

**NATIONS UNIES  
HAUT COMMISSARIAT DES NATIONS UNIES  
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandates of the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (3-3-16)  
GEO 1/2011

20 June 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/16, 8/6, 16/4, and 15/21.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning **the alleged disproportionate use of force by law enforcement authorities to disperse a demonstration by opposition supporters.**

According to the information received:

On 26 May 2011, after midnight, law enforcement authorities violently dispersed a reportedly peaceful demonstration by hundreds of opposition supporters who had gathered a few hours earlier in front of the Parliament building in Tbilisi. Several people were reportedly injured and/or arrested and detained:

- According to the information provided by the Ministry of Internal Affairs, 27 civilians, one journalist and eight policemen were injured, and 105 persons were arrested.
- According to the Georgian Public Defender's Office, 152 persons were arrested and "[d]espite the fact that the protest had gone beyond the norms established by the Georgian legislation and there were

legitimate grounds for terminating it, the force used by the police was disproportionate in a number of cases, which is confirmed by the footages that were disseminated and the information at [the[disposal [of the Public Defender]. A number of protest participants have sustained physical injuries. A part of them were not given the opportunity to leave the protest site. The disproportionate use of force was especially evident in the cases when law enforcement officers physically assaulted and detained protest participants who put up no resistance to them or had already been subjected to their control. According to the information at our disposal, a part of the journalists who were on the ground were not allowed to carry out their professional activity. According to the information available, law enforcement officers damaged the equipment of several of them and assaulted them physically and verbally. There are also reports that several journalists/cameramen were detained. At this stage, the legal basis of their detention is unknown. Taking all the aforementioned into account, the Public Defender considers that signs of a crime are present.”

- Similarly some of the protestors detained were physically abused in custody, and denied the possibility to communicate with their relatives and lawyers. Many were reportedly transferred several times to different temporary detentions, without their respective families or lawyers being informed.
- It is further alleged that the court chancellery refused to provide a number of lawyers with the information as to whether their clients, on whom an administrative penalty was imposed for violating article 173 of the Code of Administrative Offences of Georgia, had been brought to the court building. Reportedly, lawyers only had the opportunity to meet with their detained clients before the actual hearing in court and had not been given the opportunity to meet outside the court room. The lawyers were allegedly given only 15 minutes before the hearing to study their clients’ case. It is further alleged that the explanations provided by police officers were the only evidence the court relied on during the proceedings, and that judges paid no attention to the detainees’ physical injuries, nor did they order investigations to establish the circumstances of these injuries or require further clarification.
- According to Georgia-based human rights non-governmental organisations, 17 journalists were injured and several detained, while the fate and whereabouts of dozens of protesters who were detained during the demonstration are still unknown. If confirmed, these allegations may amount to enforced disappearances.

These incidents took place against a backdrop of restrictions to the right to freedom of peaceful assembly in Georgia, brought by amendments made in July

2009 to the Law on Assembly and Manifestations. These amendments reportedly restrict the right to assemble in front of official buildings and set a more burdensome procedure to receive an authorisation.

Serious concerns are expressed that the apparent excessive use of force against the reportedly peaceful protesters is linked to the exercise of their rights to freedom of opinion and expression and of peaceful assembly. Finally, further concerns are expressed for the physical and psychological integrity of those still detained as well as for journalists covering demonstrations.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned persons.

In relation to the allegations according to which the fate and whereabouts of dozens of protesters who were detained during the demonstration are unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, including in:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and
- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

With regard to the allegations indicating that many people arrested, while in detention, were not given the possibility to communicate with their lawyers. In this regard, we wish to refer to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular to principle 5, which states that "Governments shall ... ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention." Furthermore, lawyers should be able to perform their professional functions without hindrance and should be able to consult their clients freely according to principle 16(a) and (b).

With regard to the allegations that some judges did not order any investigations into or seek clarification on detainees' physical injuries, we wish to draw the attention of your Excellency's Government to the relevant provisions of the Bangalore Principles of Judicial Conduct (Draft Code of Judicial Conduct 2001, adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, 25-26 November 2002). The principles of impartiality and integrity are essential in the proper discharge of a judge's judicial functions, as enshrined in principles 2 and 3. In particular, principle 2.2 stipulates that "A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary." According to principle 3.1, "A judge shall [further] ensure that his or her conduct is above reproach in the view of a reasonable observer."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. If so and the fate and whereabouts of several protesters are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate the legal basis of the use of force against peaceful protestors and journalists present on the scene.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate how the proceedings initiated against the people arrested and detained in relation their participation in the demonstration complies with the Basic Principles on the Role of Lawyers and the Bangalore Principles of Judicial Conduct.
7. Please indicate whether compensation has been provided to the victims or the family of the victims.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would like to bring to the attention of your Excellency's Government that should the sources submit the allegations concerning the protestors whose fate and whereabouts are unknown as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

Please accept, Excellency, the assurances of our highest consideration.

Jeremy Sarkin  
Chair-Rapporteur of the Working Group on Enforced or Involuntary  
Disappearances

2.

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of  
association