadze, had an average monthly salary of EUR 6000 from 2004 to 2006, but was fined for contributing GEL 12.000 (approximately EUR 5.600) on the grounds that he had no declared income since 2009.

On 10 August 2012, Kakha Kaladze, the number one candidate on the “Georgian Dream” party list, was fined 10.3 million USD and his assets seized on the grounds that he had failed to prove that multi-million dollar withdrawals from his account had not been spent on campaigning activities.⁹

On 11 August 2012, the leader of “Georgian Dream” coalition Bidzina Ivanishvili was likewise fined 12.3 USD for irregular party donations on account of being unable to demonstrate that a cash withdrawal of around 3 million USD from his private bank account had not been spent furthering the electoral aims of the “Georgian Dream”.

Earlier, on 11 June 2012, Tbilisi court fined Bidzina Ivanishvili 90 million USD for breaking political party funding regulations. On 15 June, Tbilisi court of appeals upheld the decision of the lower court on the merits, but halved the fine imposed to 45 million USD. In separate proceedings, the government has also confiscated the shares of two private banks associated with him and his relatives in order to secure payment for the fines.¹⁰

The charges of violating party funding rules resulting in the 90 million USD fine involved two cases:

In the first case, the provision of transportation under “preferential” terms to the “Georgian Dream” opposition coalition by two companies Burji and Elita Burji allegedly associated with Ivanishvili was found by the court to constitute an illegal donation. While both companies are registered offshore and their official beneficiary owners are unknown, according to the SAO their link to Ivanishvili is allegedly established by the fact that their “official representative in Georgia”, Kakha Kobiashvili, is a nephew of Bidzina Ivanishvili.¹¹

In the second case, the court ruled that Bidzina Ivanishvili had funded the distribution of satellite dish antennae by Global TV in breach of party funding regulations. Global TV is a cable operator owned by Bidzina Ivanishvili’s brother Alexander and which was, until the introduction of a short-term “must-carry” obligation for duration of the pre-electoral period, the only operator to broadcast the pro-opposition Channel 9 TV station. The court considered that the scheme, whereby satellite dishes were distributed and installed for free in exchange for a long-term subscription was politically not commercially motivated. The court also considered evidence that several Global TV employees installing the dishes claimed they were a gift from Bidzina Ivanishvili, while others wore T-shirts with “Georgian Dream” logos.¹²

The court also accepted the SAO’s claim that Cartu Bank, which provided a loan to Global TV to acquire satellite dishes “is in fact owned by Cartu Group, which is owned by Bidzina

Ivanishvili.”¹³The only proof that the court relied in reaching this conclusion however was the “testimony of the Deputy General Director of Cartu Bank, which states that Cartu Bank LTD and “Georgian Dream” coalition have the same beneficiary owner - Bidzina Ivanishvili.”

The court ruled that the above cases “constituted illegal donations by Ivanishvili to the political coalition Georgia dream, by-passing the law and using companies linked to him.” However, the allegations of ownership of the relevant commercial entities by Bidzina Ivanishvili necessary to impose the fines on him personally relied on poorly evidenced claims that Bidzina Ivanishvili was not provided with adequate time or sufficient equality of arms to contest effectively.

No substantive reasoning was advanced either by the SAO or the court, demonstrating how the representation of offshore companies by Kakha Kobiashvili constituted proof of Ivanishvili's ownership or financial ties of these companies. Neither was any evidence presented explaining why the formal ownership of Global TV by Bidzina Ivanishvili's brother, Alexander, proved that the real ownership was his own, while the Court rejected the defence's applications to call and cross examine the witnesses whose testimony was relied on to establish ownership of Cartu Bank.

Alexander Baramidze, a lawyer representing Bidzina Ivanishvili, told Amnesty International of the extremely short amount of time he was given to prepare the defence of his client against the allegations of unlawful donations that resulted in the administrative court fining him around 90 million USD in the case linked to Global TV. According to Alexander Baramidze, he was served with more than 600 pages of documents and four CDs on the afternoon of 7 June, to prepare for a 10am court hearing the following day. The entire proceedings, including an appeal, were concluded within 8 days, despite the very significant complexities of the case.¹⁴

Both the Tbilisi City Court and the Tbilisi Appeals Court denied their request for more time to prepare his case. Mr. Ivanishvili was denied the opportunity to cross-examine SAO witnesses, while evidence submitted belatedly by the SAO was immediately admitted and added to the case file by the court.¹⁵

Amnesty International is concerned that a large number of fines were imposed on opposition supporters following trials conducted in haste and with limited regard for due process and appropriate evidential requirements. While the speed of such proceedings is due primarily to the very short time-limits set out in the Administrative Code for cases heard in administrative courts, in some instances it appears that the courts have used their discretionary powers arbitrarily. Indeed, the court's denial of Mr. Ivanishvili's request for more time to prepare his defence, whilst allowing the plaintiff (the SAO) extra time to submit additional evidence, is but one example of this.

Organizations associated with opposition coalition “Georgian Dream” have also been subjected to legal action ahead of the elections.

In parallel to the civil case described above which resulted in multi-million dollar fines for illicit donations channelled through the Global TV company, a criminal investigation has also been initiated into allegations of vote buying. In connection with this investigation, on 21 June 2012, police raided Global TV's warehouses, seizing thousands of satellite dishes in an action approved by the Tbilisi City Court, to “prevent the further commission of a crime”.¹⁶ In July, however, around 10,000 satellite dishes belonging to another pro-opposition television station, Maestro TV, were also impounded following another criminal investigation initiated in respect of a satellite dish distribution scheme that mirrored some of the features of the Global TV scheme.¹⁷

The prosecution had argued that the distribution of the satellite dishes for a nominal initial fee by Maestro in order to increase its coverage base, gave the “investigation... sufficient evidence to believe that the antennas w[ould] be distributed in accordance to the scheme of vote-buying

previously used by Global Contact Consulting Ltd another company associated with “Georgian Dream” Coalition.”¹⁸

Tbilisi City Court in its ruling on 11 and 14 July, sided with the prosecution, stating that “there is a grounded suspicion that the technical equipment imported by Maestro TV will be used for the commission of the crime of vote buying.”¹⁹

Tbilisi Appellate court upheld the decision of the lower court on impounding the satellite dishes of Maestro TV stating that, stating that the Tbilisi City Court was correct in applying a test of “grounded suspicion” that the property may have been used in the commission of a criminal act rather and concluded that this test had been satisfied²⁰. In this case, however, the prosecution was unable to point to either an indirect ownership link to Mr. Ivanishvili, or other “Georgian Dream” backers, or any evidence of vote-buying of the kind put forward in relation to Global TV’s scheme. Ultimately, the only evidence relied on by the courts was that Maestro TV broadcasts pro-opposition news and was offering an install for free, pay through subscription scheme similar to Global TV. The suggestion that Maestro TV was acting on behalf of or the instruction of interests linked to the “Georgian Dream” is certainly not fantastical, but establishing a “grounded suspicion” must require more than mere speculation.

²¹

On 25 July 2012, the Georgian Development Research Institute (GDRI), a think-tank established in October 2011 with funding from Bidzina Ivanishvili, had its account frozen without any notice or explanation. In a reply to a GDRI inquiry for the reasons behind the decision, the organization received a letter the Tbilisi City Court on 31 July informing them that as GDRI does not represent a party in the case the seizure relates to, it is not eligible to receive information about the investigation. As GDRI’s bank account remains frozen, 22 permanent and 12 part-time members of staff have been left without pay.²² Amnesty International is concerned that depriving the GDRI of the right to be notified of legal grounds for impounding its assets violates its rights to effectively challenge the decision by legal means. Indeed, it has effectively been closed without following a procedure that allows its closure to be effectively challenged.

3. Harassment and Intimidation of opposition supporters

3.1 Widespread questioning of the opposition supporters in violation of due process

In early March, a large number of opposition party members and presumed sympathisers were summoned for questioning by the SAO, under powers to investigate political party funding. The widespread summoning and questioning that lasted several weeks was often carried out in an intimidating fashion and in violation of due process.

Approximately 370 citizens were summoned and 295 people questioned in different, mainly rural parts of Georgia²³. According to the head of the agency, then Levan Bezhashvili, the aim of the operation was the investigation of possible irregularities in the funding of political parties by comparing financial declarations submitted by political parties against actual spending in the regions. However, only individuals linked to the main opposition movement, “Georgian Dream”, were summoned for questioning.

The summoned persons included members and declared supporters of “Georgian Dream” coalition parties. Additionally, many people with no stated political affiliation but who were presumed to be opposition supporters were also reportedly summoned. Amnesty International received several reports that these examinations were often carried out in an aggressive manner, under heavy police presence, with people subjected to invasive searches and questioned about their personal political beliefs and activities, often while being denied their right to legal representation. Both the summoned persons and their lawyers reported that the interrogations often focused on general questions relating to their political beliefs and activities rather than any financial transactions they may have been party to. A lawyer who represented four persons summoned for questioning by the SAO in Kutaisi told Amnesty

International that none of his clients were provided with a concrete explanation of any suspicions, alleged illegal actions or violations, which might have justified their summons.

Most of those summoned were questioned for around two hours, in the course of which the same questions were often asked again and again. A number of those questioned, especially in absence of a lawyer, alleged to have been subjected to threats and intimidation. At least one lawyer alleged to have been threatened and forced to leave the questioning room.²⁴

Teona Pkhakadze, a 19 year old member of Kutaisi Republican Party Youth Organization reported that questions asked inquired into her political affiliation and activities.

Mubariz Mamedov, a member of the Republican Party from Sagarejo who is a Georgian citizen of ethnic Azeri origin claimed he was questioned about his political affiliation and activities. "Towards the end, when the questioning grew tense, they told me to be careful as I am an ethnic Azeri and it is possible that under the new government I will be deported from the country", he told Amnesty International.

The selective examination of only opposition party members and presumed supporters, the nature of the questions asked and the sheer number of those called in for questioning does give rise to the strong suspicion that the operation was politically motivated and, at least in part, aimed at intimidating current and potential opposition party sympathisers.

Following criticism of the operation by local and international watchdogs²⁵ the drag-net questioning of opposition supporters tailed off sharply. In admission, at the very least, that the questioning of opposition supporters had often been poorly handled, the SAO adopted internal regulations governing procedures to be followed in respect of the summoning and questioning of interviewees in July 2012, since when there have been no fresh allegations of intimidating or abusive questioning.

3.2 Alleged politically motivated dismissals

Since the beginning of the year, Amnesty International has received numerous reports of dismissals of public and private sector employees for supporting opposition parties. A web portal operated by NGOs that monitor cases of pre-election harassment currently lists 57 such dismissals across Georgia, they consider credible.²⁶ Schoolteachers in the regions appear to have been specifically targeted.

It is noteworthy that in almost all cases, the dismissed persons allege that they have been fired after having publicly declared their sympathies towards the opposition or having participated in activities supporting opposition groups. In other instances, the individuals alleged that their dismissal was simply due to the fact that they were related to a well-known opposition figure in their communities.

According to local rights groups, in January and February 2012, politically motivated dismissals were made in the regions of Sachkhere, western Georgia and Gori, Shida Kartli Region. According to the Georgian Young Lawyers Association (GYLA), and Transparency International (TI) Georgia, ten teachers were fired from different schools in Sachkhere municipality for expressing sympathy or cooperating with opposition parties.²⁷ In January, 2012 three people were allegedly fired from public schools in Gori for being relatives of opposition activists.²⁸

On 7 March 2012, four teachers: Venera Ivanishvili, Nana Ivanishvili, Marina Nadiradze and Lela Khurtsilava were dismissed from Samtredia Public School. The teachers believe they were dismissed for having signed a request for the restoration of Bidzina Ivanishvili and his wife's citizenship in February. Their work contracts have been terminated under Article 37 of the Labour Code providing for premature termination without giving grounds for the dismissal. The teachers claim that when inquiring about the reasons for their dismissal, they were told from the head of human resources, that she was simply following instructions.²⁹

On 26 March 2011, Tamar Aspanidze was dismissed from job as a public school teacher. Tamar Aspanidze told Amnesty International that her dismissal is retaliation for the political activities of her son, Davit Aspanidze, who is the chairperson of the Bolnisi Region's Office of the Republican Party. She was handed a note of dismissal, which stated that she has violated the terms of her work contract, but without specifying the exact violation. Tamar alleges that in private conversations, the school principal admitted that her dismissal was connected with her political activities rather than any dissatisfaction with her work. Tamar Aspanidze had worked as a public school teacher at Bolnisi School No 3 for the past 20 years. Throughout this period there have been no complaints issued against her.³⁰

As the head of the Inter-Agency Task Force noted in a meeting with Amnesty International in September 2012, allegations of politically motivated dismissals are always difficult to substantiate. This inherent difficulty is exacerbated by the fact that Georgian labour law allows employers to terminate an employee's contract without giving a reason.³¹

The head of the Task Force was prepared to admit, however, that at least some such cases were likely to have been genuine. Indeed, in response to this question the Task Force issued a recommendation on 31 May 2012 to the heads of all public school administrations to suspend the firing of persons on the grounds of restructuring. Recommendations have since been issued to a number of establishments to reinstate individual teachers³² – though no-one was held accountable for the abuses the reinstatements imply³³ and no investigations have been held into alleged cases pre-dating the establishment of the Inter-Agency Task Force on 18 May 2012.

The response by the Inter-Agency Task Force is, indeed, positive – and has also been effective in preventing significant numbers of new alleged abuses. However, the extent of the problem initially documented does, once again, point to a failure on the part of many public officials to resist the temptation to abuse the powers of their office in the interests of the ruling party. The fact that, in the cases of teacher dismissals, the decisions were taken by regional resource centres answering directly to the Ministry of Education in multiple regions around the same time, does at least hint at a degree of instruction.

What is certainly not in doubt is that the effect of these dismissals has been significant. According to a survey carried out by the National Democratic Institute in August 2012, 14 percent of those questioned responded that they personally know someone, who in their view was fired from a state job because of their political beliefs.³⁴ Whether or not their beliefs were justified, this high proportion does suggest a widespread perception that the practice is common and that it has very likely impacted on the willingness of many voters dependent on public employment to express their political convictions publicly.

3.3 Physical threats and beatings

Georgian NGOs have documented more than a dozen incidents of apparently politically motivated attacks on opposition supporters in the course of the year.³⁵ Incidents ranging from threats to physical beatings and violent assaults against opposition supporters have increased as the elections have approached, with a handful of alleged cases being reported each month.

On 13 January, 17 year old Davit Kiknadze was detained, insulted and beaten by persons in civilian clothes. The incident took place after the teenager shouted the name of Bidzina Ivanishvili during a concert held at the Sachkhere Culture House. According Davit Kiknadze three persons grabbed him from the crowd, forced him into the car and drove him away. Kiknadze alleged that for an hour he was detained, threatened and beaten by men in plain clothes, among which he allegedly identified a local employee of the Ministry of Interior.³⁶

According to the information received from the General Prosecutors office, witnesses were interviewed and an investigation was launched into Kiknadze's case on 2 June, 2012; however

while the investigation continues, “due to inadequate information,” it has been, “[un]able to determine neither the alleged criminal activity, nor the identity of perpetrators.”

Mamuka Kardava, the leader of the Khobi Branch of the “Georgian Dream” Coalition, was attacked and beaten by four unidentified assailants on 20 May 2012. Despite the available evidence indicating the marks on the back of Mamuka Kardava were likely to have been caused as a result of a beating, initially an investigation into his case was opened on violations of traffic safety rules by Kardava himself.

According to his lawyer, on 20 May 2012, at approximately 1 am Mamuka Kardava was driving home when four men approached his car as he stopped at the railway crossing of Nojikhevi village. One of the men managed to get into the back of the car and started to choke him. As a result Kardava lost control of the vehicle, ran into a bus stop near the railway and hit a metal pole. He was allegedly dragged out of the car by the assailants and beaten with batons. Mamuka Kardava was then hospitalized with multiple injuries in the Khobi regional hospital. Available photo and video evidence clearly show lines of bruising on his back, which Amnesty International’s medical expert has identified as likely to be the result of blows from some kind of rod producing typical “tramline” marks as opposed to the result of a car accident injury which does not typically cause bruising on the back.

Kardava believes that this attack was intended to punish him for and discourage him from his political activities. Prior to the incident, the International Society for Fair Elections and Democracy (ISFED, an NGO conducting pre-election monitoring in Georgia) had reported that on 18 May, Mamuka Kardava was insulted by one of the members of the Khobi municipality when he was holding a meeting with the residents in the village of Chalaladi.

On 21 May the Ministry of Internal Affairs released a statement. According to their version of events, on 20 May at 02:30 am, an inspector-investigator of the Khobi Regional Police found a vehicle belonging to Mamuka Kardava which had ran into a bus stop near the railway and hit a metal pole. According to the statement, Mamuka Kardava received injuries as a result of the car crash and was taken to the central hospital of the region where he was given first aid and then discharged. It also stated that an investigation had been initiated under article 276 part 1 of the Criminal Code with regard to violation of traffic safety rules against him.

Mamuka Kardava’s lawyer, Guram Kupunia, told Amnesty International that a forensic expert examined Mamuka Kardava on 22 May. According to him Mamuka Kardava was also questioned in connection with an alleged attack and beating, however a formal investigation into allegations of assault was only opened on 29 May. To date the case is still under investigation. Based on the recommendation of IATF, the Ministry of Internal Affairs announced a reward of 10,000 GEL for information about the identity of the attackers.³⁷

On June 27, 2012 a Ioseb Elkanashvili, a member of the “Georgian Dream” coalition in Gori, who participated in the door to door campaign launched by the “Georgian Dream” to check the accuracy of the voters lists was attacked and beaten by five unidentified men. Ioseb Elkanashvili told Amnesty International that five men came to his home at 3 am in the morning calling his name. He was taken to a nearby river where he was beaten and threatened with death. Elkanashvili alleges that one of his assailants was wearing a police uniform. The General prosecutor informed Amnesty International that they have initiated an investigation into the case of the alleged beating. However, according to Elkanashvili, he is not aware of any investigation, as no one from the authorities has questioned him about the attack. “I do not expect the authorities to do anything about my case”, he told Amnesty International.

3.4 Alleged politically motivated arrests

Between 21 and 28 September 2012, police arrested approximately 60 opposition supporters and activists. They include supporters of the “Georgian Dream” opposition coalition and

approximately six activists, who were actively involved in student protests against prisoner abuse that took place in Tbilisi between September 21 and 24.

The IATF has confirmed that 44 persons have been sentenced to administrative detention, while others have been fined and released. In all 44 cases the charges were related to minor misdemeanours ranging from swearing in public and the violation of traffic rules to resisting police. All 44 persons were found guilty and sentenced to up to 60 days detention.³⁸

Local human rights organizations raised concerns that widespread arrests of the opposition supporters and activists have been carried arbitrarily and out often without respect for their right to due process.³⁹ Lawyers representing detained activists told Amnesty International that their clients were convicted in summary trials based solely on the testimony of the police, without the defence having the opportunity to summon witnesses or introduce materials such as video footage and other recordings.

Amnesty International has reviewed several cases of arrests of activists and opposition supporters, where it appears that their right to fair trial and due process has been violated, for instance:

On 21 September 2012, police detained Alexandre Tsagareli a student and one of the organizers of the youth protests against the prisoner abuse. He was detained after returning home from the protests in the vicinity of Tbilisi State University. According to witnesses, he was stopping a taxi, when three patrol police cars stopped and apprehended him. The same day, Tbilisi Court charged Alexandre Tsagareli with swearing and disobeying to the police under Article 173 of the Code of Administrative Violations and released him after fining for 400 GEL (USD 200).

Nona Kurdovanidze, a lawyer representing Alexandre Tsagareli told Amnesty International that the court rejected her motion to examine CCTV recordings or call witnesses, who were present when his client was detained and were ready to testify that he did not swear or resist the police officers. Alexandre Tsagareli believes he was detained and fined in retaliation for organizing the student protests against the government.

The same day, police detained four other youth activists in the vicinity of another protest area near the Ministry of Justice that was taking place at the same time as the protests near Tbilisi State University. All four were charged with disobeying the orders of the police and received administrative detention of up to 40 days. A lawyer of Davit Patsatsia, one of the detained persons, told Amnesty International that the court based its judgments solely on the testimony of police officers, while denying him the opportunity to cross examine police officers, call defence witnesses or request CCTV recordings of the incident.

At the same time, the widespread detention of opposition activists has been reported across different regions of Georgia. The “Georgian Dream” has alleged that the series of arrests were part of the authorities’ attempt to keep some of the “Georgian Dream” activists away from the election process, especially on the Election Day on October 1.

Kakha Zhorzholiani a representative of the “Georgian Dream” in the Election Commission for Mestia municipality was arrested on September 23. He was charged with petty hooliganism for allegedly swearing and physically assaulting another member of the Mestia Election Commission. His family told Amnesty International that Kakha Zhorzholiani was taken from his home at 3 am and charged at the local police station without being allowed to see his lawyer. The same day, Zugdidi Regional court found him guilty of hooliganism for insulting the member of the election commission and sentenced him to 40 days in prison. The family claimed that on 20 September, a heated debate ensued between Kakha Zhorzholiani and another election commission member in Mestia, however no verbal insults or physical attack has taken place.

Kakha Zhorzholiani's lawyer told Amnesty International that he was not allowed to cross examine the prosecution witnesses or call defence witnesses. He was also denied a motion to present the minutes of the election commission meeting, where the alleged attack took place. Zhorzholiani's wife, Nina Khatiskatsi told Amnesty International that she believed her husband's arrest was motivated to prevent him from his political activism ahead of elections as well as to send a warning to other pro-opposition activists in the region.

Amnesty International is concerned that the denial of fair trial guarantees in politically sensitive cases, especially against the background where the circumstances and reasons of arrests across the country appear to be similar, reinforces the perception that these arrests were arbitrary and aimed at the intimidation of opposition and those protesting against the government.

3.5 Harassment of pro-opposition journalists

Journalists from pro-opposition media outlets have on several occasions been attacked while covering campaign meetings and events. Isolated incidents of attack and verbal abuse have also been reported against pro- government journalists.

On 12 July 2012, ten reporters were injured and had to be hospitalized following a clash between opposition leaders and pro-government supporters in Karaleti village, Shida Kartli region. The injured journalists included those from Info 9 and Chanel 9 news agency as well as local news agencies such as *Trialeti*, and *Shida Qartli Information Center*. Saba Tsitsikashvili, one of the injured journalists, said that he recognized staff from the local municipal authority among his attackers.

Journalist were also injured in a similar incident in Mereti on 26 June 2012, where the reporters of Info 9, Channel 9 and *Trialeti* reported to have been physically and verbally assaulted when covering the meeting of the opposition with local residents.

The OSCE Representative on Freedom of the Media, Dunja Mijatović, has expressed concern at the repeated occurrences of violence against journalists and called on the authorities to investigate the cases thoroughly.⁴⁰

In addition to the reports of assaults against pro-opposition journalists covering rallies or politically sensitive events, there were multiple reports of pro-opposition journalists being harassed and prevented from carrying out their journalistic work in July. Pro-opposition journalists across the country reported being followed and questioned by unknown individuals – often from interfering with their work and preventing them from interviewing and filming with intimidating actions and remarks in what looked very much like a coordinated campaign.

Ekaterine Dugladze, a female journalist with pro-opposition news agency INFO 9 in Zestaponi, western Georgia, told Amnesty International that in July during three weeks she has been persistently followed and harassed by a group of seven young men.

“They follow me everywhere by car or on foot, preventing me from travelling freely. They interfere with filming and come physically very close when making inappropriate remarks about my work and private life and asking incessant questions.”

According to Ekaterine Dugladze, she has not been able to effectively carry on with her journalistic work, as the group of men following her interfere with filming and recording interviews. Despite lodging a formal complaint and appealing to both the local prosecutor and police department, the group of men continue to follow her unhindered to the present day.

Vasil Dabrundashvili, from the production company Studio GNS, was followed and questioned by the same group of young men while trying to investigate cases of pressure on opposition journalists. On 11 June, when he was visiting Zestaponi to interview Ekaterine Dugladze, the men approached him and prevented him from recording the interview.

According to Vasil Dabrundashvili the same group seven men kept following him for hours, asking questions and preventing him moving freely and conducting interviews. “This was all taking place in front of the Zestaponi police building. I entered the police building and asked the police officer to stop them from following me and interfering with my work as a journalist, however they refused to act on my request”, he told Amnesty International.

According to Vasil Dabrundashvili, to date no formal investigation has been launched and no-one has been held responsible in connection with the incident. “Judging from the actions of the law enforcement officers, I do not see any prospects of justice being done in this case” he told Amnesty International.

Several similar incidents of interference with journalist’s work were reported throughout July in the Georgian regions. On 6 July, INFO 9 journalist Nina Basishvili was followed and prevented from filming in Gardabani, eastern Georgia. On 8 July, another INFO 9 correspondent, Natia Rokva, was followed by a person with a camera who prevented her from filming and conducting interviews in Guria, western Georgia. She appealed to a nearby police patrolman to stop the person, but the policeman ignored her pleas.

Once again, these incidents of harassment declined sharply following the intervention of the Inter-Agency Task Force, which issued a call to stop “sabotaging journalists work” on 9 August 2012.⁴¹

3.6 Disruption of opposition political gatherings

The freedom of assembly remained largely unrestricted during the pre-election period, with both the ruling party and opposition representatives holding large scale peaceful rallies in the capital as well as in the regions.

However, a handful of incidents of violence and disruption have been reported in smaller scale meetings, mostly in the regions. Allegations that local government representatives and local police have acted as *agent provocateurs* have raised concerns that some of these incidents may have been orchestrated by the authorities to prevent opposition party representatives from meeting the local population.

In May, city authorities in Kutaisi used water cannons to prevent opposition activists from carrying out a peaceful candle vigil to mark the Kutaisi city day celebration. At midnight on 2 May, approximately 50 opposition activists assembled in front of the “Georgian Dream” opposition party headquarters in Kutaisi before walking towards the statue of King David in the city centre. The procession then lit candles below the statue to mark the celebration of the Kutaisi city day. The activists wore t-shirts with the name of the opposition party coalition “Georgian Dream” and chanted the slogan “long live the “Georgian Dream”!”

Once the activists arrived at the statue, several employees of the municipal cleaning services reportedly approached and asked them to leave the area as it had to be cleaned. The activists promised to end the action in an hour and to clean up afterwards. However, according to eye-witnesses, in less than half an hour a street cleaning truck appeared and without any warning, started spraying water at the lit candles and activists on the sidewalk.

Activists interviewed by Amnesty International also alleged that during the procession from their office to the statue, they were followed and sprayed with water by the city street cleaning services. Video recordings available online show a truck with water cannons following and spraying water at the procession on the sidewalk, as well as two firemen aiming jets of water from their fire engine at the activists as they attempted to pass by Kutaisi city hall.

The opposition expressed concern to Amnesty International that the incident was a deliberate act by the city authorities to suppress the visibility of opposition groups. They believe the act

was a message to opposition sympathisers that open support for the opposition will not be tolerated by those in power.

Amnesty International is concerned that by preventing the peaceful candle display action, the Kutaisi city authorities have violated their obligation to ensure the exercise of free expression and free assembly to all persons regardless of their political views or association.

In June and July, a small number of public meetings of the opposition coalition “Georgian Dream” have been curtailed by outbreaks of violence. Opposition leaders say that local council workers and Ministry of Internal Affairs officials were involved in the incidents, suggesting that some of these incidents were orchestrated by the authorities.

On 12 July a group of “Georgian Dream” activists travelled to Karaleti, central Georgia, to visit a settlement for people displaced as a result of the 2008 Russia-Georgia war. According to eyewitness and media reports, several local residents of the Karaleti settlement started to verbally insult the activists and demanded that they leave. Clashes ensued as verbal altercations turned physical.

Several video recordings of the meeting show residents throwing stones at representatives of the coalition and the media, while one of the men accompanying a coalition leader is seen wielding a gun as he covers the retreat of opposition activists from the scene.

The Georgian Ministry of Internal Affairs issued a statement on 14 July, according to which six persons (four opposition supporters and two residents of Karaleti, including one of the council employees who assaulted Saba Tsitsikashvili) were arrested and given 15 days administrative detention in relation to the incident. However, a lawyer from the “Georgian Dream” coalition told Amnesty International that four individuals, allegedly connected with the ruling party, who directed and participated in the attack, have not been brought to justice despite photo and video evidence that incriminates them.

On 26 June a similar incident took place in Mereti, Shida Kartli region, central Georgia. As opposition activists attempted to hold a meeting, a fistfight broke out, preventing the “Georgian Dream” coalition meeting with locals. As a result of the confrontation, several people, including a number of journalists, reportedly sustained injuries and two coalition supporters were taken to hospital for treatment.

Local media outlets then aired a video which allegedly showed several public employees involved in the incident. On 28 June, the Ombudsperson’s office issued a statement, expressing concern that several public servants, including employees of Gori council and the emergency service of the Shida Kartli region, were involved in the violence.

Four men – two of them “Georgian Dream” activists – were arrested and jailed for ten days in connection with the Mereti incident. However, according to Ombudsman’s office, no public servants were held responsible.

Conclusion

Georgia’s current government has invested heavily in developing its reputation as a democratic, rights-respecting state. After nearly a decade in power, the United National Movement government has, indeed, succeeded in strengthening democratic institutions and the rule of law. Despite this, its human rights record has remained uneven.

The release of graphic videos of the torture and rape of prison inmates just two weeks before the 2 October parliamentary elections has both exposed a long-ignored systemic problem and fundamentally shaken the trust of many Georgian citizens in the fairness and accountability of state institutions.

The impact of reforms to increase the independence of the judicial sector has already been undermined by high profile political cases, such as that of Sandro Girgvliani, which have clearly exposed the willingness and ability of the government to mobilize “different branches of state in concert in preventing justice from being done.”⁴²

The general trend of greater respect for civil and political freedoms since the ascension of the ruling party to power in 2003 has also intermittently been undermined by violent clampdowns on protesters in November 2007, the spring of 2009 and on 26 May 2011. To date, there has not been an open, effective and impartial investigation into these incidents, which have been viewed as being “intentionally disproportional” and designed “to punish” those challenging the authorities.⁴³

The wide range of abuses in the run-up to the October 2012 parliamentary elections documented in this report, once again prompts the question: is the commitment of the ruling United National Movement Party to respecting the rule of law and human rights greater than its desire to remain in power? To borrow language from the Georgian courts, one can, at least, have a “grounded suspicion” that, for some within it, the answer to this question is no.

Endnotes

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¹² Tbilisi City Court. Decision on behalf of Georgia on imposing administrative fine. Case N 4/2393-12. 11 June 2012.

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¹⁵ AI Interviews with Alexandre Baramidze, representing Bidzina Ivanishvili

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¹⁶ Statement of the Office of Chief Prosecutor of Georgia . 21 June 2012.

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See also: UN Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, (A/HRC/20/27/Add.2), Para 58., p14, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27-Add2_en.pdf, accessed 26 September 2012.

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