

**Human Rights Information and Documentation Centre**

**HRIDC**

# **The Velvet Downfall**

**Human Rights Situation in Georgia in 2006**

February 2007  
Tbilisi, Georgia

This report was prepared by the Human Rights Information and Documentation Center (HRIDC), a Tbilisi based NGO dedicated to the protection and promotion of human rights in Georgia.



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## **Introduction**

On January 27, 2006, the Human Rights Information and Documentation Center (HRIDC) presented its Annual Report on Human Rights - “Next Stop-Belarus?” The report focused on human rights violations in Georgia in 2005, highlighting the tendencies that have developed in Georgia the post 2003 Rose Revolution period. The center concluded that many human rights violations still occur and there has been an escalation of harassment compounded with the syndrome of impunity that further leads the country towards instability and potential disaster. Unfortunately, however, the predictions discussed in the report were realized sooner than expected. Democratic advances began to lose their momentum and started to rapidly deteriorate throughout the country.

Several weeks after the presentation, information about the brutal murder of a young man named Sandro Girgvliani by high-ranking officials from the Georgian Ministry of Internal Affairs came as a shock to everyone as did the official reaction. His blatant and cruel murder came to showcase yet another shameful feature of the Georgian Government. It is a classic example of how authorities in Georgia sweep the crimes of high-ranking law enforcers under the carpet and turn a blind eye.

Police carried out several special operations during 2006 and eliminated many people without any explanations.

The court authority is passing away and dummies are occupying the system. Besides the many political prisoners, Georgia also housed many prisoners of conscience. The government incites fear and terrorizes businesses, opposition opponents, civil society, and mass media. The actions of the current brutal government are not hidden and are evident throughout society.

“Repressions of people who thinks otherwise”, was the Center’s evaluation of the events happening in 2006. The repressions aimed at the restriction of freedom of expression, the detention of political opponents (Irakli Batiashvili, supporters of Igor Giorgadze, etc), restriction of the free media (closing of the TV company 202, the TV program Tavisufali Tema (free topic) broadcasted by Rustavi 2, outlawing of the journalists in Signaghi, etc.).

The non-governmental sector and the Public Defender’s Office became the victims of harassment that year. The marginalization of the NGOs had started long before.

The adoption of draconian laws-amendments introduced to the Georgian Criminal Code restricts human rights; the laws on encroaching on the private property-deprivation of the property; law on reservists and the militarization of the country-everybody in the army ( including foreign refugees); using unlimited power against prisoners, (so-called riot in the prison that has not yet been investigated); The president’s statements-everybody in the prison; the attempt of lowering the age for juvenile liability; and dispersing of demonstrators.

“Velvet Downfall” is the name of the report that describes the human rights situation in Georgia in 2006, the third year after the Velvet Revolution.

“Next Stop-Belarus?” - We asked the question last year and it might have been too radical for that time. Many people considered our forecast too exaggerated but late in 2006, they became concerned about the question mark.

“Velvet Downfall”- we want to stop the fall. Unfortunately, the center was not the only organization that considered ‘the fall’ was a proper name for the present situation in Georgia. We do not want to import the Belarus model to Georgia and neither have we wanted the “Downfall” of Georgia.

## **Legislative changes**

2006 saw many amendments to the Georgian legislation and the creation of new laws. The Georgian Parliament adopted more than 480 laws (both new laws and amendments to the current legislation).

We intend to draw our attention to both positive and negative results of the changes to the legislation. First of all, HRIDC would like to mention the amendments made to the Georgian Constitution. The amendments made in February 2004 destroyed the balance between the various governmental branches. In fact, we are now faced with the ultimate, unlimited and irresponsible power of the president. On October 24, 2006 the Georgian Parliament voted on a project on-Constitutional Law of Georgia regarding the amendments and additions to the Georgian Constitution.

According to the project, the Georgian Constitution Article 104 should be added with the third section, which would declare that, “Next elections of the Georgian President and the Georgian Parliament. Elections for those that were elected in 2004 should be held between September 1 and December 31 in 2008. The Georgian President fixed the election date.

Consequently, elections of the Georgian Supreme Government -President and Parliament will be held on the same day. Thus, the government will have the administrative power to influence election campaigns, which will result in the establishment of a one-party governmental system in the country.

Today, current Criminal Procedural Legislation formally envisages a set of resolutions that can reveal crimes immediately. For example, these are of the criminal procedure competitiveness,<sup>1</sup> supremacy and independence<sup>2</sup> of the judicial government. However, the court follows the orders of the prosecutor’s office. The independent judicial system is still in the process of being developed and unfortunately is suppressed by the political conjecture.

Criminal Procedural Code, Article 208, which envisages the liability for creating disorder in courtrooms, have very frequently become the topic of discussion. Judges of Common courts have interpreted the article too widely. As a result, the fundamental rights of people were violated, such as the right to a fair trial. Wide interpretation of the law, ‘unjust’ procedures resulted in a restriction of the freedom of expression.

On the basis of Article 208, a judge cannot charge a person under the law without oral court hearing. A law offender should be able to produce his/her arguments regarding the situation to the court in order to protect the right to appeal to the court and right to a fair trial. Moreover, liabilities on having insulted the judge should be concluded by a second judge and not by the one who was insulted. Under these circumstances, the Georgian Constitution and adopted international procedures on human rights will not be violated.

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<sup>1</sup> Article 15-competitiveness of the Criminal Procedures: 1. Criminal proceeding is conducted on the basis of the equality and competitiveness of the parties at the trial. 3. The parties have right to produce evidence on the basis of equality, take part in investigation, make statements on mediation and avoidance, express their own opinions regarding any question in criminal case. 5. Court is not authorized to carry out criminal proceeding; it does not accused or defend the parties. The court must create conditions for defense and accused parties to produce evidence to the court as well as to encourage their thorough and complete investigation.

<sup>2</sup> Article 8 Supremacy and Independence of Judicial Authority: 1. Judicial Authority is an expression of the public sovereignty and only court is in power to implement it. 2. The court makes decisions in the name of Georgia. 3. Judicial Authority is not accountable to the Executive Authority. The judge is independent and obeys the Georgian Constitution and Legislation. 4. The Judicial Authority observes the legality and responsibility of activities and decisions of investigator and prosecutors. 5. Justice is implemented within the procedural form enacted by the law. Nobody can supervise the court and decisions made by the court. 6. Only the court has power to find a person guilty and condemn him/her. Law offenders will be punished by forcible medical sources. 7. Verdict or some other court decisions can be changed through court hearing. 8. Nobody can interfere in implementation of the justice and influence the judge. The independence of a judge is guaranteed under the law.

The Georgian Constitution declares and protects the right to appeal against a court verdict. According to the Georgian Criminal Procedural Code Article 208, the right to appeal against the court verdict should be guaranteed in the case if a person is sentenced to administrative imprisonment or is bailed.<sup>3</sup>

A complicated and unbearable situation now prevails in Georgian prisons and detention colonies. Although the Georgian government tries to provide prisoners with new detention facilities during their service, the number of prisoners have increased by 30% and amounted to nearly 16 000 over the last year.

We want to mark out the procedure of dating with prisoners and sending parcels to the prison. For example, the law on imprisonment envisages that *“the dating with the prisoner is observed by a prison officer, who can interrupt the conversation if it can do any harm to the criminal investigation.”*<sup>4</sup>

Under one of the amendments to the law on imprisonment, the chairman of the department has power to establish individual control on the judicial system.

Courts were deprived of their power to identify aspects of the prison system that ought to be condemned. Under the current legislation, the Judiciary Department is in power to identify such aspects.

### **Article 19-IDENTIFICATION OF DEPRIVATION OF FREEDOM AND IMPRISONMENT REGIME**

<b>According to 01.01.2000 data</b>	<b>According to 29.05.2006 data</b>
<b>Article 19-identification of the deprivation of freedom and imprisonment regime</b>	<b>Article 19 - identification of the deprivation of freedom and imprisonment regime</b>
The court has power to identify the deprivation of the freedom and the imprisonment regime under the enacted regulations.	1. Chairman of the Department is in charge to identify the deprivation of freedom and the imprisonment regime under the enacted regulations. 2. One and more imprisonment regime can be established in the same detention setting.

Under the Georgian Constitution, the right on property is guaranteed and protected by the state.<sup>5</sup>

In addition, under the new initiative for economical development, the state continuously redefines the legality of the property. On December 29, 2006 the law (Georgian law on deprivation of property caused by urgent public necessity) adopted by the Georgian Parliament stated that a property owner can be deprived of their property.<sup>6</sup>

Such activities can damage both private owners and the guarantees on immunity of the property.

<sup>3</sup> Statement of the NGO coalition – “Civil Society for Democratic Georgia”

<sup>4</sup> Article 89-dating with a Prisoner 4

<sup>5</sup> Article 21. 1. The rights to the property and inheritance is acknowledged and guaranteed. It is impossible to abolish the fundamental rights to the property, its purchase, transfer and inheritance. 2. Any Restrictions of above-mentioned rights are allowed in the case of public emergency though under the enacted regulations. 3. Deprivation of the property in the case of public emergency is reasonable under the regulations enacted by the law, court decisions or by the organic law and with corresponding compensation.

<sup>6</sup> Article 1. e) Expropriation-that is confiscation of the property with correspondent compensation under the Georgian Constitution Article 21 and this particular law. f) Compensation-compensate the owner with the confiscated property with the corresponding sum or transfer some other property with the similar value of the confiscated property. Article 3, Section II: “2.The court is authorized to make decisions regarding expropriation. The court identifies the state body or local self-governmental body, or public or private legal entity that is granted with the power to carry out the expropriation. The court decision should provide a detailed description of the expropriated property and make corresponding suggestions regarding the necessary compensation of the owner.

It should also be pointed out that amendments have been made to the Georgian Criminal Code, and now it is possible to make use of suspended sentences under conditions when plea-bargain agreements are reached between the parties appearing before the court. In fact, according to the above-mentioned amendments, the re-socialization is envisaged for defendants, and penalties imposed with fines.<sup>7</sup>

The Georgian Parliament actively discusses the question on lowering the liability age for having committed a crime from 14 to 12 years of age. In fact, a twelve-year-old child can be sentenced to terms of upwards of fifteen years in prison for having committed especially grave crimes.

Anonymous information about the commission of a crime can be the basis to open an investigation since January 10, 2006.<sup>8</sup>

The mentioned amendments do not follow the Georgian Criminal Code that envisages the fraudulent denunciation of the crime.<sup>9</sup>

If under the Criminal Procedural Code the preliminary investigation is opened on the basis of anonymous information and afterwards it is confirmed to be fraudulent who must be responsible for fraudulent denunciation-thus these two articles contradicts one another.

Criminal Procedural Code Chapter 64 is dedicated to plea-bargain and complete discharge from custody of the accused. Under the above-mentioned procedures the closing of the investigation, according to its initiators, will encourage the timely discovery of the crime and reduce the possibility of suspending the case discussion. However, the generous idea badly reflects in actual the practice. Moreover, out of lack of independent judiciary, the initiative will become one of the most income generating mechanisms to collect money for the state budget.

The accused will often plead guilty in order to reach a plea-bargain agreement in order to gain freedom whether the crime was committed or not. In such instances, the accused cannot maintain

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<sup>7</sup> (28.04.2006-amandments # 2937-s on the amendments and additions made to the Georgian Criminal Code)

Article 63-basis for suspended sentence. (According to the 05.12.2000 )

1. If accused can be enhanced without reformatory labor, professional restriction will enhance a military person, the court, and which can be considered as a suspended sentence will be considered restriction of freedom, imprisonment or other kind of detention.
2. In the case of suspended sentence, the court takes into account the basis of the punishment and the expected effect of the suspended sentence.
3. In the case of suspended sentence, alternative punishment can be decided.

Article 63-the basis of suspended sentence. (According to the 29.05.2006)

1. If the parties achieve plea-bargain, the court can pass the verdict on suspended sentence.
2. If the accused has committed a particularly grave or premeditated crime, the court cannot consider suspended sentences.
3. If the accused committed a less grave and premeditated crime, or the crime was careless and unintentional, and he pleads guilty or cooperates with the investigation the court can pass verdict in imposing suspended sentence, provided that the accused has not been tried in the past for a particularly serious crime.
4. If the accused has been tried for two or more premeditated crimes, the verdict cannot be decided on the basis of a suspended sentence.
5. If the accused is under eighteen by the time of the verdict is passed, and he has committed the crime for the first time, the court can pass verdict on suspended sentence provided that the accused did not commit a particularly grave crime.
6. In the case of suspended sentence, additional punishments can be applied as well.

<sup>8</sup> Article # 263-data on committing the crime (According to 03.05.2005)

2. Anonymous data cannot encourage the starting of the preliminary investigation. Similar data must be checked through carrying out operative-investigational activities.

Article # 263-data on committing the crime (According to 03.05.2006)

2. an investigator or the prosecutor can initiate the preliminary investigation based on the anonymous message. Criminal case can't be launched on the bases of anonymous data.

<sup>9</sup> Article # 373-Fraudulent Denunciation

Fraudulent denunciation on having committed a crime-is either bailed or punished by public service labor ranging from 150 to 240 hours, or by a sentence of between one to two-year-reformatory labor, or by four-year-prison term.

2. The same crime, in addition with grave or particularly grave crimes, or fabricating evidence to charge a person illegally is punishable with imposition of a sentence ranging from two to four year in prison.

3. Liabilities envisaged under section II of the same article:

- a) Committed for some personal purposes or out of self-interest;
- b) That caused aggravated result envisages imprisonment from four to six years.

their innocence and are not obligated to prove the innocence of guilt and the principle of innocence unless proven guilty. Procedural Legislation envisaged using some preventive measures during the preliminary investigation.<sup>10</sup>

Currently, there are only two options available out of above-mentioned list: imprisonment, bail, and personal guardianship, putting a juvenile offender under the supervision and placing a military person under the supervision of his or her commanding officer.

In addition, the courts will in most instances follow the recommendations of the prosecutor as for recommendations for incarceration. Nonetheless, practice demonstrates an interesting fact: If the court allows an accused out on bail, then the prosecutor's office is prepared to arrange a plea-bargain agreement, and afterwards when the fine is completely paid within the time limit as envisaged under the plea-bargain agreement.

On January 24, 2006, the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution on Georgia, concluding that despite some legislative reforms, Georgia had yet "to produce concrete results in most areas." The PACE specifically called on Georgia to prioritize ratifying the European Charter for Regional or Minority Languages, guaranteeing judicial independence, eliminating torture in prisons, and applying a policy of zero tolerance for impunity for torture and ill-treatment. The Council of Europe commissioner for human rights visited Georgia in July and made prison conditions one of his key areas of focus.

The European Union and Georgia signed the European Neighbourhood Policy Action Plan, which will serve as the primary framework guiding EU-Georgian relations for the next five years. The plan sets out steps that the Georgian government should take in numerous fields including the rule of law, democracy, economic and business development, trade, energy, and resolution of internal conflicts.

Human Rights Watch reported that although the Georgian government takes pride in its stated commitment to the rule of law and human rights protection, it continues to have an inconsistent and sorted human rights record. Restoration of territorial integrity and the fight against organized crime remain the priorities of the government's agenda. Beginning in December 2005, the government stepped up its fight against crime and sought to break the power of organized crime bosses, including those who had a stranglehold within the prison system, which in many instances resulted in riots and the subsequent use of deadly or inappropriate force to subdue or punish detainees. A sense of impunity among those in positions of responsibility remains a serious problem and effective investigations are rare. The executive wielded strong influence over the judiciary and took several steps to restrict freedom of expression. Many human rights organizations have experienced harassment from the government and NGOs appear to be faced with many challenges in trying to force government live up to its international obligations.<sup>11</sup>

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<sup>10</sup> Article # 152 Preventive Measures (According to 03.05.2005)

1. Preventive measures are: imprisonment of the accused, inner-imprisonment, to put the accused under police supervision, bail, prevention from leaving the country, personal guardianship, putting the juvenile offender under police supervision and placing a military person under the control of his/her commanding officer.

<sup>11</sup> Human Rights Watch – Events of 2006: <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>



## **Repressive Legislation Regarding Court Cases<sup>12</sup>**

*Both lawyers and non-governmental organizations (NGOs) oppose the Georgian Criminal Law. They consider the law repressive. According to the amended criminal law, the position of the attorney is minimized in many cases and often there is no place for such legal professionals. Furthermore, if a person cannot be represented by an advocate of their own choosing, their rights are being severely violated.*

A lawyer of the 'Human Rights Information and Documentation Center', David Managadze, is talking about the fifth chapter, clauses 26, 295, 550, regarding the sending of messages to the opposing parties by post.

David Managadze states: "According to the code of criminal procedure rules, the witness, victim and the accused can receive information by telephone or by post. As a rule, the witness, victim and accused receive information by phone and the attorney gets the official notification. If a trial is going to be held on September 1, and you get the notification September 3, you can't attend. If we take into the consideration future changes to the law, the attorney or one of the parties will be responsible for someone missing their trial; it will cause serious problems."

Under the law, the date the notification is received is the day it is sent off. When the notification actually gets to the recipient by post is not mentioned. "The date of receipt of a complaint sent by post or by some other technical means; is considered to be the day when it is sent through the post or via some other offices."

"There is nothing mentioned in the law to say if the recipient received the document or not, in order to fulfill their responsibilities", says the lawyer.

A second problem arises if the person gets the court decision document late – this can result in difficulties during a subsequent appeal. "If the person gets the document one month late, the appeal will be postponed and the process will go on for a long time."

In answering the question regarding the court's eagerness that the defendant or the attorney does not appear in court, Managadze states: "Absence of the defendant is used as a reason to arrest him or her. They say 'I sent you the notification; you did not appear, so there is a chance you will disappear again'."

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<sup>12</sup> Unless otherwise provided, all information is based on data gathered by the HRIDC and can be found in its on-line magazine on:

<http://www.humanrights.ge>

They then arrest the person and sentence them to pretrial detention."

## **Parliament Planning to Enact the New Draft Law on Extremism**

*The legal committee of the parliament is planning to make amendments in the criminal code of Georgia regarding the political extremism. It means that every person who makes statements against government either on phone or openly, might be imprisoned. Experts fear that this law might be used for political revenge.*

In case of the draft law is come into force any critical opinion against the government, which is estimated as anti-state, will be judged.

Nika Gvaramia, the member of the parliamentary legal committee says that the mentioned law might cover every statement that is directed against legitimate processes, state interests, state security and territorial integrity. According to him, lots of developed countries have the legislation like that and Georgia can experience the same model. But experts say that western countries have different attitude towards the issue, but Georgia is going to take example not from the West, but from Russia.

The mentioned initiative is opposed by opposition, NGOs and experts. They criticize the draft law and say that it could be used against freedom of word and expression. According to the representative of the NGO "Former Political Prisoners for Human Rights" Gela Nikoleishvili, our government resembles to the Soviet one with this kind of initiatives: "The methods used by our government very much resembles to the Soviet one. Terror is being implemented in the society and they try to create attitude that those who are not with us, they are our enemies, expressing alternative opinion is considered to be high treason. The government is doing psychological terror of the nation."

Although the draft law is not ready yet, NGOs and opposition parties know quite well the real motivation of enacting it. "The main purpose of the draft law will be approximately the same one that article 71 of the criminal code of the soviet government, which was used against me and many others to bring judgment. This was the article about anti soviet agitation against propaganda, e.i. if the person even says a bad joke about government he or she might be imprisoned. This law will be used not only against political opponents but against media and generally against people with different opinions", says Nikoleishvili.

The law has not been yet enacted and discuss for now.

## **Mass Media and Freedom of Speech**

Georgia still fails in freedom of media. Reporters Without Borders ranks Georgia 89<sup>th</sup> place in the worldwide press freedom index among 168 countries in 2006. On May 19th, 2006 the Ombudsman of Georgia presented the Human Rights and Civil Integration Committee within the Parliament of Georgia with a report on the human rights situation in Georgia.

A special chapter concentrates on freedom of expression. It states that journalists are not independent and because of the fear of losing their jobs, journalists have to follow the instructions of the authorities.

### ***Legal Restrictions on Media***

On December 19, the National Commission of Georgian Communications discussed the proposed Broadcasters' Ethics Code. The Code consists of 155 articles and 52 pages, and it has already caused uproar. Broadcasters, non-governmental organizations and some politicians consider the Code to offend the principle of a free press, and they state that if the code is adopted, broadcasters will not be able to broadcast anymore.

The Code was drafted by the National Commission of Georgian Communications and Levan Ramishvili, a representative of the NGO Liberty Institute. Because of the Code is long, most MPs did not bother to read the Code in its entirety. However, those who did, could not find anything positive to say about it.

**Article 29** of the Code regulates video recordings. In particular, this article says that "journalists should avoid using foreground and background images, in case they are recording publicly notorious individuals... The use of these images is not consistent with providing factual programming, except when the broadcaster wants to record the habits or reactions of a person in the image... Any recordings depicting private activities of a subject, including any intimate details, may only be broadcast after the broadcaster has received the subjects permission."

**Section 9 of the same article** states that "journalist's interview with a defendant should not portray the defendant as either guilty or innocent of the crime... [in addition,] the judiciary should not be insulted." Section 10 states that "while recording the details of a crime, the journalist should not identify the ethnicity of the criminal..."

**Article 49** states that "while informing the public about demonstrations, insurrections and general public disorder, the journalist should take into consideration that by announcing any such gathering, the journalist may abet organizers." More precisely, opponents of the Code recall events during the Rose Revolution when members of the present government were asking people through the press to hold demonstrations and meetings.

**Article 56** requires that journalists report risks along with the sufficient statistical background and context to avoid panicking the public.

**Article 70** requires that broadcasters balance programming for the adult audience and other audiences in preparing schedules of programs...

MPs stood firm with journalists and criticized the Code. They consider that although the idea of a code of ethics is a good one, it should be at journalists' initiative. Journalists should draft the code and not politicians.

Journalist Ia Antadze does not approve of **Article 150** and says that this article allows restrictions to be placed on the media. "Article 150 states that the broadcaster is obligated to obey the directives of the Council of Broadcasters. That is, if the Council decides that a law has been broken, the offender will be punished. If the journalist did not cease and desist, the Council could revoke the journalist's license."

Nino Burjanadze, the leader of the Georgian Parliament, also expressed her disapproval of the Code. She said, "Ethic norms should be prepared for people of all professions. However, the Code should not set up mechanisms that permit government to restrict the freedom of the press."

The opposition in the Parliament also called the Code "Putinization" of the media. Parliament plans to discuss the code in March 2007.

### *Deprivation of Privileges*

Alongside with the abovementioned code of ethics for journalists, Georgia based media is **deprived from sources used to have some kind privileges up to now**. As a result, many of them might cease their functioning in future. Media-organizations complain about the fact and demanded the meeting with the chairwoman of Georgian parliament. On December 26, meeting between Burjanadze and mass media regarding the problem, ended in failure. The head of the parliament said that the representatives of media were not able to produce arguments proving the necessity for being granted with privileges.

Association of Regional Media has also petitioned the Speaker of the Parliament regarding the privileges: " In 2004, Georgian Government, through granting economical freedom to independent media, wanted to join those countries for which the freedom of speech and development of the independent media was priority. However, three years were not enough to turn the printed media into a profitable business. Today, it is still urgent to create particular economical conditions for press as principal instrument for the country's democratic development..."

Under Administrative Code, publishing organizations were free of some taxes from January 1, 2005 until January 1, 2007. Those taxes were the following: 18% of the Value Added Tax, 20 % of the Income Tax, 1% of the Property. The publishers paid only 20 % of social tax and 12 % of Income Tax.

### *Violence on Media*

According to statistics, rights of independent journalists are violated particularly in Kakheti Region. Law enforcement bodies did not bother to investigate incidents in 2006, either.

According to the journalist in Kakheti **Zviad Ruadze**, in January 2006, after he had published articles in a Kakheti newspaper, he was insulted and threatened with death unless he stopped delving into political matters. Although the journalists appealed to law enforcers, nobody paid attention.

In February, 2006 Mr. **Enri Kobakhidze**, director of the Telavi TV Company 'Tanamgzavri' was detained for hooliganism. The fact followed the financial police raid within the TV Company, what hindered the information service from working. Ms. Natela Jashiashvili, judge at the Telavi District Court bailed Enri Kobakhidze for 15 GEL. Employees at TV Company

‘Tanamgzavri’ connect the facts of oppression on their company with Mr. Gocha Mamatsashvili, Temporary Governor of Telavi District, who does not answer journalists’ questions.

On February 7, 2006 a criminal case was launched under Georgian Criminal Code Article 239, II-(a, b), against journalists Mr. **Gela Mtvlishvili** and Mr. **Roman Kevkhishvili** at the Interior Ministry’s Telavi Department. According to Kakheti Regional Prosecutor’s Office preliminary investigation was launched on the basis of the Telavi District Administration Board’s letter stating that on January 31, 2006 the aforementioned journalists insulted the representatives of the Local Government and behaved like hooligans. In fact the journalists, having arrived at the Administrative Board were physically insulted by Telavi District Deputy Governor, Mr. Gia Papunashvili and Mr. Nodar Faradashvili, the Chief of Organization Department within Administration Board. Mr. Papunashvili threw a chair at Mr. Gela Mtvlishvili and Roman Kevkhishvili was pushed down the stairs by Mr. Nodar Faradashvili.

On March 6, 2006 **Gela Mtvlishvili**, journalist for the ‘Human Rights Information and Documentation Centre’ Kakheti office applied to Gurjaani District Prosecutor and Interior Ministry Gurjaani Department, however nobody showed any kind interest in the facts of his being threatened by possible liquidation, which he mentioned in the apply. That time head of the Gurjaani Police Department, Archil Bozhadze insulted Gela Mtvlishvili, when he arrived at the police station requesting the subsequent respond form them. The threats followed an attack at Mr. Mtvlishvili, which resulted into the journalist’s brain concussion. Besides that bombs were exploded in his yard twice. All these cases are not investigated at all.

**Tamar Makharashvili**, correspondent for Kakheti Regional newspaper ‘Imedi’ applied to Interior Ministry Kakheti Regional Department. She points out in her apply that Boris Mamisashvili, Chairman of the “Union against Economical Crime, Smuggling and Corruption” has blackmailed her several times and prevents from professional activity. Ms. Makharashvili has applied to the police department before, regarding the oppression experienced on her but in vain. Soon Ms. Tamar Makharashvili was prevented by Mr. Akaki Sikharulidze, temporary Governor of the Gurjaani District and by Paata Jachvliani, operator for Social Channel. They forbade her to enter the building of the Administration board; otherwise the operator threatened her by physical assault. The fact was not investigated either.

On June 15, 2006 members of the Ruling Party’s Local Organization, Ioseb Nanobashvili, Jemal Demetrashvili, Vasil Munjishvili and the teachers from Public School in the village of Vakiri dispersed the theatrical demonstration organized by the representatives of Non-Governmental Organizations in the area of the Councilor’s office in the village of Anaga, Signaghi District. They were severely insulted and physically assaulted; their microphones, photo and video cameras, Dictaphones were broken, the video tapes were seized from them. The journalists- **Roman Kevkhishvili, Zviad Ruadze and Gela Jaliashvili** were injured. Though the victims called for help, the officials from the Police District Department and the Interior Ministry Kakheti Regional Department arrived at the scene when the dispersers had realized their intentions. Those policemen who witnessed the fact on the place did not do anything; moreover they took part in assaulting the journalists. The investigation neglected the appeals and mediations of the victims; besides that Khvicha Kikilashvili, judge at the Signaghi District Court released the detainees Mr. Ioseb Nanobashvili and Vasiko Munjishvili from the court hall after they paid the bail. As for Jemal Demetrashvili, he was bailed at the very beginning by the judge.

On July 8, 2006 Gia Lomidze, Deputy Head of the Lagodekhi District Police Department, planted a ‘Makarovi’ live bullet in the bag of Ms. **Marina Gogoladze**, correspondent for the newspaper ‘Imedi’, whilst she was interviewing the witnesses in the yard of the District Court.

The journalist appealed to the Lagodekhi District Police Department. A criminal case was launched on the fact, which initially was demanded by the Gurjaani District Prosecutor and then by the Kakheti Regional Prosecutor's Office. Ms. Marina Gogoladze is not marked as a victim in the case. The policeman Gia Lomidze and others try to draw the case. They threaten her by killing, unless Ms. Gogoladze withdraws an appeal from the police. The journalist has informed the Prosecutor's Office about the fact, but there was no response on the case.

Ms. **Maia Mamulashvili**, Editor of the newspaper 'Kakhetis Khma' was injured 24 July, during a demonstration held in front of the JSC 'Kakheti Power Distribution' Gurjaani Service-Centre. She was insulted by a policeman Davit Chumburidze, brother of the Center's Manager, Khatuna Chumburidze and broke her camera. Ms. Maia Mamulashvili appealed to the police station but in vain.

On September 12, Sagarejo District Temporary Governor, Garsevan Bukhnikashvili insulted **Mishiko Lazashvili**, correspondent for the newspaper 'Progress' and sacked him from the Administrative Board meeting.

Prior to the local governmental elections, on September 28 Nana Kibishauri, press secretary for the 'National Movement' Kakheti Branch and the editor of the Kakheti based newspaper 'Chveni Gazeti' insulted correspondent for the radio 'Hereti', Roman Kevkhashvili. The later sued her at the police department, however his appeal was not paid attention at all.

On October 9, 2006 at 12:00 former MP Davit Kapanadze insulted and physically assaulted **Ramaz Samkharadze**, director of the Radio 'Hereti'. Thus former MP Kapanadze protested the topic broadcast on the radio about his past activities. Before that, National Movement representative, Gia Korganashvili's threatened Ramaz Samkharadze, director of Radio 'Hereti' to hold 'a trial on him in his own way'. According to the information at the radio, Samkharadze was threatened by kidnapping too.

On June 15, in Signagi, the NGOs and the media that was to cover a protest of the local 'Lawyers Developing Center' NGO, were raided by the members of the National Party in the Signagi Region under the instructions of MP Nugzar Abulashvili. Having insulting the journalists both verbally and physically, they were raided and taken away cameras, microphones, dictaphones, and video tapes. The journalists Roman Kevkhashvili, Zviad Ruadze and Gela Jaliashvili were seriously injured.

Beating of the journalists continued for 40 minutes. The police officers were standing nearby looking at it. The journalists asked them for help, however, in vain. They addressed Temur Anjaparidze, the chief of the Police Department for several times as well, but unsuccessfully. It was too late when the police officers decided to assist them.

On October, 9 former MP Davit Kapanadze physically assaulted Mr. Ramaz Samkharadze, director of the Radio 'Hereti'. According to the information former MP threatened the journalist by closing the radio, kidnapping him and killing his child. The incident resulted into Mr. Samkharadze's slight injuries.

Prior to the incident Mr. Gia Korghanashvili, representative of the 'Joint National Movement' Lagodekhi Branch threatened to close Radio 'Hereti'. He complained former MP Davit Kapanadze about the commentary broadcast in Radio Program 'Mteli Kvira' (whole week). The commentary spread information about a deal between Local Authority and Mr. Kapanadze. According to it Mr. Kapanadze dropped his candidacy long before the elections, since he was promised the position of District Governor in exchange.

National Korghanashvili threatened the director of 'Hereti' Mr. Ramaz Samkharadze to hold a 'trial' in his own way if Mr. Samkharadze did not hand video-cassette to him. Commentary bothered Mr. Akaki Mchedlishvili too, Chief of Cultural Department within Lagodekhi District Administrative Board and is about to appeal to the court. Mr. Gia Korganashvili also denies his threats towards radio. Criminal Case on Mr. Samkharadze's assault has been launched at Lagodekhi Police Station.

No investigation has been opened on any case. Furthermore, according to the Georgian Regional Media Association, on February 22, 2006, Georgian law enforcement representatives in plain clothes used force against the Azeri journalists, Rasil Demirchalov and Aimaz Kalayev, representing Azerbaijani TV stations "Lider" and "ANS". They were filming a protest rally in village of Damia-Gerarkh, Marneuli district. This rally was aimed to require the privatization of lands. The policemen verbally and physically insulted them and took away their tapes with the filmed footage.<sup>13</sup>

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<sup>13</sup> International Federation for Human Rights (FIDH) NOTE: situation of human rights in Georgia, October, 2006

### **TV Company Trialeti Canceled News Broadcasting**

Nino Chibchiuri, the interim head of the News-room stated on live that Anarekli has stopped working for uncertain period of time.

HRIDC found out that the Ltd Trialeti has ceased broadcasting of the news program because of allocated debts. The owner of the company, Nanetashvili does not exclude the possibility of selling the company.

The staff of the company was dismissed twice in 2006, initially in August and then in October. Prior to that, On September 5, 2005 former journalist for the company sued Nanetashvili. They argued that he did not give them salaries. At that time Nanetashvili was MP. As a result, journalist appealed the Public Defender who studied the situation and estimated that the journalists' rights were breached in the company. The events resulted into Nanetashvili's firing from the Parliament.

### **Telavi Authority Continues to Oppress Local TV Company**

Late in November 2006, Telavi based TV Company Tanamgzavri was left without office and weekly TV program Dialogue ceased broadcasting. It has been a logical result of the financial police's raid and attempts to arrest its director, as well as physical assaults of the employees for the last two years.

The Georgian Supreme Court passed a verdict according to which the building of the company belongs to Zurab Kumsiashvili, former director and one of the shareholders of the company. Despite the facts, Tanamgzavri continued its activities except

broadcasting the Dialogue. The program focused on the most important events happening in the Telavi district.

TV Company found a temporary shelter in the office of the NGO Service Center for Constitutional Rights' Kakheti office. Negotiations, held by the board of the company about renting the place, ended in failure because of the representatives of the local government made the owners refuse.

Late in January, 2007 TV company Tanamgzavri cancelled the news broadcasting.

### **Kareli Journalists Left Out in the Street by Local Governor**

Journalists of the Kareli regional independent newspaper "Kartlis Kronikebi" (Chronicles of the Kartli Region) were left out in the street. In August 2006, the Kareli local council sold the building where the editorial office and print-works of the newspaper were located, without any competition or tender. The building's new owner suddenly declared to newspaper staff that the two-storey building was already his property and categorically demanded that they leave the building.

Lia Jakhveladze, the editor of the Kareli based regional newspaper "Kartlis Kronikebi" declares that the Kareli local council and former MP Badri Nanetashvili have retaliated against her, for having actively highlighted illicit agreements between MP Badri Nanetashvili and the local authority, made long before he was stripped of his duties. On the 21st of June, based on the findings of the Public Defender, MP Badri Nanetashvili was sacked from Parliament. The reason for his dismissal was the incompatibility between his business ventures and his powers.

## **Excessive use of Force by Law-enforcers**

The government has failed to confront the long-standing problem of impunity for excessive use of force by law enforcement agents.

The so-called special operations held by law-enforcement bodies of Georgia in most cases are characterized by excessive severity and end up with liquidation of those persons who are supposed to be detained. According to the practice in force, it can be assumed that state killings are taking place under the cover of "special operations".

The use of the terms "criminal", "liquidation on the spot" and "elimination" is unacceptable for a democratic society and contradicts Article 40 of the Constitution which provides for the principle

of the presumption of innocence<sup>14</sup>. As for the terms - "Liquidation" or "liquidation on the spot", Georgian legislation makes no mention of such terms and law enforcement bodies use them simply because high officials use them.<sup>15</sup>

A number of suspects were killed by Georgian law enforcement officers during special operations and at the time of arrest, continuing a trend begun in 2005. In 2006, 17 suspects were killed; in one instance, over 50 bullet wounds were recorded on the suspect's body.

Senior officials, including President Mikheil Saakashvili and the minister of the interior have made public statements condoning the use of lethal force and praising the professionalism of law enforcement agents. In late November the prosecutor general's office reported that it was investigating the deaths of 13 people killed in the course of special operations, though at this writing it was not possible to determine the effectiveness of these investigations.<sup>16</sup>

On May 19th, the Ombudsman of Georgia presented the Human Rights and Civil Integration Committee within the Parliament of Georgia with a report on the human rights situation in Georgia. Sozar Subari criticized police officers of using excessive force during special operations.

A big part of the report concerns deaths during special operations. The Ombudsmen cannot remember any time when those responsible for violations in the course of a bloody special operation were punished. He named concrete cases where excessive force by the police was used. These are: the special operation carried out on May 2<sup>nd</sup> and during the prison riot on March 27<sup>th</sup>.

With regard to the riot in the prison on March 27<sup>th</sup>, Subari highlighted that before the riot the prisoners had called him complaining about being beaten in the prison and asked him to help them.

Subari is confident that there has genuinely been an abuse of power by law enforcers. He stated that although there are certain issues which are hard to prove, they have been provided with enough information to reveal the fact that power has been abused.

One of the first examples of the 'state killings' in 2007 and an abuse of power by law enforcement officials is an incident taking place **in January 27<sup>th</sup>, 2006**, in one of the Tbilisi cafés.

Data Akhalaia, the Director of the Constitutional Rights Security Department at the Ministry of Internal Affairs (MIA), his deputy, Oleg Melnikov, Vasil Sanodze, the Head of General Inspection, and Guram Donadze, the Head of the MIA press centre, are all names that have been mentioned frequently as of late. Suspicions were aroused after witnesses to the crime were questioned.

After the conflict situation with the high officials of the Ministry of Internal Affairs, representatives of law-enforcement bodies kidnapped two young persons -**Sandro Girgvliani** and Levan Bukhaidze. They were taken out of the town to a cemetery, where they were

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<sup>14</sup> "An individual shall be presumed innocent until the commission of a offence by him/her is proved in accordance with the procedure prescribed by law and under a final judgment of conviction."

<sup>15</sup> OMCT, HRIDC, GYLA and PHMDF alternative report to the UNCAT, 2006 – "Human Rights Violations in Georgia": [http://www.humanrights.ge/eng\\_/angarishebi.php](http://www.humanrights.ge/eng_/angarishebi.php)

<sup>16</sup> Human Rights Watch: Georgia – events of 2006: <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>



undressed and ill-treated. One of them (Levan Bukhaidze) managed to escape and survived, whereas Sandro Girgvliani died.

After much public outcry and active protest, the Minister of Internal Affairs, Vano Merabishvili, announced that the case has already been closed and on 6 February 2006, they arrested some of the officials: the Head of the Constitutional Security Department, Gia Alania and officers of that department: Avtandil Aftciauri, Aleqsandre Ghachava and Mikhail Bibiluri. However, organisers of the crime have not been officially announced yet. Sandro Girgvliani's mother is not satisfied with these arrests, saying that they simply carried out orders, she wants those who gave the orders to be punished. The public demanded and still demand Vano Merabishvili (the Minister of the Interior) to resign for two reasons. The main reason is the fact that his employees are criminals<sup>17</sup> and the other is that his wife was directly involved in the incident. In spite of the fact, the President of Georgia supports the Minister.

**In the first quarter of 2006, 17 persons were killed during the special operations.** The number of citizens killed in only three months, has already exceeded the total number received during the last year, which demonstrates and is a direct result of a deeply enrooted impunity.

During a 'special operation' **on May 2, 2006, two young people died near the tennis courts in Tbilisi centre.** A third person, David Buturidze, aged 20, was immediately operated, although he remains in critical condition. Luckily no passers-by were injured by the hail of bullets. According to the Ministry of Internal Affairs, the dead people were criminals who had been under surveillance by the police since 8 a.m. and who had planned a robbery of a family in Tbilisi. The investigation is still going on.

Mr. Revaz Tsalani, a tractor driver, died last **May 25** due to severe beating inflicted upon him **in August 2005** by four members of the Presidential Guard. This incident took place after the visit of the Presidents of Georgia and Ukraine to the town of Mestia in Svaneti region.

Excessive use of force is particularly widespread in prisons and detention centres. For example, the head of Penitentiary Department, Mr. Bacho Akhalaia, is accused of provoking a prison riot, which took place **on March 27, 2006 in the prison #5.** The police officers used weapons when the prisoners were in their cells. Approximately 30 detainees were injured. If the Head of the Penitentiary Department, Mr. Bacho Akhalaia, did not go to the prison that night and use force, the riot would not have happened, said Sozar Subari, the Ombudsman during the presentation of the report to the Parliament.

Karel De Gucht, Chairman of the OSCE, has expressed, during a visit in Tashkent, his concern about violent incidents in Tbilisi prison No. 5. *"We regret the death of seven inmates and the injury of a large number of prisoners as well as several servicemen from the Government's Special Task Forces".* He said. *"We note that different reports on the exact circumstances of the events have been circulated and a lack of clarity exists".* He also requested *"to set up an independent and public enquiry to investigate the events, including allegations of a disproportionate use of force by government troops which resulted in a large number of victims"*.<sup>18</sup>

On June 28, 2006, after the deadline of the ultimatum delivered to IDPs by the local government which expired on the same day, many IDP were evicted, by Special Operation Group and Criminal Police, from the hotel "Meskheta", a hotel used to accommodate IDP in the city of Batumi. Three days before, criminal police started to increase their raids in front of the hotel building. They were registering each family on every floor. Later, Mrs. Mamuka Nakashidze, the

<sup>17</sup> There is no final court judgment yet, but all the evidence in the case, including confessions of suspects prove their guilt.

<sup>18</sup> <http://www.osce.org/item/18578.html>

Ministry of Healthcare in Adjara, prolonged the deadline and offered the IDPs an alternative shelter in Makhinjauri. The building was being left without windows or doors.

There were several ambulances near the hotel Meskheta and some of the victims were rushed to hospital. Journalists were forbidden to enter the hotel. However, the HRIDC journalist managed to get on the thirteenth floor. Each floor was full of the Special Operation Group members and policemen. Police members were giving the people a hand in getting rid of the domestic appliances by throwing them out the windows. Mr. Levan Varshalomidze, the governor of the Adjara autonomous republic and Ada Marshania deputy of Abkhazia Supreme Council, despite IDP's insisting for 4 days, did not meet them. Mrs. Marshania personally asked the criminal police not to raid the civilians. People were also waiting for the Ombudsman, Mr. Sozar Subar but in vain. Only his representative, Mr. Sopo Khorguani arrived in Batumi on the next day and stated that serious violations took place.

### **Bloody Prison 'Special Operation'**

**On March 27th 2006**, early in the morning prisoners decided to riot. They smashed prison cells and burnt them. What followed was a Special Operation which lasted for two hours. As a result of the riot and subsequent 'special operation' in Prison #5 on 27<sup>th</sup> March, 7 people died, 17 were badly injured and almost 20 hurt.

On the night of 27<sup>th</sup> March in Prison #5 a 'special operation' took place to deal with what the Minister described as a planned riot. According to the prisoners' plan, the riot would have started in Prison #5 and would have then spread to other prisons. Qavtaradze stated the aim of the prisoners was to escape. According to the prisoners, they did not want to escape, they simply wanted to show solidarity with those who were asking for help from the prison's hospital. The special operation in the prison started at 3 o'clock and lasted for two hours. It ended with numerous casualties - 17 prisoners have been taken to different hospitals

The Minister of Justice said that he had information about the riot before it happened: "Since January 25<sup>th</sup>, we have had information that the prison riot was being planned. The Penitentiary Department and other parts of government were ready for any kind of deterioration of the situation. It has been proved that only by the effectiveness of our action was such a danger avoided."

Society has many questions about these concrete facts: If the government had information about the planned 'break out' in advance, why did they not take preventative action? Why are they not giving any information about those who died? Why did they not allow lawyers and NGOs to enter the prison?

The opposition thinks that it was planned by Merabishvili's office. The government wants to shift society's attention away from the Sandro Gvirgvliani murder to something new.

### **Beaten Prisoner Beggars For Help**

A prisoner was recently badly beaten and now is begging for someone to help him. The Ombudsman wants the Head of the Penitentiary Department, Bacho Akhalaia, to leave his position because of his involvement in the beating incident.

"Akhalaia came and blackmailed me, saying that he would kill me. Help me please, I need it very much, I need you to back me", implores prisoner Iago Tsikvadze, who wants the Prisoners' Rights Defender and journalists to come to his aid.

Sozar Subar, the Ombudsman visited Iago Tsikvadze on March 23<sup>rd</sup>, who had been badly beaten. The prisoner had bruises all over his body. The prisoner did not hide the fact that he was beaten by prison staff over some disagreement. Akhalaia apparently offered him a deal; either he would shorten his sentence if he kept quiet or murder him if he said anything.

After the Rose Revolution, there were lots of cases of prisoner torture. The international organization Amnesty International estimated the following: "There were lots of incidents of prisoner torture in 2004-2005. In order to obtain evidence, prison staff used cruel and inhuman ways of torture, such as; electric shocks, burns with cigarettes and candles, putting plastic bags over prisoners heads, blackmailing them saying that they would kill their relatives and loved ones, putting things in their mouths while beating them so that nobody could hear their screams and a variety of other cruel methods." The European Union is also not satisfied with the prison situation in Georgia. In its 2005 report nothing was said about torture, but the situation in the prisons was criticized: "Prison no 1 was hugely overcrowded and very dilapidated. It was damp, dark and dirty. The general conditions were dreadful. It is probably the worst we have seen anywhere. The total capacity was 2200 but the population was 3663. Not everyone had a bed of his own. The prisoners were lying head to tail on the beds, as there was insufficient room to stand or sit. We were still

concerned about the overall treatment of unconvicted prisoners in Georgia and we do not consider that the system meets the current EPR 91, which stresses the presumption of innocence”.

### **Drug Sellers Will Have Their Property Seized and Will Never Be Employed**

Georgian Parliament is starting an intensive fight against drug sellers. According to the amendments, drug sellers' property would be confiscated, fines on the offenders will be increased, and abettors of drug sales will be severely punished. A person punished for the crime would be prohibited from working for some time. Besides that, drug sellers will not be allowed to carry a gun for the next ten years.

The amendment deals with several areas of law, such as the administrative code, employment law, and criminal law concerning weapons. The offender must relinquish his or her gun within two months. Otherwise, the offender will be fined 500 GEL, and the gun will be seized. The amendments increase the amount of the fine from 500 to 1000 GEL or, alternatively, thirty-day's imprisonment. They will also revoke the offenders' driver's license for three years. According to the Law on Employment, the offender may not be employed for three years.

One of the main changes to the old law is an amendment to the Georgian Law on Weapons. According to this amendment, the offender may not obtain a weapon during the next ten years.

This amendment also deals with those offenders who deliberately deal in drugs. However, if the amount of drugs is too small to purchase, then the charges will be dropped. Moreover, people who ask a doctor for help in treating an addiction will not be charged.

### **Financial Police Detain Citizen without Search Warrant**

Taxi driver Tamaz Elbakidze, accused of smuggling 5,500 boxes of Russian cigarettes in September 2006, has issued a complaint on the basis that he was sentenced to a two-month detention without having seen a search warrant or reports on his detention. Judge Zaza Ramishvili, who has not considered Elbakidze's claims, says there is enough evidence to imprison Elbakidze. The evidence stated, however, was either missing or factually incorrect, said to be due to technical difficulties and clerical errors. Elbakidze was caught when a financial policeman acted as a client for his taxi and demanded his license, which he did not have with him at the time.

### **Illegal Prisoner Released after 9 Months**

Twenty-year-old David Badzgaradze has been released from 9 months of illegal imprisonment after being found guilty for robbery based on little evidence and a false testimony.

He will be released from prison just in time to see his new wife deliver their first child. He is demanding reparations from the government and from the woman who gave the false statement.

### **Financial Police Detain Citizen without Search Warrant**

On August 31, Financial Police officers detained 53-year-old Tamaz Elbakidze and searched him without search warrant. According to the information from Financial Police Investigator, Giorgi Sanikidze, on the 31st August 2006, Tamaz Elbakidze was detained on the basis of 'operational information'. He was allegedly caught by financial policemen in the area of the Industrial Complex while transporting 5,500 boxes of excise-free Russian cigarettes. Investigator Sanikidze and Prosecutor-Probationer Kakha Mindiashvili's affirmed there is enough evidence against him – the report on the search, withholding evidence, the conclusion of the examination, the testimonies of witnesses Mosiashvili and Mamasakhlisi, to sentence Tamaz Elbakidze to imprisonment.

All the evidence named by the judge was placed under suspicion at the court hearing. The lawyer initially demanded the report on the search mentioned by the investigator; however at first the financial police representative said he had handed it to the court chancellery. The judge Zaza Ramishvili shrugged his shoulders saying it was not with him. The Prosecutor-Probationer then saved the investigator from the resulting confusion saying that it was not printed yet for 'technical reasons' and that the Main Prosecutor, Fridon Chitashvili, was in Tbilisi and as soon as he arrived back they would produce the document. The judge trusted the law enforcers' explanation and continued the trial.

Lawyer Tamar Tedliashvili exposed one more illegal action by the law enforcers. As she explained, Tamaz Elbakidze was in fact detained at 17:10, while the acknowledgement report to the Prosecutor Chitashvili was registered at 15:20. According to investigator Sanikidze it was a clerical mistake. Judge Zaza Ramishvili again did not take the accused man's lawyer's remarks into consideration and said the court had not launched the main hearing yet.

## **Torture and Ill-treatment in Prisons**

The majority of Georgia's prisoners—some 63 percent of whom are held in pre-trial detention—live in overcrowded, poorly ventilated, filthy cells. They receive inadequate nutrition and substandard medical care, have limited access to information and family visits, and in 2006 some went for weeks or months without an opportunity to leave their cells for exercise or fresh air. In some cases the conditions of detention amount to degrading treatment.<sup>19</sup>

Unfortunately, due to the lack of the integrated overall statistics, it is not possible to draw up a clear and concise picture with regard to cases of torture, their investigation and results achieved.

It should be noted that the situation with respect to the database is improving. Statistics with respect to torture cases as well as cases concerning inhuman and degrading treatment are already collected, though the number of cases initiated still raise a serious doubt regarding the implementation of respective articles in practice and effective investigation of the cases concerned. According to the information provided by the Office of the Prosecutor General of Georgia, from June 2005, investigations were initiated on 29 cases under Article 144(1).<sup>20</sup> As a result, charges were brought only against one person. As to Article 144(3), investigation was initiated on five cases, though no charges were ever brought against anyone.<sup>21</sup>

State reports often contain paragraphs emphasizing the positive measures taken in respect of combating torture, e.g. the establishment of 24-hour hotline for complaints of torture within the Prosecutor General's Office and the Ministry of Internal Affairs, though the formal steps taken do not mean that they are effective in practice. However, currently, the Ministry of Internal Affairs does not have any information on the number of calls received on the hotline or any actions taken in response, which weakens the argument that a 24-hour torture complaint hotline is an effective torture-preventive measure.<sup>22</sup>

During the search conducted in Batumi Penitentiary Institution on 24 January 2006, a lot of prisoners got physical injuries. According to the story told by prisoners, they were forced to remain in a prison yard for 4 hours (some of them claim that it continued even for 8 hours) in very cold, snowy weather. Moreover, some of the prisoners did not even wear shoes at the moment. They were beaten, verbally and physically assaulted. The Public Defender estimated that such action was inhuman and degrading treatment of the prisoners and recommended that the Office of the General Prosecutor initiate an investigation.

On 27 March 2006 at 3 a.m., a special operation was conducted in jail N 5, N1 and the prison hospital. The government announced that it had prevented a nation-wide prison riot plotted by criminals. But the opposition, as well as human rights defense organizations have cast doubts over the official version and alleged that the riot was a spontaneous act of prisoners to protest against inhuman treatment exerted by prison officials, in particular by Bacho Akhalaia, chief of the Penitentiary, against inmates overnight on March 27. Non-governmental organizations and the opposition claim that there is no evidence proving the fact of a riot in prison. Hence, the police special forces used "extremely excessive" force against prisoners. The special operation to suppress a riot at Tbilisi Prison No. 5 left seven inmates dead and at least seventeen injured. Nobody, including lawyers and members of the Monitoring Council, were allowed to enter the penitentiary institution for two days, which raises serious doubts about the official version provided by the government. The members of the Monitoring Council appealed to the Ministry

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<sup>19</sup> Human Rights Watch – Georgia: Events of 2006: <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>

<sup>20</sup> Letter from the Office of the Prosecutor General of Georgia dated 17 March 2006

<sup>21</sup> NGO coalition alternative report to the UNCAT

<sup>22</sup> NGO coalition alternative report to the UNCAT

of Justice and demanded the initiation of a criminal case, as well as a formation of an independent investigative commission.<sup>23</sup> The opposition demanded an independent parliamentary probe as well, though the ruling party voted down the investigation initiative.

As for the number of dead prisoners in 2006, it reached 92. Twenty of whom died of tuberculosis. Three prisoners died in the last ten days, two of whom were in the jail hospital.

It must also be pointed out that the number of dead prisoners has increased in the last six years. Statistics show that thirty-one prisoners died in 2001, thirty-nine died in 2002, fifty-two in 2003, forty-three in 2004, and forty-six in 2005.<sup>24</sup>

In its report Human Rights Watch considers that security forces repeatedly used force to suppress prison disturbances. On the above mentioned riot on March 27, 2006, HRW reports that Special Forces used automatic gunfire in Tbilisi Prison No. 5 to suppress a disturbance, resulting in the deaths of at least seven inmates. For three months the General Prosecutor's Office failed to open an investigation into the actions of law enforcement officers during the March 27 special operation in Tbilisi Prison No. 5, and instead the Ministry of Justice investigated the planning of the alleged riot only. Investigations into torture and ill-treatment in the prison system are not prompt, do not meet international requirements for effectiveness, or are not opened at all.<sup>25</sup>

The United Nations Committee against Torture reviewed Georgia in May. The committee noted some progress but found many shortcomings, including the use of excessive force and other forms of ill-treatment by law enforcement officials, and the low number of convictions for those crimes; it also expressed concern about prison conditions. The committee called for investigations of all allegations of torture and ill treatment and for implementation of policies to reduce prison overcrowding. The recommendation was given against wearing masks as well.

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<sup>23</sup> See the appeal of persons authorized by the President of Georgia to monitor prisons by the Minister of Justice of Georgia Mr. Gia Kavtaradze.

<sup>24</sup> [http://www.humanrights.ge/eng\\_/articles.php?tbl=articles&id=546](http://www.humanrights.ge/eng_/articles.php?tbl=articles&id=546)

<sup>25</sup> Human Rights Watch – Georgia: Events of 2006: <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>

### Conditions of detention : *carcer* cells

Mr. Shalva Ramishvili and Mr. David Kokhreidze are the cofounders and shareholders of the independent TV Company “TV 202” operating in Tbilisi, Georgia.

Mr. Ramishvili was the anchorman of the popular talk show “Debatebi” (debates). Often addressing politically sensitive issues, such as government corruption, nepotism, lack of, or ill-guided, reforms and the like, Mr. Ramishvili had admittedly become inconvenient and embarrassing for the new government of the ‘Rose Revolution’ which had promised the establishment of rule of law in Georgia as its main platform to come to power.

On 27 August 2005, Mr. Ramishvili and Mr. Kokhreidze were arrested on suspicion of having committed the crime of extortion.

On 11 January 2006, two days before the otherwise unexpected preliminary hearing of the cases of Ramishvili and Kokhreidze in the Tbilisi City Criminal Court, Mr. Ramishvili was moved from his regular cell at Jail No.1 of the penitentiary department of the Ministry of Justice of Georgia to the so-called *carcer*, a disciplinary solitary confinement cell, which in Soviet times was used as a cell for the confinement of those on a death row. Mr. Ramishvili spent four days in the *carcer* and was returned to his regular cell on 15 January 2006. Allegedly, Mr. Ramishvili was punished for the use of a mobile phone.

According to Mr. Ramishvili, *carcer* consists of a four to five square metre solitary confinement cell which. He was kept there together with another prisoner.

The *carcer* had no windows nor ventilation and, therefore, was not exposed to natural light or fresh air. The *carcer* was illuminated by one yellow light bulb which was lit 24 hours a day. The *carcer* was an extremely damp place. Tap water was running non-stop and noise was heard 24 hours a day. A narrow pipe in the corner, located just one metre away from the bed, was the designated “toilet”. On account of the narrowness of the pipe, it was difficult for the prisoners to pass body fluids and excrements right into the hole. There was no partition that might separate that “toilet” from the rest of the cell. Since there were two persons in the cell, one was obliged to use the “toilet” in the presence of the other. For all these reasons, the *carcer* was an extremely dirty and unhygienic place, infested by cockroaches and rats running through the cell. The place is described as bearing a faecal stench at all times.

In spite of the extremely small space, Mr. Ramishvili had to share the *carcer* several days with another prisoner. They were inevitably subjected to a high degree of discomfort. Firstly, because of the non-existence of partition between the “toilet” and the rest of the cell. Secondly, the only bed in the cell – which by itself was unfit because it was made of iron rails – was not wide enough to accommodate two people.

Under such conditions- lack of fresh air and elementary hygiene, constant noise of water, non-stop lighting 24 hours a day and the unsuitable narrow bed- Mr. Ramishvili was deprived of normal sleep. In addition, owing to the permanent stench of the toilet, and infestation by vermin, Mr. Ramishvili was unable to eat the food that, as he points out, was much worse than ordinary food provided to prisoners in regular cells. The applicant did not enter into a hunger strike.

During the whole period of his confinement to the *carcer*, Mr. Ramishvili was never let out of the cell for a regular daily walk in the prison yard. He was never visited by a doctor nor did he receive any other particular care.

Less than 24 hours later, on 14 January 2006 at about 11.00 pm, some intoxicating smoke (later explained by authorities to have been caused by the burning of a mattress in the adjacent cell) leaked to the *carcer* where Mr. Ramishvili and his roommate were placed. Due to the lack of ventilation in the *carcer*, the smoke filled Mr. Ramishvili’s *carcer* very quickly. During half an hour, Mr. Ramishvili and his roommate were knocking loudly on the *carcer* door. However, nobody came to their aid. During half an hour, Mr. Ramishvili and his roommate were exposed to physical suffering -smoke inhalation, tearing eyes, the inability to breath- and also to the real risk of death, provoking in them feelings of extreme anxiety and anguish.

Eventually, the prison guard opened the *carcer* door and let both inmates out for a short while until the smoke was gone. The next morning, Sunday 15 January 2006, Mr. Ramishvili was returned to his regular cell after several news stations had reported the incident.

Due to blatant violations of a number of articles of the European Convention on Human Rights, including Article 3 (prohibition of torture or ill-treatment), the case was presented to the European Court of Human Rights. The Court has already received arguments concerning just satisfaction.

## Judiciary

In 2005 the authorities told a number of judges that they should either resign or face disciplinary hearings; 21 of 37 Supreme Court judges resigned under this pressure. Nine refused to resign but were then made subject to disciplinary proceedings in December 2005, were found guilty, and were suspended from office. The proceedings addressed matters related to the judges' interpretation of law rather than issues of ethics or conduct subject to disciplinary evaluation. On August 10, 2006, the Disciplinary Chamber of the Supreme Court upheld the decision against the judges. These steps have had a chilling effect on new and remaining judges, who may legitimately see their positions as tenuous and their decisions as subject to executive approval.

Neither old or newly appointed judges hide in private conversations that representative of the prosecutor's office force them to take decisions not based on the principles of fairness and objectivity but rather according to the prosecutors' instructions. Otherwise they are directly and openly threatened. Government calls such politics as struggle against corruption, though in fact it is establishing the political corruption and unfair judiciary and this of course destroys the relevant environment for Human Rights Protection.<sup>26</sup>

When talking about human rights violations by courts, attention must be drawn to two problems: violations of human rights **before trial** and violations **during trial**.<sup>27</sup>

The main thing that is meant by a violation of human rights is that the courts have distractions, which breaks the fundamental principle of understandable hearings. When hearings are disrupted, it is impossible to know what the parties are saying, and this is against the public hearing principle. Distractions are normal in the Tbilisi City Criminal Court and throughout the regions of Georgia.

It is almost impossible to know in advance when hearing will be held. The timetables in the courts do not comply with the real dates of the hearings. The trials often begin several hours late. The same happened in 80% of the cases monitored.

The ineffectiveness of the court's work is caused by many reasons, mostly stemming from the lack of amenities, such as microphones, chairs, lights, etc. In addition, many of the courts have been under construction for half a year already. Courtrooms are too small and the conditions are intolerable. People often fight to get into the courtroom, which makes it difficult to know what is happening, especially in criminal cases for relatives of the defendant. As a result, we have many interested people standing outside the courtroom.

This is a problem that monitors have faced themselves often. Several times when the courtroom was busy and another trial was taking place there, the judge went to find a free room. In the Criminal Division of the Tbilisi City Court and other courts in the regions, because there was no space, some trials took place in the judge's chamber. A judge's chambers are mainly used for bond hearings, which even the defendant's relatives are not allowed to attend.<sup>28</sup>

In 2006 the American Bar Association published a report about the **Court Reforms in 2005 in Georgia**. Their conclusions show the changes are not satisfactory. Only one out of 30 elements was estimated as being a positive measure - the rest were designated as negative or neutral measures.

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<sup>26</sup> Alternative report to the UNCAT of the NGO "former political Prisoners for Human Rights": [http://www.fpphr.org.ge/eng/view.php?view\\_id=6&id=38](http://www.fpphr.org.ge/eng/view.php?view_id=6&id=38)

<sup>27</sup> HRIDC report on trial monitoring in Georgia in 2006: [http://www.humanrights.ge/eng\\_/angarishebi.php](http://www.humanrights.ge/eng_/angarishebi.php)

<sup>28</sup> HRIDC report on trial monitoring in Georgia in 2006: [http://www.humanrights.ge/eng\\_/angarishebi.php](http://www.humanrights.ge/eng_/angarishebi.php)



The results are as follows: The only positive reform made is the new salaries that judges receive. The negative points cover areas such as: continuous legal education, the court's jurisdiction and civil rights, the funding of the budget, the court buildings and court order, court security, a period of guaranteed power, dismissal of judges and their disciplinary procedures, associations of judges, court decisions and pressure upon the court, positions of judges, the registry of the cases, computers and office equipment, an index of legislation and the presence of the media and society at trial proceedings.

Neutral points included: The qualification of judges, the process of selection and appointment of judges to positions, gender and minority balance, the courts power to make amendments to the law, the Appeal Court, objective criteria for promoting judges, distribution of work, judicial immunity, the rule of complaint against the behavior of judges, the publication of court decisions and the court archives.

The American Bar Association on the Court Reform lists several important issues that must be paid the greatest attention. These are as follows:

1. There should be an increase in the number of judges and a solution to the problems relating to the vacancies for judges should also be found.
2. The judicial training should be advanced and there should be better opportunities for further education for the judges.
3. Professional ethical issues should be stressed during the training
4. More effectively implementing court decisions, particularly of those that concern the state.

The court's jurisdiction and civil rights are both negatively estimated. The report explains that despite the fact that the Constitution gives impressive human rights protection, this protection does not exist in reality. The same chapter concentrates on problems concerning the number of accused people who remain in Preliminary

The revised salaries for the judges are the only factor assessed as positive and are as follows:  
The Chairperson of the Constitutional Court – 4100 laris, (1 Georgian Lari = 0.56657 US Dollar)  
The Deputy – 3300 laris, Judges – 3000 laris;  
Head of the Supreme Court – 4100 laris, the Deputy – 3600 laris, Judges – 3000 laris;  
Head of the Appeal Court – 3000 laris, Judges – 1650 laris;  
Head of Regional Court – 1650 laris, Judges – 1450 laris.

#### **Please Stand Up, Georgian Judicial System Died!**

*Released judges of the Supreme Court appealed the decision of the Supreme Council Disciplinary Board in the same institution's Council. Judges demand the abolishment of decision and discharge. The members of civil society agree with the point of view that there is a political rather than legal motivation for the case against judges.*

According to the decision of the disciplinary commission, the judges of Supreme Court Nino Gvenetadze and Merab Turava were dismissed from their positions and judge Davit Sulakvelidze was given a warning. The judges are charged with two separate offences. According to the first, the judge named as the offending party was an unregistered wife and the mother of two children, and the second blame was late fulfillment of decisions.

The members of civil society declare that there is political rather than legal motivation for the case against judges. These judges were the first ones who began talking about pressure they received from the government.

An initiative group which consists of Young Lawyers Association, Article 42 of the Constitution, the Human Rights Information and Documentation Centre, and more than ten NGOs made a protest statement on that fact: "We, the representatives of civil society, protest against the pressure on judicial system, support judges that have been dismissed illegally, and demand a fair attitude toward them. We call for fulfillment of constitutional responsibilities considered by law."

**Everyone Will Be Fined or Detained for Insulting a Judge**



***Georgian Parliament discusses amendments to the Georgian Procedural Code, according to which, every person who has disrespected the court will be severely punished. The punishments are various: detention, fining and dismissal from the court. The gravity of sanctions depends on the place of expressing one's disrespect to the court, for example in the media, street or at trial.***

According to the amendments to Article 208, "the judge can reduce the number of spectators at a trial because of little space in the court room." The second section of the same article states, "in case a person at trial disrupts the court hearing, disobeys the judge's commands, or expresses disrespect to the court, that person will be either dismissed or fined by the judge. If s/he continues similar behavior outside the court room, a bailiff will be able to dismiss him/her from the court building as well. In addition, s/he will be either fined or imprisoned."

Article also establishes fines. If a person does not pay the fine by the fixed time, he will be fined double the amount. For example, if the fine were 150 GEL, there would be an additional fine of 150 GEL after the fixed date.

Article 174 of the draft law targets public demonstrations. According to this article, "breaking the law on demonstrations will result in a fine of 30 times the current minimum wage. The article also says that demonstrations may not be held near the court building, or the organizers will be sentenced to thirty days imprisonment.

These amendments have been denounced by opposition parties, non-governmental organizations, and citizens. However, the majority of the Parliament approves of the draft law and believes that it will increase public respect for the court.

#### **Pressure on Judges by Prosecutors in Gori**

„Judges in Gori are frightened by the prosecutors“ - states the leader of local oppositional party „New Righters“. According to Mamuka Paniashvili's statement, the judges in Gori are influenced by the Shida-Kartli and Gori prosecutors. Valeri Tsertsvadze, secretary of the Council of Justice, makes „mischievous“ judges attend disciplinary committee meetings if they resist the pressure. Valeri Tsertsvadze's brother Giorgi Tsertsvadze is the main prosecutor in Gori. „It is impossible to speak of a legislative environment when considering the system that is established by the Prosecutors' Office and the court in Gori“ - says Mamuka Paniashvili.

The New Righters requested data from Gori's Court chancellery about the number of cases persecuted and the number of convictions. In 2005, from September to November, 31 persons were accused by the

prosecutors and all of them were sentenced to pre-trial imprisonment by the court instead of using other coercive actions towards them. In 2003, over the same months, only 3 persons were imprisoned. The New Righters consider that the judges are afraid to be dismissed and therefore go along with the prosecution's demands.

Giorgi Tsertsvadze labels these statements as absurd and denies his participation in putting pressure on judges.

#### **Unexecuted Court Decisions**

***In most cases governmental organizations refuse to pay money ordered by a court decision. The decision that allows people to receive remuneration for their violated rights remains on paper and is not executed. According to statistics, public organizations implement court decisions in only 4 % of the cases.***

From January 2005 onwards, the number of appeals concerning the non-execution of court decisions at the Public Defender's office has been rising. In most of these cases, the defendant is a state organ. The number of such appeals reached 1500.

The Public Defender's office states that public organizations almost always refuse to pay money obliged by court. Adding up to that, the Executive Department is not trying to execute the decisions as it does not want to damage the state budget.

The Executive Department of the Ministry of Justice denies the existing problems and states that their policy toward official organs is the same as towards private organizations.

The government denies the existence of a problem in this sphere, but the fact is that the State owes 45 million GEL to various creditors. Most cases discussed in the courts concern people who are deprived of their jobs. Whether there is any use of waiting for the decision is a question apart...

#### **Parties at Trial are not Allowed to Comment without Judge's Permission**

***The chairman of the Supreme Court, Kote Kublashvili, has limited the number of people who can attend the trial. Parliamentary Opposition called it an unprecedented overreach and suggested abolishing it. Kublashvili recommended the opposition calm down and get up early in order to be admitted to trial.***

The decree made by Kublashvili on July 7, 2006, consisted of eight paragraphs. The opposition expressed their concern over the fourth paragraph, which states, "In the case of increased public interest

in a particular case, the number of attendants should be limited to the number of seats in the courtroom to maintain order at the trial. The bailiffs should handle the situation by regulating the number of the people entering the courtroom. The people who are late for the process will not be allowed into the courtroom."

Parliamentary opposition criticized this particular paragraph and called it unconstitutional. Kakha Kukava from the Conservative Party told the Human Rights Centre that the chairman of the Supreme Court has breached the constitution by promulgating this decree.

Kakha Kukava said, "The restriction of attendance at trials is an unprecedented overreach, since the constitution is above all regulations as well as laws. Kublashvili decided to enforce the unconstitutional rule through the power of his own office. This means Kublashvili has received his German legal education in vain. Even the students of our university are taught that trials are public and must conform to the principle of free speech. In the 21st century, people should be allowed into a courtroom by the judge himself."

The opposition insists that the decree was adopted reasonably. They say that the goal of the decree is to prevent the situation which happened during the hearing of Sandro Girgvliani and Shalva Ramishvili's cases. "The people will be allowed into the courtroom according to the judge's wish because of space limitations. Consequently, only 10 or 15 people will be let in. Do you remember what happened at Girgvliani and Ramishvili's trials? Young nationals were in the courtroom. They did not allow Girgvliani's mother and Ramishvili's wife into the room. It is shameful, nothing more," said Kukava.

He also said that the Parliament can abolish such decrees and that the opposition is currently working on the issue. However, Kublashvili said that his decision was fair and did not take into consideration his opposition's position.

Kote Kublashvili said, "This decree shows my position. I do not agree with the critics and do not listen to them, either. The fact is that the number of attendants should match the number of seats in the courtroom. The same rule is in many other countries. We do not restrict transparency by doing so. When there are only fifty seats in the courtroom and more than 200 people want to attend the trial, it is impossible to keep the room quiet and orderly..."

As for Ramishvili and Girgvliani's trials, Kublashvili said, "I cannot say what really happened there. Maybe strangers attended and no more seats were left. I want to tell you about another new regulation. When the judge enters the courtroom, the door to the courtroom will be locked and nobody will be allowed

to enter or leave the room, even if there are vacant places left."

Before Kublashvili gave this decree, the Parliament had adopted a draft law, which barred the disrespecting of a judge. Besides that, the law prohibited demonstrations within twenty meters of the court building. Those people, who criticize the court in the media, will be fined or imprisoned.

Although what constitutes disrespecting a judge is not defined in the draft law, Kublashvili explained that this law can be divided into two parts. "The first part prohibits disturbing a trial, such as by arriving late or speaking on a cell phone. The second part concerns disparaging words expressed by the parties not only toward the court itself but to each other as well... As for the section concerning statements made to the media, we will debate this section at a later... Everybody has a right to criticize others. However, this law concerns not ordinary criticism but inflammatory language like, "the judge is a slave", etc. I think this paragraph should be more precise."

#### **Lawyers Demanding Justice Are Arrested**

Lawyers and Human Rights NGOs are speaking out about the harassment of lawyers and demand changes be made to unconstitutional legislation. Judge Khvicha Kikalishvili, from Telavi, imprisoned lawyer Onise Mebonia for ten days, because he criticized legal violations committed by the Judge.

Although Mebonia is free now, after ten days of detention, he is not going to give up and continues to demand the abolition of unconstitutional standards. The Young Lawyers Association and Article 42 of the Constitution support him.

According to Manana Kobakhidze, lawyer for Article 42 of Constitution, the advocate was consciously excluded from the process. "The reason for Mebonia's detention was that he pointed out legal violations made by the Judge. The hearing of the criminal code case was mainly conducted in the Azeri language, so it was impossible for the lawyers and other persons to understand what was being said. Mebonia demanded a translator but the judge did not satisfy his requirements. After that Mebonia said that there was no need for him to remain in the Court. The judge kicked him out of the hall and decided to arrest him".

According to Kobakhidze, Judges exploit Article 208 of the Criminal Code for purposes other than it was originally intended. That is why advocates demand the striking down of this article by the Constitutional Court. According to Article 208, judges have the right to kick out, fine or arrest for a maximum of 30 days, someone who disrupts order in court.

"This is a very personal part of the Code. You never know what the judge will find as an abuse of order. It was the same with Mebonia's case. The judge simply

removed an unwanted lawyer from the case quite easily”, declares Kobakhidze. Another violation resulting from this article is that the decision of judge cannot be appealed. “Lawyers do not have the right to appeal against this decision in any instance. However, according to Article 42 of the Constitution, everyone has the right to a Court hearing. Moreover, in accordance with ‘The Rome Statute’, ratified by Georgia, arresting a person for disrupting order in the court room is prohibited. Unfortunately, judges have recently been using this unconstitutional standard often. The same thing happened regarding Irakli Kakabadze.” David Asatiani, a member of the executive council of the Young Georgian Lawyers Association also spoke about the campaign being organized against lawyers. “It is the first time a lawyer has been arrested for

demanding justice. This is a violation of every standard. It is a sign that the time has come to resist this trend. We intend to focus public attention on such cases”. We asked the representatives of the High Court to comment on the case. Judge Nunu Kvantaliani believes that the decision made by Chitashvili was fair and the Court is not harassing advocates. “As for Mebonia’s case – he disrupted order in the court and did not respect the judge. The judge was unable to calm him down, so he kicked Mebonia out of the hall. Later he was detained for ten days”. Nunu Kvantaliani explained that no one has the right to insult the court and if a lawyer does not agree with a decision made by a judge, they can appeal against it.

## Impunity

Many who commit human rights violations, including torture, ill treatment, excessive use of violence, and intimidation against human rights defenders remain unpunished. This culture of impunity is one of the most serious hurdles for the Georgian Government to commit to improving human rights protection and promotion.

In its 36<sup>th</sup> session report, published in July 2006, the UN Committee Against Torture confirmed this trend: “*The Committee remains concerned that despite extensive legislative reforms, impunity and intimidation still persist in the State party, in particular in relation to the use of excessive force, including torture and other forms of ill-treatment by law-enforcement officials, especially prior to and during arrest, during prison riots and in the fight against organized crime.*”<sup>29</sup>

It should be also mentioned that the expressions and statements is often more encouraging the law-enforcers to violate the human rights and to remain certain policemen unpunished for their crime. For example the case of Sakvarelidze is still in preliminary investigation although according to the attorney there are enough evidences to find an accused person. Vehicle collision between a special vehicle belonging the Instant Reaction Department of the ministry of Security and s BMW resulted in the death of two people – 23 year-old David Sakvarelidze and Eter Shioshvili. Avtandil Mamaladze, currently a police officer of the Interior Ministry’s Special Operation group was driving the special vehicle. The case was closed twice and was twice sent back to the preliminary investigation. On its fourth year, Mariam Sakvarelidze, mother of the dead David Sakvarelidze is still waiting for Georgian justice in vain. During these years she underwent lots of pressure and press by the government.<sup>30</sup>

The unlawful and excessive actions of the police officers are directly encouraged and supported by the official statements of the President of Georgia- M. Saakashvili as well as the Minister of Interior V. Merabishvili.<sup>31</sup> For example, on 23 February 2006, during a meeting with newly appointed judges, President M. Saakashvili publicly announced – “*...Policemen have instructions to fire directly because the life of one policeman is valued more than the lives of all of the world’s criminals and their accomplices, to me and to the public. Therefore, here we have*

<sup>29</sup> UNCAT concluding Observations and recommendations, 2006

<sup>30</sup> Full story is available at [www.humanrights.ge](http://www.humanrights.ge) or in HRIDC’s human rights report of 2005– ‘Next Stop - Belarus?’

<sup>31</sup> Alternative report to the UNCAT – human rights violations in Georgia: [http://www.humanrights.ge/eng\\_/angarishebi.php](http://www.humanrights.ge/eng_/angarishebi.php)

*made it a precedent to use arms and we intend to continue this way, just as the United States, Europe, Israel and all other developed countries practice.”*

On November 23, 2005, the Minister of Interior made a similar statement on the channel Rustavi2 TV: “I announce to all Georgian policemen not to hesitate to use arms when a person’s or policemen’s life is endangered.”

Those statements are particularly troubling if we consider that the excessive use of violence by the police forces is one of the main problems the Georgia has faced over the last few years.

On 28<sup>th</sup> March, the President summoned the Security Committee saying: “Excuse me, my dear crooks, bandits, thieves and other parts of society! We are not the old government! I want to thank the staff of Ministry of Justice and the police; they acted in a very professional way. They avoided the disaster that could have happened.”

## **Pressure on NGOs**

Several human rights defenders reported harassment at the beginning of 2006.

On January 9, 2005 Georgian media outlets have publicized announcements by Mr. Gia Getsadze, Mr. David Kakabadze, Mr. Paata Lejava and Mr. Levan Alapishvili concerning the activity of the Georgian Young Lawyers’ Association. They alleged that the Organization has deviated from its values and strategy. It has to be highlighted that all authors of the statements are current public officials, occupying high posts and are closely aligned with the ruling National Movement (Gia Getsadze, being former Deputy Minister of Internal Affairs, former Governor of Imereti Region, who resigned after a scandalous incident and at the moment Senior Partner in the Legal Company of the brother of President Saakashvili; Paata Lejava, being newly appointed Deputy Head of the Legal Department of the Parliament of Georgia and Levan Alapishvili being Head of the Property Management Department at the Tbilisi Mayors’ Office).<sup>32</sup>

Later on, Minister of Defence of Georgia, Mr. Irakli Okruashvili, also claiming membership of the organization, made a public statement concerning the conduct of the organization, using offensive language and naming its representatives with different offensive titles. According to the Human Rights Watch top government officials, including the defence minister, publicly accused the current leadership of the Georgian Young Lawyers’ Association (GYLA, a professional lawyers’ association) of being politicized and of misusing US\$12 million in funding. The officials, who are also GYLA members, called for the resignation of the organization’s chairperson.<sup>33</sup>

On February 1 and 2, 2006, representatives of the Ministry of Internal Affairs visited the HRIDC office, pretending that they wanted to know more about the organisation’s activities. During their visit, they actually tried to put pressure on HRIDC representatives.

Moreover, on February 7, 2006, an employee of the Counter Terrorism Department at the Ministry of Internal Affairs informed Mr. Ucha Nanuashvili, HRIDC Executive Director that the Head of this department wanted to talk with him in order to “get to know” about HRIDC activities. As Mr. Nanuashvili requested an official letter that would clearly state the reasons of such a summon, the Ministry agent demanded his immediate arrival, indicating that, in case of

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<sup>32</sup> Statement of The Georgian Young Lawyers’ Association: [http://www.humanrights.ge/eng/\\_/announces.php?tbl=announces&id=14](http://www.humanrights.ge/eng/_/announces.php?tbl=announces&id=14)

<sup>33</sup> Human Right Watch: Georgia – events of 2006 <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>

disobedience, he would be brought there by force. Nevertheless, Mr. Ucha Nanuashvili refused to go to the Ministry. Human rights watch mentions the fact in its report.<sup>34</sup>

On September 21, 2006, the Georgian Young Lawyers' Association (GYLA) held a conference in its office in Rustavi, which was entitled "Deficiencies during pre-election troubles in Georgian regions". A couple of hours after the press conference, an unidentified man called Ms. Lela Bekauri, member of the Rustavi branch office of the GYLA, at home, insulting and threatening her, saying in particular that he would "catch [her] wherever".

GYLA asked the authorities to carry out an investigation into these threats they failed to respond.<sup>35</sup>

On June 7, 2006, offices of the Public Movement "Multinational Georgia" (PMMG), an NGO that notably aims at promoting national minorities' rights and developing their integration into Georgian society, was broken into and robbed by unknown assailants who stole computer hard disks, which contained sensitive information. In particular, the draft of an alternative report on the implementation of the Convention for the Protection of National Minorities, to be addressed to the United Nations and the Council of Europe, was stolen, as well as documentation and analytical materials describing the situation of minorities in Georgia, which also included analysis of authorities' policy on this item. However, all valuable equipments were left in the office.

During the two previous weeks, several PMMG's employees and partner organisations had been contacted several times by State representatives, who were trying to obtain this alternative report. The organisations refused but the representatives answered that they would "get it anyway".

**On 31 March 2006, Mr Azer Samedov**, chairman of the Caucasus Centre for Protection of Conscience and Religious Persuasion Freedom (CCPCRPF), an Azerbaijani who had emigrated to Georgia following disturbances triggered by the results of the presidential election in October 2003, which he had been observing, was arrested in Tbilisi by officers of the anti-terrorist section of the Ministry of the Interior, at the request of the Azerbaijani authorities. He was accused of "participating in collective disturbances" (article 220 of the criminal code) and "resisting the representatives of authority" (article 315), in relation to these events. On 2 April 2006, the Court of Tbilisi upheld the detention of Mr Samedov at the town's no.5 prison until completion of the proceedings initiated to extradite him back to Azerbaijan. On 14 April 2006, Mr Azer Samedov was released on bail, but the charges against him are still pending.

## **Right to Assembly and Demonstration**

In our previous reports we had filled lots of cases of the dispersals of peaceful demonstration, and mostly by force. In 2006 Georgia does not really succeed in defending the first and basic classical rights within the democratic society. In this report HRIDC has compiled plenty of facts of violating the rights to demonstration of Georgian people.

**On September 27, 2006, Mr. Irakli Kakabadze, Mr. Jaba Jishkarinani, Mr. David Dalakishvili and Mr. Levan Gogichaishvili**, all members of the NGO Egalitarian Institute were arrested by patrol policemen in the Drug Centre Building in Tbilisi. They were demonstrating against the recurrent detention of some Institute members, as well as the lack of independence of the judiciary, in particular the Court of Appeals.

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<sup>34</sup> Human Right Watch: Georgia – events of 2006 <http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>

<sup>35</sup> FIDH Note – situation of Human rights in Georgia, October, 2006

They also called for an impartial investigation into the murder of Mr. Sandro Gorgvliani, a young banker whose death is allegedly linked to high-ranking officials in the Ministry of the Interior. Mr. Kakabadze was originally detained for verbally protesting against the government, whereas the others were arrested for writing anti-violence slogans on the asphalt. They were held in pre-trial detention until the Administrative Chamber of the Tbilisi City Court released them after paying a fine of 15 laris each (about 7 euros).

Previously, **on June 29, 2006, Irakli Kakabadze, Jaba Jishkariani and Davit Dalakishvili** had already been arrested along with Zurab Rtveliashvili, Lasha Chkhartishvili, other members of the Egalitarian Institute, as they were demonstrating outside the Court, calling for the release of two co-founders and shareholders of the independent television channel *TV 202*, respectively sentenced to four and three years in prison for “extortion”, on March 29, 2006, on the basis of fabricated charges. The five defenders were immediately sentenced without any Court hearing, to 30 days of administrative detention by the Court of Appeals for “disorderly conduct and interference in court proceedings”, and taken to the pre-trial detention centre of the Ministry of the Interior. They were all released on July 29, 2006.

**On June 20, 2006**, the police dissolved a demonstration organized by the Professors of Tbilisi State University, who were gathering to protest against the competition announced in the university to hire new teachers and to demand the resignation of the rector Mr. Gia Khubua. Several professors were injured as police manhandled them out of the building.

Eka Khoperia, an anchor of a popular political talk show on the Rustavi-2 television channel, announced during a live program on July 6 concerning the Girgvliani murder that she was resigning to protest government authorities’ requests to alter that program’s format.

**On July 29**, police arrested former Security Minister and current leader of the Forward Georgia opposition movement Irakli Batiashvili on charges of failing to report a crime and assisting a coup attempt by providing “intellectual support” to Emzar Kvitsiani, the leader of an illegal militia. While it remains unclear whether Batiashvili committed a crime, the evidence against him includes public statements he made on television, some or all of which may be legitimate and protected speech.

#### **Lasha Chkhartishvili Is About to Spend Two Days in Preliminary Detention Isolator**

**Tbilisi. 10.08.06. Media News.** Tbilisi City Court Administrative Board has sentenced Lasha Chkhartishvili, member of ‘Egalitarian Institute’ to two days imprisonment for tenuous hooliganism. The proceeding was fixed on 9 August at 3.00p.m. and lasted till 6.00 a.m.

Lasha Chkhartishvili was accused of arranging a riot in the yard of the City Court when trial was held on Amiran Robakidze’s murder.

As detainee’s lawyer, Gela Nikolaishvili says the judge has implemented the government’s order and passed illegal verdict.

#### **Protest Opposing ‘Death Brigade’ Violently Dispersed**

**Protests against the so-called ‘Death Brigades’ within the Ministry of Internal Affairs have restarted in front of the Parliament building. NGOs, the mothers of those killed, the parliamentary as well as the non-parliamentary opposition, the victims and citizens concerned with the illegal acts of law enforcers, demanded that the Ministry of Internal Affairs be cleaned of the ‘Death Brigades’.**

The main and ongoing demand, that has been made for several months but without any results so far, is to punish the murderers of Sandro Girgvliani. The names of officials within the Ministry of Internal Affairs such as Aleksandre Melnikov, Data Akhalaia, the former head of the press service of the Ministry Guram Donadze, the spouse of the Minister of the Internal Affairs Tako Salakaia are the names that stand out in that murky criminal case. The Girgvliani family demands those people be publicly questioned and held responsible.

The parents of Amiran (Buta) Robakidze (who was killed by the patrol police on November 23rd) have also joined the protestors. They demand an objective investigation of their case. NGOs and the relatives of those killed have set up a hunger strike in front of the parliament. They also brought two gravestones with the names Sandro and Buta upon them and put them in front of the Parliament. “They must tell us why they kill our children. This government tortured and killed my son. Akhalaia, Sanodze, Melnikov, Donadze and the wife of Merabashvili Tako Salakaia ordered the murder. They are the murders and must be punished”, stated Irina Enukidze.

The first confrontation between the protestors and police officers took place at about 5 p.m., when the patrol police demanded they clear the central motorway. The protestors did not follow the order. Then the patrol police used force to clear the motorway. In response, the protestors lay on the lines separating the lanes on Rustaveli Avenue, calling to drivers to express their support by honking their car horns to give a ‘Sign of Life’ - which they did.

The protestors remained there until midnight when they became the victims of severe violence. Persons both in uniforms and in plain clothes dispersed the protestors by force. Lasha Chkhartishvili, one of the organizers of the protest stated: “The aim of our protest is to make the investigations into the murders transparent. Late at night, the police attacked us and took us away by force. Several people were beaten, among them were: the aunt of Sandro Girgvliani, Maia Enukidze, the mother of Sandro’s friend and me. The police were violent. One of the police even attempted to use a gun. Every protestor was physically assaulted. Misha Kachkachishvili and Lasha Amirejibi were detained. So was Irakli Kakabadze, but was freed later. The detained were taken to court at about 5 a.m., where they were charged 7.50 laris for petty hooliganism and then freed”.

The protestors believed that the disruption of the protest was barbaric and intended to carry on protesting until the Ministry of the Internal Affairs was cleaned of killers. The protestors agreed to arrange permanent protests. “The government carries out barbaric acts yet cannot stand the peaceful protests that we arrange. We will have another protest before the 26th of May but I will not mention the exact place or time, because there is a danger that the police will be mobilized against us”, says Chkhartishvili.

The parliamentary opposition does not plan to give up either. David Gamkrelidze states that he managed to snatch some of the protestors from the hands of the police officers.” At about 12 a.m. the police who were using force against them surrounded the protestors. What the participants demand is something that is legal – all they want is a fair

investigation and the punishment of the guilty persons. They should not have been physically assaulted for their demands. I snatched some of the protestors from the hands of the police”, states Gamkrelidze.

According to him, the protest had some effect. The Ministry of Internal Affairs has lost the trust of the population. At this stage, the protestors are satisfied even with this minor achievement.

### **Protesters demand Electricity**

*On the 20th August a demonstration was held on the only motor-way linking Abkhazia to the village of Rukhi in the Zugdidi region. Villagers expressed their anger for the lack of electricity. As one of the participants said though there is a danger of epidemic outbreaks when it is too hot, as they have neither water nor electricity; despite the population having paid their bills for electricity used. They say that the money they gathered was handed to Beso Todua, a councilor of the village. The Power Distribution Company cut their electricity last week for failure to pay electricity bills. The population suspects that the money has not reached its destination.*

There is one other problem between the population and the Power Company. In 2005, nearly 900 transformers were communal - installed individual meters make up just 10%. The population used the old meters, according to which they paid their bills. The amount shown on the meters was quite different from those shown on individual meters. Thus they have to pay much more than their meters show.

A similar situation exists in other villages too: Ingiri, Oireme, Kakhati, Darcheli. The participants in the protest blocked the central motorway for several minutes, delaying the movement of UN and Russian Peacekeepers’ vehicles. Zugdidi Main Police Department officials of the Interior Ministry arrived at the scene of the incident and dispersed the participants. On the 21st August, law enforcers detained two participants: Enver Pertaia and Merab Djikia. They are charged with social disorder and sentenced to 10-15 days detention. However, according to present legislation, the court can give bail to the accused and an administrative penalty.

The people living on Sakhokia and Cotne Dadiani streets in Khobi were forced out in the street as a result of having no electricity. On the 20th August, nearly 30 people blocked the bridge over the river Khobi on the Zugdidi-Tbilisi central motorway in protest. The participants say that they have not been distributed electricity since 24th July. Consequently they have problems with the water, making the situation extremely tense regarding the threat of an epidemic in the area.



As we found out Kakha Megrelishvili, head of Khobi Power Distribution Company, made the inhabitants sign an agreement about covering old debts amounting to 4,300GEL within eight months. Despite the fact that the population agreed to this deal, Megrelishvili is now making new demands – that refugees must now pay up their debts as well.

Every month, 8 laris are apportioned for each Abkhazian IDP from the budget in summer, and ten laris in winter. It is strange that the refugees must service their debts, whilst each family pays at least 40 GEL a month on average - more than the normal amount of money they must pay.

### **Police Disperse Professors Yet Again**

*Professors of Tbilisi State University do not plan to give up their struggle and demand the resignation of the Head of the University, Gia Khubua. With this demand they have been gathered in the University for over three days now. The Patrol Police, who came to the scene yesterday dispersed the protest and forced the professors to leave the University building twice. Despite this, the professors continue protesting in front of the University. Police now guarding the University.*

The reason for the protest is a competition that has been announced by the university called 'About Higher Education', which does not coincide with the law. Professors have sent a letter to the President, demanding Khubua's resignation. They also demand that the General Prosecutor launch a case against him. This second decision was made after the police dispersed the protesters.

Before the police came, the professors insisted on meeting with Khubua. The meeting took place, however the two sides did not agree. "There is no use in talking with Khubua", said Jemal Mebonia, the professor who was participating in the dialogue.

"It is impossible to talk with him. We agreed to have discussions only after the competition was stopped. However, he is not going to cancel the competition. The only way out is his resignation. After the way they dispersed the professors, we don't think that we can do anything with dialogue. What should we talk about? They have to leave as soon as possible. I do not want to talk to a person, who breaks up a protest of professors with police."

The professors are sure that the President will support them; if not, they plan to hold massive protests and ask the various institutions and society to assist them. Khubua is not going to resign and plans to implement his reforms. "I am ready for dialogue, however the only topic, which cannot be discussed is the competition. I think they are afraid of not passing the exams. I called the police, because the professors

were abusing the law. I refuse to resign!" says Khubua.

Meanwhile, the professors talk about violations of the law and illegal competitions. According to them, staff should have been moved to new positions first, then councils should have been elected and only after that should they be able to announce competitions. The Head of the University started his reforms with what should have been the very last step.

Today is the fourth day of the protest in the University. Several professors were injured during the dispersal of the protest. The Head of the University calls on them to stop the protest and participate in the competition. "The deadline for submission of the documents is the 23rd of June. The University will invite professors on contracts as well. The number of contractors will be defined by the curriculum. The fact that the University will choose eight hundred professors does not mean that the University will only have 800 staff" says Khubua.

### **Gurjaani Ministry of Interior Officials Raid Demonstration**

*Today, a protest in front of the Gurjaani Service Centre of the J/S "Kakheti Power Distribution Company", was broken up by local policemen. Malkhaz Ghubejashvili, the deputy head of the Gurjaani Police Station pushed Soso Zardiashvili, one of the demonstrators down the stairs, after which Zardiashvili was accused of breaking the law. Customer Mevlud Gogiashvili, who came to the demonstration quite by chance, was also arrested for "slight hooliganism". During the scuffle, a correspondent from a regional newspaper was injured as well.*

For last few weeks, inhabitants of the village of Gurjaani have been trying in vain to obtain answers to certain questions from Khatuna Chumburidze, the manager of the service centre. This resulted in nearly a hundred people gathering in front of the Power Distribution office building to try to finally get answers to their questions.

"The government has distributed vouchers to families below the poverty level, according to which, if we spend 8 GEL we only have to pay 3 GEL, as the other 5 GEL is covered by the government. Despite this, representatives of the Power Distribution Company selfishly exaggerate the readings on our personal meters, so we have to pay two to three times more money. For example, one retired person, living at home alone, was charged for an extra one thousand kilowatts of electricity. It is incredible, for such a lonely person to use so much electricity. We have a lot of similar cases. Despite this, the manager of the service centre refuses to answer us and every attempt we make to find out the truth is responded to by them cutting off the electricity and throwing us into



darkness for weeks," declares Eldar Zardiashvili, a participant in the demonstration.

The situation became tenser after demonstrators told a journalist about the illicit work at the service centre and blamed the manager, Khatuna Chumburidze, of corruption.

"The population completely paid last years' electricity fees, but at that time, although the collector gave us receipts, the Power Distribution Company does not regard it as a paid, as the money has not hit the company's account and they make us pay it once more. If we don't pay and resist, our electricity is cut off. We have applied to the regional administration as well several times, but the governor and his deputy told us that Chumburidze did not obey them and they could not help us," says Bondo Kachlishvili, an inhabitant of the village of Gurjaani.

According to demonstrators, her brother, Davit Chumburidze, protected Khatuna Chumburidze from the furious people. Her brother not only orally and physically assaulted Maia Mamulashvili, a journalist of the Kakheti regional newspaper "Kakhetis Khma" (voice of Kakheti), but also broke her camera.

"Nearly ten policemen rushed to the demonstration unexpectedly. They ran up the stairs, pushed us and disbanded us. Malkhaz Ghubejashvili, the deputy

head of police office pushed me the most violently; I fell down the stairs and was injured. Neither the others nor I assaulted anyone. We just demanded well-founded explanations from Khatuna Chumburidze regarding why she made us pay what we do not owe and why she laughed at us. But the policemen drew up a report regarding legal violations by Mevlud Gogiashvili, and I who was not a demonstrator at all. Having paid his electricity fee at the cashier's, he left the building and joined us. Finally both of us were detained," Soso Zardiashvili told us.

Gurjaani Interior Ministry officials will not confirm the name of the person who called the police. Malkhaz Ghubejashvili, the deputy head of the department denies the raid on the demonstrators and also does not confirm that Soso Zardiashvili's was pushed down the stairs. Nor do the "Kakheti Power Distribution Company" and Gurjaani Service Centre comment on the case.

Shalva Mchedlishvili, a judge of the Gurjaani regional court, convicted the detainees for "slight hooliganism", fined them 15 GEL and released them from the hall.

The population demands a detailed explanation of the situation and the distribution of electricity to them; otherwise they threaten to block the main highway between Tbilisi and Telavi.

## **Militarization**

HRIDC is concerned with the new changes in Georgian law according to which the reserve service has become obligatory for every man in Georgia. Thus, everyone who has already served in the army will have to do the same once more. The draft law was voted by the Georgian parliament through at the first hearing. Subsequently, those who avoid service will be charged under the criminal law.

Under Georgian law on "Reserve Service", the reserve of the military forces is being created in the case of mobilization, war or national security to support the armed forces. Under Article 3 of the draft law, the length of the reserve service will be included one's record of service. Besides that, one's job and salary is saved.

The article 4 of the draft law deals with the age of reservists. The age of the active reservists is from 27 up to 50. In this part a person will be recruited once in two years and his service will last for forty days. The age of the reservists in the Guard is from 35 to 50 and they will be recruited once in two years and their service will last for three weeks. The age of individual reservists is from 27 to 45 and they will be recruited once in two years, and their service will last for two weeks. In emergency situations, even sixty-year-old men may be called upon.

Under the draft law, anyone who avoids the reserve service will be either fined or sentenced to 180-220 hour labour. In graver situations, the law offender would be imprisoned for one year. Deserters will also be sanctioned and face imprisonment from three to seven years. If a person

avoids reserve service, he has to pay 1 000 GEL. If he does not pay this amount within the fixed time, he will be imprisoned for fifteen days.

HRIDC would like to mention one case regarding the Chechen refugee. On September 9, 2006, at approximately 6 a.m., officers from the Duisi Patrol Police took Chechen refugee, Vakhid Borchashvili, to a regional military commissariat for compulsory military service. According to Georgia's Law on the Rights of Foreigners, a foreigner is not required to serve in the Georgian military forces. Although Borchashvili attempted to show the Duisi Police his refugee card, they ignored this crucial piece of information, and carted him off in the pre-dawn hours to barracks where he was not allowed access to an attorney for almost a month. Only after Borchashvili's father sought the help of HRIDC and HRIDC held a press conference to advocate for the release of Borchashvili did the Georgian government relinquish. The Centre and the elder Borchashvili appealed to General Prosecutor and General Inspection of the Defense Ministry pleading the case in detail and enclosing supporting documents. The appeal resulted in a preliminary investigation and the release of the detained Borchashvili. At the very least, the Georgian government should have afforded Borchashvili the right to contact a private attorney upon taking him into custody. In addition, the commissariat should have given Borchashvili reasonable notice.

Although all governments of the world have difficulty controlling their law enforcement from time to time, HRIDC is concerned that the Georgian government is showing indifference to a pattern of abuse that is emerging in regard to how its law enforcement treats refugees from Chechnya. Under the Convention against Torture, even "acquiescence" is sufficient to tie a government to acts of "cruel, inhuman, or degrading" treatment by its agents. HRIDC demands the Georgian government to take a harder stance against mistreatment of refugees by its agents.

#### **Army Reservists Beaten By Minister at Orpholo Military Base**

*Reservists from the #17 Adjara Army Reserves Unit, stationed at the Akhaltsikhe Orpholo military base stated that the Georgian Defense Minister whipped them on 14th July. This happened the day before the reservists were due to leave the base. On top of physically assaulting the troops, Irakli Okruashvili declared that the unit was to be dismissed.*

One of the reservists spoke anonymously about the incident at the Orpholo military base, as – "I do not want to put myself in danger or lose my head... So please don't name me. The Defense Minister personally hit some of us and his representatives beat many others. They did not let us say anything; they opened fire at our feet to keep us from moving. The Minister's representative grabbed me by the hand...this bruise is likely to last for a long time. He swung a gun butt at me, but I avoided it and it hit me on my chest. I still have the mark from it."

Everything began as follows: "Just a day before leaving, some reservists had a quarrel with some locals. Okruashvili arrived at the scene of the incident by helicopter with twenty members of his Special Forces unit. They noticed some drunken soldiers there, who declared that they were from an Adjara

Reservists Unit. At the same time one of our reservists came and informed us that, "several of our boys had been killed, lying on the riverbank" (this later turned out to be a false alarm). On hearing this nearly 200 reservists hurried there."

Okruashvili landed on the river by plane to find out the situation. Although he did not find any of the reservists who went to raid the village, he did come across one drunken reservist, named Komakhidze. According to eyewitnesses, "the Minister made a remark to him. Komakhidze might have not recognized the Minister and that's why he did not take well to this remark. Komakhidze hit the Minister. In response to this behavior he was beaten so badly that...nowadays his health is in the poorest condition, he was taken to hospital in Tbilisi".

Irakli Okruashvili went from the river to reservist's camp. He ordered them to stand in a line. One of the reservists joined the formation a bit late. He asked permission to join the formation from the Minister. Okruashvili rebuked him for being late and even took him by collar. "The reservist avoided the blow from his [the Minister's] hand by hitting him and he even kicked him. He then managed to escape and joined our formation. The insulted Minister followed him cursing. The scuffle was calmed down by a warning shot from the Special Forces members," recalls the respondent.

Soon Adjaran MP and head of Unit 17, Kakha Surguladze, joined the formation: “Surguladze introduced himself and reported to the Minister. First Okruashvili rebuked him and added some unquotable words too. Kakha Surguladze did not forgive him for this and threatened him saying - “You will be punished for that”. After that the Minister slapped him. Special Forces members supported him and they beat the head of the reservists with gun butts and kicked him. The unarmed reservists were threatened that they would be shot if we attempted to help him. Minister Okruashvili cursed us in the most unquotable terms.

After that he ordered the unit to be dismissed within half an hour. Then he made us leave the HQ - we were made take off our uniforms, and those who had civilian clothes, left the unit dressed in them. Some of us borrowed clothes from others. Many left the place in slippers and shorts. We walked 15 kilometers from the base and the Minister’s representatives followed us. We were categorically forbidden to stop near the central highway. They pushed us to a place some distance from the road. There were half-dry haystacks, we got through them and spent a night there.”

The anonymous reservist has no hope of finding the truth: “On the day before we left, we handed back our guns and some of us drank too. Drunken soldiers went to the nearest village and started a riot. The whole village expressed their anger at this. Actually, they even used a knife there, but the man who did it was a contractor although he said he was a reservist. I am very sorry that we had only one day left and that we had to leave in this way. It is really crime that they drank and caused a riot in the village, but the guilty people must be found. Must all of us be punished with the same whip? I look terrible, after having been treated like that.’

These facts were categorically denied in Kedi Regional HQ. The Chief of the HQ, Zebur Ananidze declares: “Nothing happened there. The reservists were neither assaulted orally nor physically. We arrived there on the previous day and then we left together. That is fraudulent information.”

Davit Gatenadze, a Councilor from the Kedi district states the opposite: “We received information about some incident happening there and arrived there at midnight. When we reached the place, the situation had been calmed down by the Minister and the Armed Forces.”

The Councilor states that the Minister “is a human being too, and seeing the uniformed people’s behavior, he could not help himself”.

Kakha Surguladze does not deny the incident but does not want to speak with journalists. “I will speak

about the incident with men; I don’t want to deal with the press. I am healthy and I am at work.”

The incident is denied by Vakhtang Chelidze, Chief of the Adjaran HQ. “Whoever invented and sung this story - interview him”, he declared on the phone.

Reservists from Unit 23 got 100GEL and allowances for electricity. As for Unit 17, dismissed after the incident, they have not received this sum yet.

### **Kakhetian Youth Forced to Join Army Reserves**

#### **40% of Young Soldiers in Gurjaani Infected with Hepatitis B.**

*Not too long ago, young people were enticed to fill the reservist camps in Kakheti with the promise of 5 kilos of rice and macaroni, 100 GEL and further employment. Today people are forced to join the army or face violence and police threats.*

Despite notable improvements in the financial conditions of military personal, many people do not want to join the army. The reasons they give include the recent disregard for human rights and the increasing number of murders in the Georgian army.

The Parliament may also introduce proposed changes and additions to the law regarding “payment for the deferment of military service”, prepared by the Committee of Defense and Security. These changes envisage increasing the amount of payment required to defer military service ten fold. Youth of military age will be forced to join the army, as they would then have to pay 2,000 GEL, instead of the current 200 GEL, to postpone military service for 18 months – a sum beyond the means of most of the population.

“The youth of military age try to avoid military service. That is why, according to the President’s orders, Spring call up for military service, which started on 10th January 2006 and was due to end on the 15th March, was extended twice, the second time until the 15th July.

During the spring call up, 126 young people of military age must be called up in Gurjaani. We would not have had any problems if we didn’t have to turn down 40% of the young people for having Hepatitis B - that was completely unexpected. That is why we have to make the youth of military age appear before the commissariat with police help, which is no violation of the law”, declares Zurab Ananeishvili, the Head of the Military Department of the Gurjaani Administrative Board.

Calling up the youth as reservists using police threats and force, it is something categorically denied by Vano Elizbarashvili, a representative of the Gurjaani Administrative Board. According to him, the local

government distributes neither macaroni nor money from the budget. “Only patriots join the reservist army. We go to the villages as well, accompanied by the heads of the village military offices and ask people to join the reservist army. We explain that they should love their country. Those who love their country, accept our proposal. .... How we could we dare threaten people or use force?” stated Vano Elizbarashvili surprised.

One person who spoke to us did not deny that he had been forced to join the army reserves. “A few days ago, at midnight, representatives of Administrative Board and Commissariat came to my house and demanded that I join the reserves despite my wishes. I told them that I had under age children. Besides, I am the only bread winner in my family and could not join the reserves. Because of this, the representative of the Administrative Board became furious and called me a traitor to my country. They became violent, saying they would make me go if I did not obey them, but the noise made the neighbors come outside. In addition to this they threatened me, saying that if I did not appear at the Commissariat on the set day, I would have problems with the police, I would be arrested and so on,” says the person, who does not want to be named publicly.

The information about the forcing of citizens to join the army is confirmed by the Kakheti office of the NGO the Human’s Rights Information and Documentation Centre. “Several people, whose identities we know, applied to us orally. They pointed out that they were made to join the army reserves as a result of various threats, for example, the creation of problems with the police, ceasing aid to their families and so on – things that are completely inadmissible. A certain person, working at a government office, was threatened that he would be blamed with irresponsibility at work and would be sacked if his brothers did not join the army. According to the law currently in force, joining the army reserves is voluntary and not obligatory,” declares solicitor Lia Khuroshvili.

According to information obtained by The Human’s Rights Centre, the same situation is observed in other Kakhetian districts.

### **Soldier Is Not Granted Pension**

***22-year-old Zviad Jakheli was injured during military service. He served as a corporal in Senaki’s Second Infantry. Zviad Jakheli was dismissed of military service after a violent military related car accident. He is not aided by any kind allowances and does not receive military pension either.***

Zviad Jakheli was got into a car-crash on Tbilisi-Gori highway on the 3rd June. He was transporting Captain Murad Sabiashvili. Zviad jakheli remembers

only the following from the day. “The captain and I were returning from Tbilisi. We had taken a military servant there. We were too tired and had not slept for three days. I remember nothing after the captain set at the steering wheel.”

The injured were initially aided in Gori hospital, and then they were taken to military hospital. Zviadi’s mother, Madona Jakheli says: «We found out that my son was not driving the car at the hospital, but they warned us not to speak up, otherwise he might be arrested for letting the captain to drive the car.”

The notification, issued to Jakheli proves that the Corporal Jakheli was injured by some military trauma. However, it is enough neither for receiving military pension nor other allowances. “My son can not work physically any more, I have the only son and he has become disabled. Let them apportion at least military pension to him to spend on his treatment.”

Zviad Jakheli’s mother says that the lawyer of the infantry and the captain demanded her to be silent. “Don’t speak up to anyone, we will arrange everything ourselves. They used to tell me this in the hospital.” She speaks about some other deals too. “The captain told me, when the case would be closed in Gori it will be transferred to Military Police and we will help you in everything. Before that he offered me to share the expenses in car-repairing. My son was not driving the car and why I was to share the expenses?” Madona Jakheli now says that the lawyer of the Infantry has forbidden her to call him.

Bakur Bolkvadze, lawyer of Zviad Jakheli from ‘Human Rights Information and Documentation Centre’ states that “It is doubtless that military car with Corporal Zviad Jakheli and Captain Murad Sabiashvili in it, left the unit territory to carry out official order. If Captain Murad Sabiashvili was on a business leave, (as it is shown in the notification issued by the unit) and according to this notification the Central Military Hospital issued the certificate where it is noted that ‘he received the trauma while carrying out military order’. We wonder why the similar notification was not issued to Corporal Jakheli. On the 13th August we applied to the administration of the military unit; however there is no reply yet”

Besides military pension Zviad Jakheli must receive a single aid. However he was refused to be aided. “According to the Georgian President’s declaration, Article 53, on the social insurance and material welfare of the officials within Georgian Ministry of Justice and citizens, the military servant should receive a single financial aid if he is injured during carrying out his military obligations. The allowance should equal the total amount of his salary for five-year period.”-said Bakur Bolkvadze, the lawyer of Jakheli.

Mamia Arjevanidze, the lawyer of the Senaki Military Infantry II within Georgian Defense Ministry stated about Jakheli's case in our conversation on phone the following: "The application is replied. They have not been aided yet because they had a one-month period under law."

Mamia Arjevanidze got angry when we asked why he had forbidden Madona Jakheli to call him and then he invited us to the unit to talk personally: "If you want to discuss the case come to the unit. What I can do when you call from Adjara. I don't want to speak to you any more" and disconnected the line.

Shida Kartli and Samtskhe-Javakheti main department has still investigated the car-crash. "The case has not been dropped yet, but we will send it to Regional Prosecutor's Office and the investigation will be continued there. Zviadi was officially to drive the car, but the car turned round for several times. Both of them were dropped out of the car. Thus I can not say who was driving,"-said investigator Gocha Oktopiridze on the phone.

As for the fact why Zviad Jakheli was not questioned, the investigator answered: "Jakheli was ill and because of that he was not questioned."

#### **Soldier Is Sued for Leaving Military Unit**

*Military police department of the Defense Ministry of Georgia has filed a lawsuit against 25 year-old soldier Roland Kartvelishvili. According to the third item of article 388 of the Georgian criminal code, he will either be sentenced to 3 years imprisonment or 2 years hard labour.*

Kartvelishvili urges that he was treated inhuman and degrading and that he did not leave the Unit by his own wish. He asks for help to prove the truth. He applied to HRIDC submitting all the documents proving his innocence.

Roland Kartvelishvili lives in Rustavi (city near Tbilisi). He served in military service from 1999 to

2006 and passed lots of military trainings, among them is "training and equipment" programme as well as Georgia-USA-UK joint peace operation trainings "Rukhi Mgili". He participated in Iraq peace operations from September 10, 2005 to April 2006. Having come back to Georgia he continued service in Vaziani military base.

Because of family problems, Kartvelishvili had to ask his deputy head to release him for couple of days. On May 26, he was given three-day holiday (May 26 - 29), although he was unable to come back to the Unit on time. He explains it with worsening his mother's health situation:

"My brother was leaving for Russia. My old grandmother and mentally disable mother were left alone. So, I decided to continue my job near the place I live and wrote a letter to the head of the military Unit asking for moving me to another Unit. I was refused. Because of the family problems I arrived on the place of dislocation on July 1. Though I explained the reason of the delay, I was put in a stockade for 25 days. After that I participated in the trainings in Orfelo "Kavkasioni 2006". After that I applied to Giorgi Meshveliani, the head of the battalion to release me from military service because of the family problems. He asked me to tell the family problems. When he listened to me he said that he was not going to satisfy my appeal and advised me to wait for my holiday. As problems in my family were quite severe, I had to leave the military Unit."

Criminal Case was launched on the mentioned fact. Kartvelishvili has all the documents describing the situation of his family (the document proving that his mother is mentally disable, that his grandmother is physically disable and that do not have any body to earn them). These documents appeared to be less important as he was fired from the military forces without letting him attend the meeting of mandate committee.

Although he hired an attorney to defend his rights, he does not hope for justice and is looking forward to international assistance.

## **Political Prisoners**

In the context of increasing political tensions, the central authorities use all possible methods to neutralize the opponents. Georgian police arrested 29 supporters and alleged associates of fugitive former National Security Minister Igor Giorgadze during raids in Tbilisi and other Georgian cities on September 6.

The Georgian political activists arrested on suspicion of colluding with Giorgadze include Maia Nikolaishvili, who heads the so-called Anti-Soros movement; Maia Topuria, who heads the

youth organization of the Samartlianoba (Justice) party that Giorgadze founded in early 2004; and Temur Zhorzholiani, chairman of the Conservative-Monarchist Party, who is said to have attended a meeting with Samartlianoba activists in May 2006 at which the alleged coup plans were discussed. Other members of Zhorzholiani's party have denied that allegation.

Initial reports on September 6 of the arrest of veteran opposition activist Irina Sarishvili-Chanturia, who began her political career in the late 1980s and currently heads a charitable organization that bears Giorgadze's name, proved false. Sarishvili-Chanturia told journalists later on September 6 that allegations of a coup in the making were unfounded.

Irakli Batiashvili, the member of the political party “Samartlianoba” (the Justice), was detained on July 27. Prosecutors say Batiashvili “gave recommendations and instructions” to Emzar Kvitsiani to plot a coup against the Georgian government.

Batiashvili's attorney said that the charges are groundless, as a tapped phone conversation between Batiashvili and Kvitsiani, which was put forth by prosecutors as evidence, fails to prove Batiashvili's links to the alleged plot. The attorney also noted that it has still not been confirmed whether or not Kvitsiani was even plotting a coup.

“I will definitely propose that the Parliamentary Committee for Legal Affairs develop a legislature similar to the one which is in the United States, I mean the Patriotic Act... which will be directed against treacherous statements against the motherland. I mean the statements similar to those made by Shalva Natelashvili [leader of the opposition Labor Party], who called on the government forces to surrender to traitor [rebel warlord Emzar] Kvitsiani's gangs,” MP Gvaramia said.

The authorities have criticized most of the opposition parties for “a failure to show their support towards the state in a difficult time” when rebel warlord Emzar Kvitsiani announced his defiance towards the central authorities. The Interior Ministry released a recording of a phone conversation between Emzar Kvitsiani and Irakli Batiashvili on July 26. In the taped conversation, Kvitsiani tells Batiashvili that Abkhazia Deputy Defense Minister Gari Kupalba offered the help of Abkhaz fighters to repel Georgian government troops. Later, Batiashvili told Rustavi 2 that the taped conversation was edited and missing the portion where Kvitsiani declines Kupalba's offer. In the tapped conversation Batiashvili encouraged Kvitsiani and told him: “stand firm.”

The Tbilisi City Court sentenced Irakli Batiashvili, to a two-month detention on July 30, 2006 after he was charged with having links to a coup attempt staged by rebel warlord Emzar Kvitsiani.

Nora Kvitsiani (sister of Emzar Kvitsiani), who was arrested on July 29, has been charged with participation in an illegal armed formation and with illegal purchase and possession of weapons. She has denied accusations. Emzar Kvitsiani and his nephew Bacho Arglviani (son of Nora Kvitsiani) are now wanted by the Georgian law enforcers.

On 31st of January 2006, Kakheti County Prosecutors arrested Luka Ramazashvili, on charges of stealing 13 construction tiles and robbery. The Prosecutor added other accusations after the owner of construction tiles appeared. Gela Niniashvili, who lives in Akhmeta, declared that the property had belonged to him and that nobody had robbed him. For his conflicting testimony, Niniashvili was jailed in a preliminary detention isolator.

According to AleksI Shoshikelashvili, Ramazashvili's attorney, his accusers then remembered that Azeri people could be forced more easily to give testimonies in their favor. This is why there are many testimonies given by Azeris in the criminal case launched against Ramazashvili. The so-called ‘victims’ however categorically deny that Ramazashvili or his representatives threatened or intimidated them during the court proceedings.

## Children

It seems that no one remembers the results of the survey conducted by the UN Development Program and International Labour Organization (ILO) between 1997 and 2000. There is very little information about the child labour in Georgia.

In addition to forced labour, the survey dealt with the sexual exploitation of children. Although, there is a law banning the sexual exploitation of the children, it has not done enough to solve the problem. The survey said, Tbilisi police, particularly the police precinct that is in charge of the railway station district, do not take sufficient measures to stop the sexual exploitation of juveniles. Tbilisi central railway station is a place where anyone can purchase sexual favours from young males and females.

According to the UNICEF office in Georgia, More than 50% of the Georgian population lives below the poverty level, of which 16% live in extreme poverty. It is only natural that the rights of the child are not paid close attention to in such a poor country.

Representatives of the Ministry of Education and Science as well as of the Ministry of Health told HRIDC that their ministries have not carried out research on the problem.

Although the survey on the rights of children has not been carried out in Georgia, the larger number of children begging in the streets presents a stark picture of their rights being violated. Some beg because of they are starving, while others are more organized and are doing so to support the family business.

HRIDC is concerned with proposed changes to **decrease of the age of criminal responsibility from 14 to 12**. The Georgian Parliament discussed the amendments to Art. 33 of the Georgian Criminal Code. According to those amendments the age of the criminal responsibility will drop from 14 to the age of 12. International experts are against this amendment and call upon the Georgian Government not to lower age limit, and consider Georgian Legislation severe and inflexible for children and that it easily criminalizes children.<sup>36</sup>

Experts believe that the Georgian penitentiary system is not equipped or have the institutional capacity to accommodate 12-14 year-old children. Policemen, lawyers, prosecutors, investigators and prison personnel are not specially trained in Georgia. However, the UN convention on the Rights of the Child specifically requires such professionalism.

In addition, the situation is terrible in Avchala juvenile colony. Compared to 2005, the number of juvenile delinquents increased almost six times. In 2005 there were 28 juveniles but in 2006 this number skyrocketed to 162. The latest data reveals that there are 158 juvenile delinquents in the colony.<sup>37</sup>

It should be mentioned that all of them are placed in one cell. A British expert who visited the colony mentioned that she was unable to confirm if the cell provided enough beds. She added

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<sup>36</sup> [http://www.humanrights.ge/eng\\_/articles.php?tbl=articles&id=498](http://www.humanrights.ge/eng_/articles.php?tbl=articles&id=498)

<sup>37</sup> The information received from the Avchala colony administration

that the children were probably taking turns sleeping. There is a facility that looks like a school that lacks chairs.<sup>38</sup>

Pre-trial detention is used very often in Georgia for juveniles who are under investigation for an offence. Children are forced to spend long periods of time in pre-trial detention, some of which remain there for more than a year. During their detention, the children receive no education and only come out of their cells for a maximum of two hours a day. They get virtually no exercise and no detention-based activities are available. The conditions are extremely poor and amount to a violation of the UN Convention on the Rights of the Child and the UN Minimum Standards and Norms. It is another problem that there is not separate isolator for juvenile offenders. The young are placed together with older and more powerful prisoners.

#### **Lawyers Protest Against Juvenile's Ten-Year Imprisonment**

*On June 30th a court sentenced 14-year-old George Zerekidze to ten years imprisonment. Zerekidze was imprisoned for stabbing a citizen named Bochorishvili with a knife. Human Rights organizations are protesting against the court's decision and speak about the investigation as being unfair.*

The incident took place in January 2006 after Zerekidze had a dispute with a magazine distributor. During his first testimony, Bochorishvili said that Zerekidze had tried to rob him and that was the reason for the fight. Later, Bochorishvili acknowledged that his first statement was a lie and that he had been forced by the head guard of a shop to make it. However, the Court did not take this into the consideration and sentenced Zerekidze to ten years in prison.

Human Rights NGOs and the Ombudsman's Office have protested against the decision. The Children's Centre of Tbilisi Municipality also reacted to the case. David Modebadze, Zerekidze's lawyer claims that several people gave false testimonies.

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<sup>38</sup> <http://www.humanrights.ge/eng/articles.php?tbl=articles&id=498>



