

**United Nations Special Rapporteur on the situation of human rights defenders, Mary Lawlor**

***Preliminary observations and recommendations***

**Tbilisi - 7 November 2023**

In my capacity as Special Rapporteur on the situation of human rights defenders, I have been in Georgia on an official country visit to Georgia beginning 30 October. Today I am concluding that visit.

Over the course of the past eight days, my team and I have had the chance to talk in detail with an extremely diverse range of actors about the environment for people and groups taking peaceful action to advance human rights in the country.

I want to sincerely thank the Government for inviting me to Georgia, and to all the State representatives who opened their doors to me, welcomed me warmly, and helped facilitate my visit. In the same vein, I want to state my genuine appreciation for the frank and valuable discussions they engaged in with me.

During my visit, I was able to meet the Deputy Foreign Minister, the Advisor to the Prime Minister on Human Rights Issues; the Ministries of Interior, and Education; the State Security Service of Georgia and the Special Investigation Service and Prosecutor's Office; as well as the Chairperson of the Human Rights and Civil Integration Committee of the Parliament, the Youth Agency, Communications Commission and Legal Aid Service.

To those ministries, state bodies and agencies with whom it was not possible to arrange an in-person meeting, despite efforts on both sides, I would like to underline my hope that we may still engage and share information in the aftermath of my visit, and in advance of my presentation of my final report.

I regret that some of my requests for meetings were not responded to positively, including with the Ministry of Culture and municipal authorities.

Unfortunately, I could not access the regions of Abkhazia and South Ossetia to assess the situation for human rights defenders there.

I would like to highlight the time afforded to me by the Office of the Public Defender of Georgia, the importance of whose work I cannot overstate.

I also wish to thank the United Nations Resident Coordinator and the United Nations Country Team, as well as UN Women. Similarly, I would like to thank the Delegation of the European Union to Georgia for their input.

Finally, and most emphatically, I would like to thank the human rights defenders (HRDs) who took the time to meet and speak with me while I have been in Georgia, especially those who

travelled long distances to meet me.

For a great deal of my career working to support and protect human rights defenders, and notably in recent times, Georgia has been something of a haven for human rights defenders. While the information I have received over the course of my visit does not suggest that has yet changed, nor that the flame of human rights defenders in the country is wavering, it has left me with the strong impression that there are winds pushing against it and that they threaten to smother it.

I am going to set out my reasons for coming to this preliminary conclusion. Before I do, however, I would like to underscore a firm belief guiding my work as Special Rapporteur.

Recognising the legitimate work of human rights defenders and working with them, especially where their views are critical, is essential in the movement towards the respect and fulfilment of human rights for all. It requires the building of mutual trust between human rights defenders and the state.

Where human rights defenders are under attack, on the other hand, and where they feel insecure when going about their work or activities, states must ask questions of themselves and of their responsibility for how that has come to be. Where states do not do this, and where either denial, further repression or a 'head in the sand' approach is adopted, it signals significant underlying problems and provides cause for grave concern.

### **The vibrancy of human rights defenders in the country**

Georgia has an extremely strong, determined and diverse civil society, which has grown over time and should be considered, including by the state, as part of the pride of the country.

During my visit and in preparation for it, I spoke with human rights defenders active in small communities and at the grassroots level, members of human rights NGOs and associations, lawyers, investigative journalists, socially-orientated film-makers, writers and other artists, scientists, defenders of workers' rights and local representatives of regional and international organisations.

Those I met were working on issues including environmental protection, election monitoring, freedom of expression and cultural rights, exposing corruption, women's rights, LGBTQI rights, the rights of people with disabilities, the situation of young people, the rights of people from ethnic and religious minorities, as well as other issues. This list of areas in which people are active is long and impressive.

Their work, the actions and events they organise, the awareness they have been building in society and the real, tangible positive impact they make in people's lives, are part of the country's wealth.

### **Legislative cornerstones and institutional allies**

Modern Georgia is built on a constitution that guarantees many of the rights essential to the work of protecting human rights. It also affirms that all legislation in the country shall comply with the norms and principles of international law.

National legislation has developed protective and supportive frameworks around many of the rights in the Constitution. While this is important and positive, during my visit I also noted worrying trends in this regard - both when it comes to the proper implementation of legislation in place and recent legislative initiatives of particular concern, and I will speak more about this later.

Through legislation, the state has also provided strong mandates for several institutions with important bearing on the environment for defending human rights in Georgia, such as the Office of the Public Defender and the Legal Aid Service. I want to recognise and applaud the efforts of the State in this regard.

### **Practical measures to protect HRDs**

There is no HRD-specific legislation in Georgian law. This, however, has not prevented several state institutions from putting practical measures in place relating to HRDs.

An example comes from the Special Investigation Service (SIS), which in July 2023 issued a binding recommendation for its investigators on the handling of criminal cases concerning human rights defenders. They did this on the basis of a straightforward and commendable definition of human rights defenders, which, with slight fine-tuning, could and should be adopted by other agencies and ministries.

Similarly, in 2020, the Prosecutor's Office developed guidelines on the investigation of crimes against HRDs. This, as with the SIS initiative, followed a recommendation on the subject from the Office of the Public Defender.

The Prosecutor's Office has also developed and implemented a system for gathering disaggregated statistics on the prosecution of crimes against human rights defenders, including the number of persons prosecuted for such crimes and the number of HRDs granted victim status. Again, this could and should be replicated by other government agencies and ministries, notably the Ministry of Interior.

### **Matters of concern**

Coming away from my visit, I find it hard to fight the impression that a veneer of openness presented by the Georgian Government masks systematic efforts to undermine human rights defenders and their vital, necessary work. I remain open to being convinced to the contrary by the authorities, however, the serious and well-substantiated concerns shared with me by many of those I met during my visit leave this as my primary preliminary conclusion.

Many human rights defenders in Georgia do not feel that the state is working to support them and ensure that they are secure. They do not believe an enabling environment is being created for their work. Rather, the contrary is true: human rights defenders fear for their

physical integrity and feel that the state is actively undermining them and putting them at risk.

The authorities may not accept that people have grounds to feel that way, but that human rights defenders in the country do feel as such is indisputable. That fact should ring alarm bells for any government claiming to prioritise human rights, democracy and the rule of law.

### **The depiction of human rights defenders as internal enemies by State bodies and high-ranking members of the ruling party**

Shortly before my visit, on 2 October 2023, the State Security Service of Georgia (SSSG) held a press conference where they released secretly filmed footage of a training carried out for actors in the cultural sector on peaceful ways to protect their rights. The SSSG presented this video as evidence to support an earlier assertion that civil society groups, and notably the organisation CANVAS, were participating in an organised conspiracy with the intent to overthrow the government, and the opening of a connected investigation. In the context of this investigation, human rights defenders who organised the training have been summoned for interrogation by the SSSG and obliged to sign a confidentiality agreement concerning its content. Cultural actors, who have been organising to peacefully defend their rights in the face of the wholesale politicisation of the sector since 2021, have also been summoned and interrogated based on their participation in the training.

When I raised this sequence of events with the authorities, they referred me to the footage in question. I have reviewed this footage. In my view, there is nothing in the video that in any way substantiates the allegations made against the organisers and participants. The training was open to all. It took place over three days. The video presented as evidence of its alleged conspiratorial nature is 8 minutes long and heavily edited. At no point do the trainers who speak suggest or encourage violence. The presentation of the video as evidence of a conspiracy strongly indicates a deliberate attempt by the SSSG to criminalise the human rights defenders involved and delegitimise the exercise of fundamental rights, and particularly young people and students exercising their right to peaceful protests, in the public eye.

This has had serious repercussions for human rights defenders.

Firstly, following the allegations made by the SSSG, high-ranking members of the ruling party seized uncritically on the narrative, promoting it through public statements and using it as justification for the introduction of legislative restrictions on the right to peaceful protest: the so-called 'law on tents'. In addition, far-right and ultra-conservative groups have since announced their intention to mobilise against those supposedly planning the alleged but unsubstantiated conspiracy. This could put the physical security of human rights defenders at risk.

Secondly, in presenting the footage of the training, the SSSG made clear to the human rights defenders involved that they were under surveillance. This has compounded fears present since revelations in 2021 indicated the wire-tapping of many human rights defenders and independent journalists, which far from being addressed by the Government,

have been aggravated by legislative amendments from 2022 broadening the surveillance powers of the **state**.

Many other examples of attempts to stigmatise and delegitimise human rights defenders were shared with me during my visit.

These included public statements by ruling party members against independent journalists and defenders of the environment; similar statements against defenders working against corruption; and extremely worrying comments by high-ranking officials concerning LGBTQI rights defenders and the queer community in general. Women are particularly targeted. Walking in Tbilisi, including at an entrance to the Parliament, I could see posters with women human rights defenders depicted and accused of being 'spies against the church'. How was it possible for people to put these posters up in front of such a prominent Government building, and why have they not been removed?

These examples depicting the development of an 'internal enemy' narrative are among the most current I have been made aware of. They have not, however, come from nowhere.

### **The spectre of the foreign agent law and restrictive legislation**

In February 2023, a bill was introduced in the Parliament, supported by the Government, on transparency for "agents of foreign influence". The introduction of the bill sparked protests across the country, in which young people and students joined civil society and human rights defenders to demonstrate their opposition to the proposed legislation. These protests, which were mostly peaceful but met with a violent police response, resulted in the withdrawal of the bill on 10 March 2023.

Despite the withdrawal of the bill, its impact was raised repeatedly by the human rights defenders I spoke with during my visit. They described the damage it has done to their working relationships with municipal authorities, the increased insecurity they feel since the events surrounding its introduction, and the fear that the legislative project will be revived in one form or another. Its introduction provided encouragement to far-right and ultra-conservative groups, whose own narrative of 'foreign agents' and 'internal enemies' was legitimised by the strong backing of the legislation by the government and parliamentarians.

The proposed law would have had a significant negative impact on the legislative framework for promoting and protecting human rights in Georgia. While this framework remains largely positive, it is not perfect. In particular, the Code on Administrative Offences is problematic and in need of reform. I was encouraged to hear government representatives agree with me on this subject, however, given the long-standing and well-known nature of its issues, as raised repeatedly by the Office of the Public Defender, a question remains as to why this has not been done. Indeed, amendments last year increased possible fines and detention times connected to articles 166 and 173, on petty hooliganism and disobedience of a police order, both of which appear to have been used on multiple occasions to arbitrarily restrict the rights to peaceful assembly and expression, including of human rights defenders.

### **Attacks on LGBTQI defenders committed with **impunity****

Almost all of the actors I met during my visit, including state representatives, emphasised the difficulty of the situation faced by defenders of the rights of the LGBTQI community in Georgia. This is a major area of concern for me.

In July 2021 and July 2023, events planned by LGBTQI defenders were attacked by far-right and ultra-conservative groups, who exercised extreme violence on both occasions. In 2021, dozens of journalists were directly attacked, as well as the offices of Tbilisi Pride, and the Shame Movement. TV Pirveli cameraman Lekso Lashkarava, one of those attacked during the events, died days later. In 2023, the location was occupied, and installations and equipment set up at the venue subsequently destroyed and looted by the violent groups.

On both occasions, the attacks were publicly planned and encouraged in advance by prominent far-right figures and members of the Orthodox Church, who stated their intentions in public and online. Statements by the Prime Minister made in advance of both events would appear to have at best fallen far short of the necessary support for the LGBTQI celebrations, and at worst openly legitimised the actions of the far-right and ultra-conservative groups.

There has been total impunity for the organisers and instigators of this violence. It seems clear that if there had been accountability for the attacks in 2021, the attacks in 2023 could have been prevented. Yet Georgia has been here before. In 2012 and 2013, celebrations on a smaller scale organised by the LGBTQI community in Tbilisi were also attacked, with the European Court of Human Rights finding in both cases that the state had failed to ensure the planned events could take place peacefully.

Continuing impunity for attacks against human rights defenders, and for human rights violations more broadly, is demonstrative of a lack of political will to address the issue. This leaves states in violation of their international human rights obligations. Compounding the issue in this case is that those who carried out, organised and called for these attacks are among the same groups now threatening, intimidating and harassing other human rights defenders in the country.

### **Threats, physical attacks and groups of human rights defenders at high risk: women human rights defenders, minority rights defenders, media workers and defenders with disabilities**

From my discussions in Georgia, it has become evident that there is a tangible feeling of insecurity among human rights defenders in the country, which cannot be isolated from the failure of the state to ensure accountability for serious attacks such as those against LGBTQI defenders, nor from the extremely negative narrative that the government has developed and condoned around human rights defenders.

The insecurity felt is heightened among defenders who face intersecting risks, notably based on gender, sexual orientation, ethnicity or religion, disability, and living in a rural area.

In many instances, after reporting threats, attacks or discrimination, human rights defenders feel the only support available to them is from other defenders and civil society, yet it is the state which has a duty to protect **them**.

Information I have received on attacks against women human rights defenders (WHRDs), particularly direct threats, public smears and online harassment, give me grounds for extreme concern. These attacks are coming in direct retaliation for WHRDs' legitimate human rights work, which as in all countries, can involve criticism of the Government and other powerful actors in society. The crude misogyny of members of Georgian Dream in Parliament contributes to the coarsening environment which then impacts on WHRDs.

The situation has deteriorated since the attempted introduction of the so-called foreign agent law in March this year, with some WHRDs being branded as foreign agents by high-ranking members of the ruling party. Such statements encourage and legitimise further attacks. Some women human rights defenders told me how they were insulted as they walked through the streets of the capital, being called out by their name and sworn at. This happened during my visit. Threats and intimidation online are also extremely prevalent, including through apparent bots and following the spread of gendered disinformation.

Where the women are from ethnic or religious minorities, the risks of physical attack are even more serious. As one woman human rights defender put it to me, when it comes to integration of minorities, the authorities seem to think it is a one way street. Female voices critical of this approach appear to be deemed unwelcome, and WHRDs from minority groups who do speak out risk a backlash from far-right and nationalist groups.

Impunity for attacks against journalists and other media workers covering human rights issues, including the attacks mentioned above, is a significant and persistent problem. I consider these journalists and media workers to be human rights defenders, and I was glad to hear several state representatives and actors agree with me on this. However, it is clear to me that they are also a group of human rights defenders at high risk and that the state is not taking sufficient measures to ensure that they can carry out their work free from fear of retaliation. As one journalist put it, since the events of July 2021 they are now worried for their physical safety.

In some ways, the authorities also appear to be obstructing the work of journalists, as signalled by reports of a very low rate of responses to requests for information, as well as a concerning code of conduct recently introduced by the Parliament, which appears to open a path to potentially arbitrary sanctions for journalists deemed troublesome by parliamentarians.

Some human rights defenders with disabilities feel ignored by the state, and reports I have received during my visit indicate that in some cases they have been excluded from participation in decision-making fora and ignored by the state, as well as subjected to bullying. This exclusion appears to be affecting young and critical human rights defenders with disabilities in particular.

### **The situation of individuals and groups defending the environment**

In many countries around the world, the human rights defenders most at risk are those whose activism is connected to the protection of the environment from unsustainable and damaging business activities, including those in the energy, infrastructure and tourism sectors. This emerged as an area of firm concern during my visit in Georgia. As one

defender stated, instead of protecting the environment, they are forced to protect themselves. Defenders have received aggressive threats, and others being publicly discredited and labelled as 'drug users' and 'petty hooligans'.

Again, the situation for women environmental defenders is aggravated. WHRDs working on environmental issues have been subjected to gendered and sexualized smear campaigns, including having their private lives scrutinised in alleged retaliation for their legitimate, peaceful activism and work.

At the core of many of the cases reported to me during my visit appears to be the failure or unwillingness of state and business actors to engage in meaningful consultation with people directly affected by large scale business projects. Disenfranchisement of local communities may suit the interests of those who stand to profit from these projects in the short term, but people have the right to public participation in matters affecting them, and as a party to the Aarhus Convention, the state must facilitate and safeguard this.

In regards to such cases, I would particularly like to state my concern as to the current situation for human rights defenders in the Balda Canyon, where at least one human rights defender was physically attacked during my visit. I urge the authorities to engage with all of those affected by proposed developments in the area, to listen to their concerns, and ensure that their rights and the constitutional guarantees pertaining to the environment are upheld.

### **The situation of defenders from Russia and Belarus**

Human rights defenders from other countries have traditionally been able to find safety and security in Georgia. Despite them finding a generally favourable environment in the country, I have some significant concerns related to their current situation.

While human rights defenders from Russia and Belarus are currently able to enter Georgia without a visa and stay for up to one year, some defenders from these countries have been facing considerable challenges when seeking to re-enter Georgia after travelling to third-countries in connection with their human rights work. In some cases, re-entry for foreign HRDs has been refused on the vague, catch-all grounds. The denial of re-entry in these cases is hugely problematic, effectively rendering the defenders homeless. Other foreign human rights defenders, while ultimately allowed to re-enter Georgia have faced issues at the border, with many reporting how they have been interrogated about their human rights work, participation in events abroad and future plans.

Some foreign human rights defenders also face difficulties registering their organisations in Georgia, as they have experienced issues trying to open bank accounts since February 2022. One HRD I spoke to had seen their attempts to open a bank account for their organisation refused as many as five times. Furthermore, those who registered their organisations prior to February 2022, are now required to re-register and face difficulties providing diplomas, legal contracts and other documents.

Belarusian human rights defenders currently residing in Georgia have also reported their precarious situation in light of the denial of consular services, as announced by President Lukashenko, meaning they will not be able to apply for passports from outside Belarus.



These issues extend to their children, leaving these human rights defenders in an extremely precarious situation, given the severe risks they would face if they were to return to Belarus.

## **Conclusions**

Georgia stands at a crossroads of transition, with a decision on EU adhesion expected imminently, and elections under a new, fully proportional system scheduled for next year. The treatment of and attitude towards human rights defenders by the state will be indicative of how the country moves through this period.

There has been much that I have heard during my visit that has provided cause for concern, but things could be turned around. I walked away from many of the meetings I had, whether they were with state representatives, officials from government agencies or human rights defenders, with a great deal of hope. I feel the same when I walk around the streets of Tbilisi and see all the young people here. Putting their interests first and empowering people to become human rights defenders go hand in hand. The repression and vilification of either group is a road to nowhere.

I will continue to follow the situation for defenders in the country, and to engage with the government in advance of the presentation of my full report at the Human Rights Council in early 2025. But action to reverse the deteriorating situation for defenders in the country is needed immediately. In this regard, I urge all relevant actors to give close attention to the implementation of the following preliminary recommendations. I would be glad to engage with the authorities to assure their implementation.

## **6. Preliminary Recommendations**

- **To the Government**

- 1) cease all stigmatisation of human rights defenders and the delegitimisation of their work through public statements;

- 2) amend the Code of Administrative Offences to bring it in line with international human rights law and standards, and in particular to ensure that articles 166 and 173, on petty hooliganism and disobedience of a police order, are not arbitrarily used to arrest, detain and sanction human rights defenders, notably when participating in assemblies;

- 3) abandon the recent legislative initiative to amend the Law on Assemblies and Protests;

- 4) in collaboration with relevant stakeholders, including human rights defenders, privacy lawyers and independent journalists, amend national legislation concerning surveillance in order to increase oversight over such restrictions on the rights to privacy and freedom of expression and bring the legislation into line with international and regional law and standards;

- 5) include the empowerment of human rights defenders as a key priority in the

National Action Plan on Human Rights, including specific objectives on the protection and empowerment of women human rights defenders, LGBTQI defenders and defenders of the rights of ethnic and religious minorities;

6) put in place an action plan to guarantee the meaningful participation of human rights defenders from ethnic and religious minorities in all decision-making processes, in particular those concerning them, in particular women and youth leaders from these communities;

7) publicly recognise the legitimacy of the work of independent election observers and their importance for protecting human rights and democracy, and take proactive steps to ensure they can carry out their work freely during the 2024 elections;

- **To Parliamentarians:**

1) cease all stigmatisation of and discrediting statements against, human rights defenders, including independent journalists;

2) pay particular attention to ensuring there is no place for public or private misogynistic attacks

- **To the State Security Service of Georgia:**

1) expedite, in the quickest manner possible, all investigative acts into the alleged conspiracy to overthrow the government in a timely manner, with a view to either closing the investigation or submitting the cases for prosecution;

2) cease all surveillance of human rights defenders, including independent journalists, that fails to comply with international and regional standards guaranteeing the rights to privacy and freedom of expression;

- **To the Office of the Public Defender of Georgia and the Prosecutor's Office**

1) conduct a review of all ongoing surveillance of human rights defenders and journalists being carried out by the SSSG in order to assess conformity of any such surveillance with regional and international law and standards guaranteeing the rights to privacy and freedom of expression;

- **To the Public Defender of Georgia**

1) make clear the importance and validity of the work of LGBTQI rights defenders;

- **To the Special Investigation Service:**

1) open an investigation into the illegal surveillance of human rights defenders participating in the training organised for cultural actors in September 2023, applying the guidelines for investigation of cases involving human rights defenders adopted in

July 2023;

- **To the Prosecutor's Office:**

- 1) redouble efforts, as a priority, concerning investigations into the organisers of the violent demonstrations targeting the LGBTQI celebrations in July 2021 and July 2023, with a view to prosecuting the organisers of these demonstrations, including all persons who publicly called for violence against the participants in the celebrations;

- **To the Ministry of Foreign Affairs:**

- 1) create a joint platform involving human rights defenders and the Office of the Public Defender of Georgia to coordinate and follow-up on the implementation of recommendations from international and regional human rights bodies, including UN Special Procedures mandate holders;

- **To the Ministry of Interior:**

- 1) using the examples of the guidance adopted by the Special Investigation Service and the Prosecutor's Office, adopt a binding recommendation on the investigation of crimes against human rights defenders, based on the UN Declaration on Human Rights Defenders and OHCHR Fact Sheet No. 29, and adopting an intersectional approach;

- 2) using the example provided by the Prosecutor's Office, implement a system for the collection of disaggregated statistics on alleged crimes against human rights defenders;

- 3) ensure Belarusian and Russian human rights defenders are able to enter and re-enter Georgia in line with the visa-free regimes in place and take proactive measures to reassure them of their ability to do so;

- 4) ensure that anyone wishing to apply for asylum, including human rights defenders from foreign countries, should be granted access to territory in line with international law standards;

- 5) amend the Law of Georgia on the Legal Status of Aliens and Stateless Persons to remove the overly broad clause "other cases envisaged by Georgian legislation" from the grounds for denial on entry to the state (Article 11, paragraph 1, subparagraph i); in cases where there are legitimate reasons for denying entry to Georgia at its borders, always provide clear and transparent reasons for the denial;

- 6) provide the option of obtaining a residence permit on humanitarian grounds in order to close the protection gap for foreign HRDs without family links or work status;

- 7) take proactive steps to facilitate the registrations of NGOs and the opening of organisational bank accounts for human rights defenders from third countries;

- **To the Ministry of Justice:**

- 1) expand the mandate of the Legal Aid Service to allow them to provide free legal aid to all persons alleged to have been victims of crimes in retaliation for their advocacy on human rights issues;

- **To the Ministry of Culture:**

- 1) initiate a consultation process with actors from the cultural, artistic and scientific workers, including those who have been dismissed from their positions at national institutions and organisations representing them, to create an action plan for the protection of cultural expression in the country;

- **To the National Environmental Agency and business enterprises:**

- 1) ensure timely and effective fulfilment of the right of access to information, public participation and access to justice in environmental matters, as guaranteed under the Aarhus Convention;

- 2) initiate a transparent and meaningful consultation process to resolve the ongoing conflict in the Balda Valley, ensuring the full and safe participation of all those directly affected, including local human rights defenders;

- **To the Ministry of Education:**

- 1) introduce a module on human rights defenders into the teacher training curriculum;

- 2) introduce a module on human rights defenders in the civic education curriculum;