



Submission to the Universal Periodic Review of Georgia

Human Rights Watch

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Introduction

1. Georgia's human rights record has been uneven since its last Universal Periodic Review (UPR) in 2015. Many of the recommendations Georgia accepted during previous UPR cycles have yet to be implemented. Areas of concern include lax labor regulations resulting in labor practices that undermine workers' safety, lack of accountability for law enforcement abuses, and threats to media pluralism. Important developments in Georgia's human rights situation that were not addressed during previous UPR cycles should also be examined now, including unjustifiably harsh drug laws and the need for the government to continue to cooperate fully with the International Criminal Court (ICC).

Labor Rights

2. During its previous UPR in 2015, Georgia accepted a recommendation "to ensure adequate protection and promotion of economic rights of the labour force [...] through the establishment of an efficient labor inspection mechanism."¹

3. Years of deregulation have left Georgian workers without adequate protection, undermining their workplace safety. In an effort to attract foreign investment, Georgia in 2006 abolished its Labor Inspectorate and dramatically reduced worker protections in the labor code. One study found that since that time, deaths at work soared by 74 percent, most of them in mining and construction.² Since 2013, when a new government took power, Georgia has gradually introduced more labor protections, including re-establishing a labor inspectorate with a limited mandate in 2015. However much remains to be done to fully protect workers' rights.

4. In 2018, Georgia was shaken when 10 miners died in 2 accidents within months in Tkibuli, in western Georgia. Following calls from nongovernmental groups, in February 2019, parliament gave more powers to the Labor Inspectorate to address health and safety in the workplace. Even after these amendments, which went into effect in September 2019, the Inspectorate has a limited mandate. It cannot address the broader impact of long working hours, production pressures, and difficult working conditions, for example. These gaps in law and oversight facilitate practices that continue to put workers at risk and violate internationally recognized labor rights.

5. In its August 2019 report "'No Year without Deaths': A Decade of Deregulation Puts Georgian Miners at Risk",³ Human Rights Watch documented how weak labor protections and limited government oversight have allowed mining practices that undermine safety to flourish. For example, workers in some manganese mines work 12-hour shifts underground, including at night, for 15 straight days, resulting in exhaustion and increasing the likelihood of workplace accidents and injuries. In addition, they have faced penalties for failure to meet production quotas. In a rush to meet quotas or without sufficient rest, workers had suffered deep cuts, were buried under rocks as roofs collapsed, lost limbs, suffered concussions, or narrowly avoided serious accidents.

6. In 2019, the Georgian authorities drafted legislative amendments to address some of the gaps in the law regarding overtime, time off, and other issues, and to strengthen the labor inspectorate. However, the changes had not yet been introduced for parliamentary debate and appear stalled at this time.

7. *Georgia should:*

- Undertake comprehensive labor policy reform to ensure that labor laws are in line with international labor standards and Georgia's international human rights commitments, addressing in particular gaps with respect to working hours, weekly rest, night work, payment of overtime hours and work on public holidays.
- Establish a fully-fledged, independent and appropriately staffed, trained, and resourced Labor Inspectorate with a broad mandate to inspect all issues pertaining to workplace safety and working conditions. Explicitly enable the Labor Inspectorate to systematically verify any workplace hazard, including, but not limited to, hazards related to working hours, fatigue and adequate rest and

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Georgia, U.N. Doc. A/HRC/31/15 (January 13, 2016), para. 118.39.

² <http://library.fes.de/pdf-files/bueros/georgien/14675.pdf>.

³ <https://www.hrw.org/report/2019/08/22/no-year-without-deaths/decade-deregulation-puts-georgian-miners-risk>.

- production pressures
- Ratify ILO Convention 81 on Labor Inspectorate, ILO Convention 155 on Occupational Health and Safety and ILO Convention 176 on Safety and Health in mines.
- Ratify ILO Convention 14 on Weekly Rest and ILO Convention 1 on Hours of Work in Industry.

Accountability for Abuses Committed by Law Enforcement Officials

8. During its previous UPR in 2015, Georgia supported a number of recommendations to “ensure that all allegations of excessive use of force, including torture and ill-treatment, by police are effectively investigated and that those responsible are brought to justice and victims receive adequate reparation.”⁴

9. However, impunity for abuses carried out by law enforcement officials remains a persistent problem. In 2018, Georgian parliament adopted a law creating a State Inspector’s Office, a separate body in charge of investigating abuses by law enforcement. However, the law granted the prosecutor a supervisory role over this body’s investigations, including the right to give mandatory directives on any investigative procedure, or change investigative decisions, undermining the body’s independence. The Inspector’s Office became operational on November 1, 2019.

10. On the night of June 20, 2019, riot police fired rubber bullets and used tear gas against thousands of protesters outside the parliament building in Tbilisi. The protest was sparked by the presence of a delegation from the Russian Duma in the parliament’s plenary chamber, as part of the Inter-Parliamentary Assembly of Orthodoxy.

11. Some protesters repeatedly tried to break through the police cordon, grabbing and damaging some police riot gear. Otherwise the crowd was largely nonviolent. While riot police showed restraint initially, around midnight, without prior warning, they opened fire on the crowd with tear gas and rubber bullets, chasing and arresting people who tried to gather. Some 240 people, including 80 police officers and 32 journalists, sustained injuries and sought medical attention. Many civilians sustained rubber bullet injuries to the head, legs, and back; two people each lost an eye. Police arrested hundreds, and courts sentenced 121 protesters to up to 15 days in jail on misdemeanor violations.

12. Authorities pursued largely one-sided accountability. They launched a mass rioting investigation, charging at least 19 protesters. Opposition parliamentarian Nika Melia was released under house arrest. The prosecutor’s office designated 67 police officers and only four civilians as victims, depriving many of the injured protesters the opportunity to review investigation files. Following civil society criticism, three more people received victim status in November 2019.

13. Meanwhile, as of November 2019, the prosecutor’s office charged three police officers with exceeding their powers and assaulting a detained protester; courts released all three on bail. The Interior Ministry reprimanded 11 law enforcement officers for misconduct and sent two cases to the prosecutor’s office. The prosecutor’s office authorized the public defender to monitor the ongoing investigation into police conduct.

14. *Georgia should:*

- Promptly, thoroughly and effectively investigate all incidents of use of force by law enforcement officers, and attacks against peaceful protesters and journalists in June 2019.
- Ensure that investigations into abuses committed by law enforcement officials are conclusive and all perpetrators are held to account.

Freedom of Media and Media Pluralism

15. During Georgia’s UPR in 2015, the government of Georgia supported a recommendation to “bolster respect for pluralism and open debate, [...] and avoiding politically motivated actions against critical media outlets.”⁵

16. While Georgia has pluralist media, threats to media pluralism in the country has been a growing concern. Georgia currently ranks 60th out of 180 countries in Reporters Without Borders’ 2019 World Press

⁴ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Georgia, U.N. Doc. A/HRC/31/15 (January 13, 2016), para. 118.28.

⁵ Ibid., para. 117.98.

17. The European Court of Human Rights' decision released in July 2019 that found no breach of fair trial guarantees in the ownership dispute over Rustavi 2—Georgia's most-watched television station—shook Georgia's media landscape.⁷ As a result, ownership of the station reverted to a former owner, Kibar Khalvashi, who claimed that he had been forced to sell the station in 2006 below market value. Rustavi 2's general director, Nika Gvaramia, alleged the lawsuit was orchestrated by the government to take over the station because it was seen as aligned with the opposition.

18. Khalvashi appointed a new director general, Paata Salia, who pledged not to interfere with the station's editorial policy. However, Salia soon dismissed the newsroom head and producers and hosts of political and entertainment talk shows, claiming they had conflicts of interest because of their public statements against the new owner. The move prompted almost the entire newsroom to quit, resulting in temporary suspension of news broadcasts.

19. In August, the prosecutor's office brought "abuse of power" charges against Gvaramia, claiming he had struck a sham deal in 2015 on commercial ad placement on the station, allegedly resulting in the loss of 7.2 million GEL (approximately US\$ 2.5 million). A court ordered Gvaramia to post 40,000 GEL (approximately US\$ 13,500) bail. Some civil society organizations saw the "accelerated manner of the investigation" as politically motivated, likely "aimed at persecuting opponents and critical media." In September, Gvaramia founded a new pro-opposition broadcaster "Mtavari Arkhi" (Main Channel) and hired many of former Rustavi 2 anchors and journalists.

20. Authorities also brought charges against Avtandil Tsereteli, father of the founder of TV Pirveli, another independent and critical broadcaster. The prosecutor's office alleged that Tsereteli assisted former TBC Bank Board Chair Mamuka Khazaradze and his deputy in "legalization of illicit income" of US\$ 17 million in 2008. Civil society groups criticized the move as another attempt at "exert[ing] pressure on the independent and critical broadcaster."

21. In April 2019, the board of advisors of Adjara TV and Radio company, a publicly-funded broadcaster based in Batumi, impeached the TV's director, Natia Kapanadze, triggering strong criticism from local non-governmental organizations. The ruling party members have openly expressed discontent with Adjara TV's editorial policy on various occasions. In February 2020, dozens of employees of Adjara TV held a silent protest in the channel's newsroom,⁸ expressing their protest against alleged interference by new management in the broadcaster's editorial policy. In March, the new management dismissed one of the organizers of the silent protest, Teona Bakuridze, anchor of the broadcaster's main news program, allegedly for "gravely violating" the broadcaster's internal regulations. Reporters without Borders (RSF) condemned Bakuridze's dismissal and called on the Georgian authorities to "stop political pressure" on Adjara TV.⁹

22. Online media in Georgia is the second most popular source of information (following television) thanks to social media channels, Facebook in particular. In December 2019, Facebook announced the removal of 39 Facebook accounts, 344 pages, 13 groups, and 22 Instagram accounts of Georgian government-linked pages for "coordinated inauthentic behavior."¹⁰

23. *Georgia should:*

- Respect media pluralism and ensure space for open debate and an environment respecting dissenting voices, including on publicly-operated media platforms.
- Put an end to any political pressure against independent and critical media outlets.

⁶ Reporters Without Borders 'Ranking 2019', <https://rsf.org/en/ranking>.

⁷ *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, App. No. 16812/17, European Court of Human Rights (18 July 2019).

⁸ 'Adjara TV Journalists Protest Dismissal of Key Newsroom Figures' Civil.ge (29 February 2020), <https://civil.ge/archives/340559>.

⁹ https://twitter.com/RSF_en/status/1238511796362903555.

¹⁰ "Removing Coordinated Inauthentic Behavior from Georgia, Vietnam and the US," Nathaniel Gleicher, Head of Security Policy, December 20, 2019, <https://about.fb.com/news/2019/12/removing-coordinated-inauthentic-behavior-from-georgia-vietnam-and-the-us/> (accessed March 16, 2020).

Abusive Drug Laws and Policies

24. During previous UPR cycles Georgia did not receive direct recommendations to curb its abusive drug laws and policies. However, the country's drug laws and their aggressive enforcement are causing severe and unjustifiable harm. Drug prosecutions for consumption and possession often lead to long prison sentences and prohibitive fines against people who have not harmed others, but who acquired small amounts of drugs for personal, recreational use.

25. Although the overall numbers of drug-related prosecutions declined in recent years, Georgia maintains harsh drug laws that can be used to prosecute people for mere consumption (except for marijuana) or possession of drugs for personal use. Drug-related felonies often result in long sentences, prohibitive fines, and interference with other rights, including by banning a convicted person from driving a vehicle or from working in an array of professions.

26. In Georgia, first-time illegal drug consumption or possession of a small quantity of drugs for personal use is a misdemeanor. A repeat offense within a year results in criminal liability. However, approximately 75% of the substances classified as illicit drugs do not have a clearly defined threshold for what constitutes a 'small quantity' under Georgian law, including those commonly used in Georgia such as amphetamine, methamphetamine, and desomorphine. Possession of even particles of these substances, including residue in a syringe, automatically qualifies as a large amount, triggering a mandatory minimum five-year prison sentence. Possession of more than one gram is considered a "particularly large amount" and could result in life imprisonment.

27. Existing laws allow police to randomly detain people for coerced drug testing. Although the numbers of random tests have declined, police use positive test results as evidence for pressing administrative or criminal sanctions. If the person refuses to undergo testing, police can detain them for up to 12 hours in a forensics lab. Georgian law does not give people held for testing the same rights as detainees, such as the right to make a phone call, leaving them vulnerable to ill-treatment by the police.

28. In recent years, Georgia has taken steps to partially liberalize drug policies. It reduced criminal penalties for drug possession and consumption. It also adopted a National Strategy and Action Plan to fight drug addiction, which emphasized the importance of public health and prevention of drug use. And in 2018, the Constitutional Court abolished all sanctions for marijuana consumption. However, a draft legislative reform that would introduce public health approaches to drug use and largely overhaul punitive practices remained stalled in Georgia.

29. *Georgia should:*

- Support a public health approach to drug use to minimize the adverse consequences of drug use, reduce drug dependency, and to support harm reduction around drug use and increased access to emergency care.
- Initiate and support legislative amendments decriminalizing personal drug use and purchase and possession of small quantities of drugs for personal use.
- Revise thresholds for criminal drug possession in such a way that the thresholds are meaningful and serve as a guidance, rather than a strict dividing line between what is not criminal and what leads to criminal liability.
- End the existing practice of forced drug testing. In cases where a person is arrested on suspicion of an offense such as driving under the influence of drugs, a person may be required to undergo a drug test while availing of the full due process rights of a criminal suspect.
- Abolish additional penalties imposed on convicted drug offenders that deprive them of driver's licenses and affect their ability to work in certain professions. Any such penalties, if imposed, should be directly related and proportionate to an offense committed, such as driving under the influence of drugs.

International Criminal Court

30. The International Criminal Court (ICC) continues its investigation into war crimes and crimes against humanity committed in connection with the August 2008 Russia-Georgia war over South Ossetia. Georgia is an

ICC member country and has implemented the Rome Statute into national legislation. The government has also entered into an agreement with the ICC to permit persons convicted by the ICC in any of its cases to serve their sentences in Georgia, subject to further decisions by the court and the government in specific instances.

31. *Georgia should:*

- Continue to cooperate fully with the International Criminal Court.
- Conduct investigations into alleged crimes committed during the conflict in order to ensure comprehensive accountability alongside those cases pursued by the International Criminal Court.