

---

CRIME AND EXCESSIVE PUNISHMENT: THE PREVALENCE AND  
CAUSES OF HUMAN RIGHTS ABUSE IN GEORGIA'S PRISONS

---

2

Gavin Slade  
Iago Kachkachishvili  
Lela Tsiskarishvili  
Nika Jeiranashvili  
Nino Gobronidze

Advisors: Baroness Vivien Stern, Professor Andrew Coyle



---

CRIME AND EXCESSIVE PUNISHMENT:  
THE PREVALENCE AND CAUSES OF HUMAN  
RIGHTS ABUSE IN GEORGIA'S PRISONS

---

Tbilisi, 2014

## ACKNOWLEDGMENTS

---

The following report was made possible by generous contribution of individual experts and organizations who contributed their time and expertise.

Open Society Georgia Foundation would like to extend special thanks to the authors and advisors of this report; contributing experts: Emil Adelkhanov, Giorgi Burjanadze, Mariana Chicu, Tsira Chanturia; and organizations: Article 42 of the Constitution, Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT), Georgian Young Lawyers' Association, Human Rights Center, Institute of Social Studies and Analysis, International Center for Prison Studies, Penal Reform International, Public Advocacy, and Youth for Justice.

The Foundation would like to express gratitude to Public Defender of Georgia, to the Ministry of Corrections of Georgia, and to the Office of the Personal Data Protection Inspector, who enabled the interviewers to conduct prisoners' survey.

The Foundation would also like to thank hundreds of individuals throughout Georgia, who have participated as respondents in the survey.



## PREFACE

---

In the last decade, the small south Caucasus country of Georgia has been turned into a testing ground for radical criminal justice policies. In 2003–2012, its prison population jumped by 300%, a huge increase that led to Georgia being the fourth biggest incarcerator in the world per capita by 2010. Then, following a change of government, in a three-month period, beginning at the end of 2012 around half of the 24,000-strong prison population were released in an amnesty. Today Georgia’s incarceration rate per capita is 63<sup>rd</sup> in the world. The trigger for this incredible U-turn in prison policy was the uncovering of grave instances of torture in the penal estate. These instances of torture are the subject of this report.

Video recordings of torture as well as humiliating and abusive treatment of prisoners by prison staff were leaked into the public sphere and to the NGO community in Georgia directly before the change of government on October 1, 2012. The use of abuse and coercion has allegedly been one of the bases for order and governance in the Georgian penitentiary system in recent years under the government of Mikheil Saakashvili. Establishing when this began, and just how widespread, systematized and intense the use of torture, inhuman and degrading treatment was, is the purpose of the present study. With a new government in power since then, more videos have been found and shown to selected members of civil society. The alleged number of such recordings suggests widespread torture. The exact purpose of the torturous acts depicted and why these were recorded in the first place, are further questions that this study seeks to address.

Following this preface, the first chapter introduces Georgia and the Soviet legacies of the prison system; the second chapter gives an in depth analysis of government criminal justice and prison policy and its relationship to human rights abuses in the period 2003–2012. The third chapter shows what the reports of civil society and international actors between 2006–2012 already revealed about the problems of torture in the criminal justice system in Georgia. Chapter four then works with completely new empirical survey data of prisoners and former prisoners carried out by Open Society Georgia Foundation and its partner organizations. Chapter five provides recommendations. While providing some details, this report does not focus on the changes to the prison system post–2012 under the new government. This is a separate matter for investigation.

This report is directed towards multiple audiences. As well as wider Georgian society, the report aims to engage policy-makers, civil society actors and the international community. The uncovering of barbarous acts of violence committed against a confined and vulnerable inmate population in the name of a westernizing project of prison reform gives the study all the more urgency for both Georgian society and the international community of development and human rights organizations as well as foreign governments.

# CONTENTS

---

Acknowledgments	iii
Preface	iv
Chapter 1. Background	1
1.1 Georgia as a ‘Normal’ Country	1
1.2. Soviet and Post-Soviet Legacies in the Prison System	2
1.3 International Support for Improvement of Governance of Human Rights	5
1.4 Structure of the report	7
Chapter 2. Criminal Justice Policy and Practices 2003-2012	8
Introduction	8
2.1 The Beginning (2003-2005)	8
2.2 2006-2009: Intensification of Punitiveness – Zero Tolerance Policy	12
2.2.1 Key practices of zero tolerance: plea bargaining	14
2.2.2 Key practices of zero tolerance: investigative tools	15
2.2.3 Key practices of zero tolerance: excessive use of pre-trial detention	16
2.2.4 Effects of zero tolerance: prison life	16
2.2.5 Effects of zero tolerance: drug users	18
2.2.6 Effects of zero tolerance: women in criminal justice system	19
2.2.7 Effects of zero tolerance: juvenile justice	21
2.3 Liberalization and the Criminal Procedure Code	23
Summary: Zero Tolerance and Human Rights	24
Chapter 3. Human Rights During Zero Tolerance: Findings of International and Local Observers 2006-2012	26
Introduction	26
3.1 Reports of Torture and Abuse: 2005-2006	26
3.2 A Turning Point: The Ortachala Prison Riot of March 2006	29
3.3 Reports of Ill Treatment in Prison Increase: 2007-2010	30
3.4 Ill-Treatment as Standardized Practice? 2010-2012	32
3.5 After the Scandal: Findings Since October 2012	34
3.6 Oversight Mechanisms and Governmental Recognition of the Problem of Torture	36
Summary	38

Chapter 4. Human Rights Between 2003 and 2013: Findings of a Survey of Prisoners and Ex-Prisoners	39
4.1 Introduction	39
4.2 Methodology	39
4.3 How Prevalent was the Use of Torture?	41
4.4 What Was the Purpose of Torture?	43
4.5 What Form Did Torture Take?	46
4.6 Did Torture Achieve its Perceived Goals?	47
4.7 How, if at all, did Prisoners Protect Themselves from Torture?	50
4.8 Consequences of Imprisonment	51
Summary	52
Appendix: Testimonies of Torture Victims	54
Chapter 5. Lessons Learned and Recommendations	60
5.1 Lessons Learned	60
5.2 Recommendations	62
Endnotes	65



# Chapter 1. Background

---

## Introduction

This report deals mainly with the time period following the popular uprising known as the Rose Revolution in 2003 to 2012. The revolution was triggered by fraudulent election results that brought a mass of people onto the streets of the capital city, Tbilisi. Fresh elections brought to power a party known as the United National Movement (UNM) and their figurehead Mikheil Saakashvili as president. The UNM's time in power was characterized by blisteringly quick and deep reform. This was true in the sphere of the criminal justice system perhaps more than in any other. The UNM's time in power lasted two terms to 2012 when it was removed from power in elections shaped in part by a prison scandal. In this first chapter, we are careful not to neglect the important trajectory that Georgia travelled before these monumental events of 2003-2012. Below we briefly provide an overview of Georgia's domestic developments and international obligations to prevent human rights' abuse and become a respected member of the international community during Eduard Shevardnadze's time in power (1992-2003).

## 1.1. Georgia as a 'Normal' Country

Towards the end of the Soviet Union, a big question, not least posed by the then Soviet Foreign Secretary Eduard Shevardnadze, was how the Soviet Union could become a 'normal' country. As part of Gorbachev's *glasnost* and 'new thinking' the Soviet Union might have yet become better integrated into global governance structures and the world economy. The Soviet Union did not survive to become a 'normal' country. Since then, the successor states have, very variably, attempted to become established members of the international community. Georgia, since independence, has been one of the most enthusiastic of the former Soviet states in its orientation towards Europe. This has been especially so during the two terms of Mikheil Saakashvili's government, yet the groundwork for this orientation was laid earlier than that.

A low-intensity civil war and simmering conflicts with separatists from Abkhazia and South Ossetia, covertly supported by Russia, required Shevardnadze's early administration (1992-1995) to sign Georgia up to the Commonwealth of Independent States and free trade agreements with Russia in 1993 and 1994. In return, Georgia received help from Russia in ending the conflicts and its time of troubles. Despite the concessions to Russia at this time, Russia was itself significantly weakened by the collapse of the Soviet system and was ambivalent about the west in the 1990s. Thus, Georgia was still able to make overtures and seek greater integration as well as financial and humanitarian support from Europe and the United States.

Importantly for our discussion, Georgia joined the Council of Europe in 1999. This was some time after the Baltic States and Ukraine and Russia but two years before neighbouring Armenia and Azerbaijan. In the same year, Georgia deepened its ties with Europe by signing a Partnership and Cooperation Agreement with the European Union. By strengthening relations with Europe and signing up to the Council of Europe, Georgia became a signatory to the European Convention on Human Rights as well as the European

Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment and subject to the jurisdiction of the European Court of Human Rights and the visits of the European Committee for the Prevention of Torture. These international commitments brought Georgia more fully into the western sphere of influence. In terms of its prison system, Georgia became subject to inspections and greater international scrutiny of legal and political attempts to improve conditions and human rights in Georgia's spaces of confinement.

As will be documented in part two, the Rose Revolution shifted Georgia significantly westward in its international relations. Yet this move was preceded by the diplomacy of Shevardnadze's government, which had remained relatively pro-western during its time in office. Moreover, Shevardnadze had allowed the promotion of young western-educated reformers such as Saakashvili who were eventually to usurp him. In a similar vein, perhaps due to government weakness to control it, Georgia had a relatively active civil society compared to other countries in the region. This civil society was able to mobilize against governmental fraud in 2003 just as it rallied against prison abuse in 2012.

The Rose Revolution itself and the UNM were widely supported by Europe and the United States. Saakashvili and his government moved to further integrate Georgia with the international community. As Georgia signed up to more international treaties (see part two) attacked corruption, crime and encouraged economic liberalization, the UNM claimed that Georgia was no longer 'post-Soviet' and that a new mentality had taken hold in Georgian society; in short the UNM asserted that they had made Georgia 'normal'. However, in the prison system the legacy of the Soviet Union was not so easily extinguished.

## 1.2. Soviet and Post-Soviet Legacies in the Prison System

Georgia existed as one of the fifteen Soviet Socialist Republics that made up the Soviet Union from 1921 until independence in 1991. As such, it operated a Soviet style camp system and Georgian convicts could be sent far away from Georgia to Siberia. In the late Soviet Union, remand prisoners could be held in cellular prisons and in isolation. About one percent of the convicted prison population was held in closed, cellular jails, and this was for only the very worst offenders. The vast majority of convicted prisoners were held in five main types of correctional institution around the country, the majority of these were corrective labour colonies, open 'zones' where inmates worked as part of being 're-educated' (read: re-indoctrinated). The institutional types were:

1. General regime colonies: for first time offenders and minor crimes that carried punishment of up to three years of imprisonment.
2. Reinforced regime colonies: for first time offenders who had committed more serious crimes.
3. Strict regime colonies: for recidivists
4. Special regime colonies: for especially dangerous recidivists and lifers
5. Colony settlements: open prisons for some well behaved prisoners who had served a third or more of their sentence in general, reinforced or strict regimes.



A key feature of the Soviet penal system was its insistence on the division of prisoners into categories determined by the crime committed and length of sentence. The Soviet system tacitly worked with the idea that minor offenders could be ‘contaminated’ by serious ones. In the West, such ideas had led to the development of cellular prisons and careful allocation and movement of individuals. Instead, the Soviet government preferred to separate whole categories of people by camp type. It was most concerned and focused its energies on the threat of the recidivist. This was for good reason – those that lived a criminal or ‘parasitic’ lifestyle were an embarrassment to the Soviet ideological claim that crime could be eliminated and that re-education through indoctrination and labour could rehabilitate and produce new men and women.

The worst of these recidivists were those that had achieved a symbolic and social standing among the prisoners and could exert significant influence. These were and still are known as *vory v zakone* (*kanonieri qurdebi* in Georgian), in English best rendered as thieves-professing-the-code (as in a code of honor) but usually translated literally, as thieves-in-law. These particular prisoners had passed through a ritualized initiation in order to claim this protected status, existing as a criminal elite. The status, once gained, travelled with the individual from camp to camp, providing the individual with rights to certain privileges but also obligations to other fraternity members. The fraternity of *vory v zakone* presided over a criminal world made up of status hierarchies and informal normative orderings that, taken together, became known as the *vorovskoi mir* (in Georgian *qurduli samkaro*) or ‘thieves’ world’. Other informal categories of prisoner were subordinated to the *vory*, doing their bidding, including extorting resources to be pooled for collective use (known as the *obshchak*) and regulating behavior and disputes among other prisoners.

Though there is ample evidence that the *vory* collaborated with camp administrations in controlling prison colonies, these criminals were a particular worry for the state for a number of reasons. Firstly, their code of honor, which developed in the 1930s, was deliberately anti-statist, forbidding any form of contact with formal structures through marriage, work or residence. *Vory* foreswore all materialism and familial and public life in favor of the prison community. Secondly, the thieves’ world subculture could not only contaminate other prisoners within the penal system, it had also spread outside the prisons as over a million persons were released from the Gulag at the end of the 1950s following the death of Joseph Stalin. The thieves’ values and norms percolated through society, offering an alternative counterculture to that of official Soviet culture. Thirdly, the thieves’ world was mythologized and tinged with the romantic image of the noble outlaw, an image that found strong resonance in the mountains of the Caucasus and in Georgia in particular. In essence then, by the end of the Soviet period, prisons were sites of cultural and political resistance, not just among political prisoners, and the notion of the *vory* and their followers as contaminators of the values of otherwise law-abiding Soviet citizens was an established notion to be remedied by policy. These facts should be kept in mind as we discuss the trajectory of Georgian prisons after the collapse of the Soviet Union.

After independence, new President Zviad Gamsakhurdia demanded that all Georgian prisoners throughout the former Soviet region be returned to Georgia. This demand was met, but the Georgian

state was now entering its 'time of troubles'. Civil war and secessionist conflicts were breaking out, the economy, dependent on the linked up command system of the Soviet Union, was collapsing, and many prisoners simply walked out of Georgia's demoralized labour camps in the ensuing chaos.

There was a huge increase in crime and victimization rates by the mid-1990s. Yet, due to the weakness of the state and the infamous corruption of the police and justice system, throughout this decade, Georgia maintained a small prison population. This population was housed in an increasingly decrepit penal estate on the grounds of former Soviet-style colonies (though with the industry of the labour camp now scrapped) and remand prisons. Staff earned paltry sums and investments in infrastructure, nutrition, health, and anything like rehabilitation were non-existent. At this point, prison reform was far from the political agenda given the dire state of the economy after war, industrial collapse and social disorder.

Like most state institutions, the structure of order in prisons had collapsed: the walls of prisons were almost completely porous, prisoners, for the right price, were able to obtain whatever goods or benefits they liked. At such a time, the power of informal structures of governance within the prison, regulated by the *vory* and their top men known as 'overseers' (*makurebeli* in Georgian), came to predominate prison life. Prison staff only symbolically ran so-called 'black' prisons, those controlled by the informal norms of the *vory*. Elite level criminals within such prisons had virtual offices, claimed the best cells, and had access to mobile phones, weapons, and prostitutes.

It is important to emphasize that while the dispersal of authority and control to the prisoners themselves was a legacy of Soviet thinking about order in the wide-open spaces of prison colonies, the corruption of prison staff was not an overarching policy across all institutions or somehow directed from above by the government. Research points to the fact that, often informal, negotiation between prison staff and *vory* over order in prisons was on an individual basis as part of a *quid pro quo* arrangement. Through collusion with the *vory*, prison directors reduced disturbances, kept a compliant inmate body, and received material reimbursement in return for allowing the *vory* and their men a free hand in the prison, including organizing meetings with those outside the prison and collecting the funds and material for the *obshchak* from the extortion of other prisoners lower down the prisoner hierarchies.

Moreover, in general, Georgia, along with Russia, at this point was perhaps the most prominent 'producer' of *vory* across the whole post-Soviet region according to the best estimates of the police. In Georgia, for a mix of cultural and historical reasons, the thieves' world had perhaps taken on the strongest allure and attraction for young people compared to anywhere else in the region. Prison policy, if it existed at all, could no longer seek to stem the spread of the 'contamination' caused by the 'thief-recidivist' – the, often romanticized, influence of these criminals had seeped into social life long before an individual might end up in prison.

Perhaps the best evidence for the prominence of the influence of *vory* in Georgia is the fact that the country, very briefly, was run by a member of this criminal fraternity. In January of 1992, the first democratically elected president of newly independent Georgia, Zviad Gamsakhurdia, was violently

overthrown in Tbilisi. A ruling triumvirate replaced him. One of this council was Jaba Ioseliani, a thief-in-law who had created his own paramilitary group known as *Mkhedrioni*. It was Ioseliani, together with others, who invited Eduard Shevardnadze back from Moscow to run Georgia. Now buried in the Didube Pantheon reserved for celebrated Georgians, Ioseliani represents the significant role of the *vory* – a legacy of the Gulag system – had come to play.

With the demoralization of the institutions of state in the 1990s, for many Georgians life went on outside formal, legal frameworks. In such a situation, the *vory* had become not so much a criminal subculture, but alternative governance providers and alternative source of authority and order to that of the state. In this sense, the state in Georgia was in competition and threatened by them. It perhaps should be no surprise then that an attack on organized crime became a main priority and a cornerstone of prison policy, once Shevardnadze was gone.

Informal rule and order in prisons came to influence wider Georgian society in the Soviet era. This influence only increased in the immediate post-Soviet era. This fact provides important context as to why prison policy became so crucial after the Rose Revolution of 2003 and how it came to be linked to anti-organized crime policy and threats to the state. As we will now show, the increased security of the prison system during the Saakashvili administration had direct consequences for rights' abuses in that system. These abuses were known about and reported to a limited degree, as we will document. Despite greater international obligations, greater scrutiny, and widespread approval of the reforms, Georgia was yet to become a 'normal' country – one where human rights abuses were condemned and curtailed, quite the opposite.

### 1.3. International Support for Improvement of Governance of Human Rights

In shifting the prison system away from its Soviet roots, Georgia received a lot of outside help. Cooperation between the Council of Europe and Georgia on the reform of the prison system began in 1997. A joint steering group was set up in 1999. After 2003, there were further indications that Georgia's criminal justice reform would be heavily influenced from Europe. In 2004 the EU sent a delegation of experts to advise on reform at newly-elected President Saakashvili's behest. Known as EU JUST THEMIS, the year-long mission was the first of its kind undertaken by the EU with the goal of helping Georgia revise, reform and restructure the criminal justice system at all levels. Concerning the fight against torture, from 2003 to 2013 over 8 million euros<sup>1</sup> was directly spent by the CoE and the EU on joint programmes that focused on combating ill-treatment in Georgia. The programmes aimed at:

- Developing national capacities for combating ill-treatment by law enforcement agencies and investigative institutions, including strengthening the effectiveness of investigations of allegations of ill-treatment.
- Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture.

- Setting up an active network of independent non-judicial human rights structures.
- Enhancing education, training, monitoring and awareness of European Human Rights standards and reinforcing the work of international human rights mechanisms inter alia through the promotion of the observance and implementation of the European Social Charter.

The CoE Development Bank has provided loans for the construction of new prisons. One such loan, in 2011, was for 60 million Euros.<sup>2</sup> The EU has further funded non-governmental organizations with projects total worth 22 million Euros over the last 7 years, and this amount does not reflect direct budgetary support.

Besides the CoE and the EU there are many international donors including the OSCE, Norwegian Rule of Law Mission to Georgia (NORLAG), Eurasian Partnership Foundation, USAID, GIZ, UNDP and others, who have funded similar projects aimed at, among other things:

- Supporting national human rights institutions such as the Public Defender's Office and the Human Rights Departments of the National Security Council and the General Prosecutor's Office, as well as non-governmental organizations working in the field of human rights.
- Monitoring trials and strengthening legal mechanisms
- Monitoring the penitentiary system and supporting its reform
- Assisting the Georgian Government to promote effective functioning of the probation and penitentiary system
- Supporting the Penitentiary and Probation Training Center (PPTC) in their training of staff members in Probation in Georgia
- Development of early-release programs
- Rehabilitation and re-socialization of prisoners
- Contribute to the reform of the juvenile justice system in Georgia and especially to the improvement of the penitentiary and probation systems for convicted child offenders.
- To introduce a reintegration-focused penitentiary and probation systems through developing individual reintegration planning and reintegration programmes

Much has been spent, both economically and in terms of human capital, on Georgia. The context of overwhelming international support is important when considering the mounting problems with torture documented in this report. While the programmes were well-intentioned and have often provided much needed assistance and improvements the problems of torture and abuse in the penal system persisted and perhaps worsened, as the report investigates in more detail in Chapter 4. The lessons to be learnt from Georgia's reforms then are not solely for Georgians but for the wider international community.

## 1.4. Structure of the report

The report is designed so that it may be read in whole or in part. Throughout the report summary statements are provided giving the main claims of each subsection to aid the reader. Following this chapter, the report is structured into four further distinct parts. These are described briefly below.

Chapter two: this aims to provide context and background to the human rights abuses in prison. In particular the chapter describes the evolution of criminal justice reform with a special focus on the use of zero tolerance policy. It looks at the practices of this policy and the impacts on particular groups and prisons.

Chapter three: this provides summaries of the key findings from international and local observers of Georgia's penal system during the years of zero tolerance (2006–2012). The chapter aims to show what was known to the outside world despite limited access to the system.

Chapter four: provides entirely new empirical data from prisoners and former prisoners on inhuman treatment and torture during the years of zero tolerance. This chapter aims to greatly deepen our understanding of how prevalent torture was, who were the victims, what the goals of torture were, how successful it was in achieving these, what form it took, how prisoners responded and what were the consequences for victims. This chapter also provides an appendix containing a number of in depth testimonies from interviews to complement the survey data with qualitative detail.

Chapter five: briefly describes lessons learned and provides recommendations on what should be done to preclude the use of torture and improve the situation in Georgian prisons.

## Chapter 2. Criminal Justice Policy and Practices 2003–2012

---

### Introduction

Prior to the Rose Revolution of 2003 Georgia was facing numerous problems, from human rights violations, systemic corruption, and mass unemployment, to both miniscule and delayed pensions and salaries. A briefing paper by Human Rights Watch from 2004 reports that Georgia was an extremely corrupt state which could not even deliver basic services to its citizens. “The government was dysfunctional, all spheres and levels of the state were corrupt, and citizens encountered injustice everywhere and felt vulnerable and powerless”<sup>3</sup>. Former US Deputy Assistant Secretary of State for European and Eurasian Affairs, Matthew Bryza, has said that the Georgian state before Saakashvili was so weak that it “almost did not exist.”<sup>4</sup>

Under the weight of staggering economic collapse, society was suffused with a sense of alienation from the state leading to “deep-rooted tolerance”<sup>5</sup> towards certain forms of criminality and influential mafia bosses, the *vory* or thieves-in-law. However, expectations were raised after the Rose Revolution that the new government led by the United National Movement party would ensure significant improvements. The party enjoyed great support to undertake the reforms. In response to existing needs the leader of the party – Mikheil Saakashvili and his team – promised to carry out numerous reforms especially addressing human rights, corruption and standards of living<sup>6</sup>.

The focus here will be on the criminal justice system and those reforms closely linked and related to it. This chapter will aim to analyze the policies implemented in the criminal justice sector in the years of the Saakashvili government, how these policies worked in practice, and their impact with particular reference to human rights’ abuses. This chapter will be divided into chronological sections taking into account the main events and reforms shaping criminal justice policy in Georgia. The main section, section two, deals at length with the policy of zero tolerance and makes up the bulk of this chapter:

- 2003–2005: rapid reform and ad hoc criminal justice immediately after the Rose Revolution
- 2006–2009: zero tolerance policy on crime announced, its key practices and its implications for different groups.
- 2009–2012: touted liberalization of criminal justice beginning in 2009 up to the prison scandal and the elections of 2012.

### 2.1. The beginning (2003–2005)

#### *Aggressive Anti-Corruption Campaign Begins Immediately After the Rose Revolution*

On an international level, Georgia became a signatory to a number of international conventions in the first years of Saakashvili’s tenure over and above those signed during Shevardnadze’s time. These included the Rome Statute of the International Criminal Court, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Optional Protocol to the Convention on the

Rights of the Child, On the Sale of Children, Prostitution and Child Pornography, and the Optional Protocol of the Convention Against Torture among others.

At the same time, the new government set the fight against corruption as one of its main priorities. As the Prime Minister at the time, Zurab Zhvania, noted during a press conference in late 2004 their policy priority “will be a real fight against corruption. All those who are responsible for misappropriation of people’s property will be held accountable.”<sup>7</sup>

Initially the government started carrying out an anticorruption reform in every state agency. This reform was particularly concentrated on law enforcement agencies. A reform of the police and Ministry of Internal Affairs (MIA) was a particular priority. The radical nature of this reform is difficult to overstate. Georgian law enforcement was completely purged with some departments, such as the notoriously corrupt Traffic Police, fully disbanded. The MIA was reduced in size by over 50%; wages were increased, new uniforms, cars and equipment were acquired. Shrinking and professionalizing the police in this way signalled a commitment to deep reform, and trust in the police increased dramatically. Corruption appeared to significantly decline according to Transparency International’s Corruption Perception Index.<sup>8</sup>

In the beginning, the fight against corruption was waged mainly upon former officials, businessmen and other influential people for corruption related crimes.<sup>9</sup> Many of these were released from remand prison without a criminal record after making a payment into the state budget.<sup>10</sup> The release of these detainees was often arranged through the newly introduced process of plea-bargaining, one of the first innovations of Saakashvili’s government upon taking power in 2004. The initial justification for introducing the plea bargain was considered to be returning untaxed money hidden from the budget<sup>11</sup>. Saakashvili himself spoke of the efficacy of this early approach to state financing.<sup>12</sup> In addition to this, a special provision was added to the Administrative Procedure Code of Georgia to enable the government seizure and forfeiture of illegal assets and misappropriated property of public officials and mafia bosses.

The legislation on asset forfeiture was part and parcel of a government initiative aimed at combating organized crime that picked up pace through 2005. Several new legislative initiatives, and amendments to existing legislation, were passed. Most important of these was the Law on Organized Crime and Racketeering Activities the aim of which in the beginning was to enable a general fight against organized crime and its prevention in the future to protect private and state interests. The law that passed towards the end of 2005 however focused on those actors carrying the criminal elite status of thief-in-law who had emerged originally in the Gulag as discussed in part one of this report. More than this, the new laws contained the new crime of ‘mafia association’, in the Georgian context known as ‘belonging to the “thieves’ world”<sup>13</sup>.

### *Early concerns about the trumping of security over human rights and civil liberties*

Survey data and expert opinion suggested that initially “society welcomed the fight against corruption and mafia organisations, calling for even more stringent measures.”<sup>14</sup> Yet, just as in other contexts such as the US, Canada or Italy, there were increasing concerns that an anti-mafia policy could over-empower

police and prosecutorial agencies at the expense of civil liberties and human rights. The crime of ‘mafia association’ in particular could be applied widely and loosely. As Levan Ramishvili, head of NGO Liberty Institute declared in his interview with Amnesty International in April 2004, human rights were not on the agenda of the new government.<sup>15</sup>

Yet the issue of human rights should have been a top priority as the legacy of Shevardnadze’s government included, among other things, a “poor record on human rights”<sup>16</sup> and a corrupt judiciary. Torture and ill-treatment during the pre-trial period was especially widespread and was still a concern after the Rose Revolution.<sup>17</sup>

However, in stark contrast to the reform of law enforcement, the judiciary was left largely untouched and pre-trial prisons, where plea bargains and transfers of money to the state budget in turn for freedom took place, remained sites of abuse. In 2005, Amnesty International recorded a number of instances of abuse which included methods of torture such as electric shocks and ‘beatings, including with truncheons and butts of guns, and kicking’.<sup>18</sup>

Harsh methods were especially used against those who were arrested for corruption or organized crime. According to the Ombudsman at the time, Sozar Subari, the methods for fighting against corruption included planting drugs and weapons and confessions through pressure in the cases where supposedly everybody knew the defendants were involved in corruption yet the government could not prove it.<sup>19</sup>

Another highly worrying tendency at this time was an increase in cases of lethal violence committed by law enforcement agents. As highlighted in the Alternative Report of the NGOs to the UN Human Rights Committee there were many cases of special operations ending with fatal results. As early as 2004 Saakashvili advised the Justice Minister to “use force when dealing with any attempt to stage prison riots, and to open fire, shoot to kill and destroy any criminal who attempts to cause turmoil. We will not spare bullets against these people”.<sup>20</sup>

Given such statements, it is unsurprising that in 2004 Human Rights Watch was concerned that officials “have used forceful language, proclaiming the guilt and bad character of those arrested, and praising or justifying investigations, even when serious allegations of torture and procedural violations have been raised”.<sup>21</sup> Furthermore, the police often filmed raids and arrests on venal politicians. These clips and the government justifications were re-run on various media outlets. This set a very early, dangerous precedent of demonization of those accused or convicted of corruption and organized crime in which any means appeared to justify the ends the government had set. Clearly, from the very beginning, activists were right to worry that the fight against corruption and organized crime was taking place at the expense of human rights.

### *Early government attempts to ensure human rights protections*

Towards the end of 2004, Justice Minister Zurab Adeishvili admitted that the reforms had entailed abuses and promised that the reform process would continue on without further violations.<sup>22</sup> Adeishvili’s public acknowledgement of abuses could be seen as a positive sign. Indeed, some steps were taken to improve the human rights situation. The definition of torture was brought in line with international



standards, stricter measures were adopted and representatives of NGOs were given access to police cells and pre-trial facilities, or temporary detention isolators.<sup>23</sup>

NGO representatives' permission to enter these cells under the auspices of the Public Defender's Office was positively assessed, for example by Human Rights Watch<sup>24</sup> and the U.S. State Department.<sup>25</sup> According to NGOs, due to their visits, the allegations of torture in pre trial detention facilities decreased. As indicated in the Alternative Report to the UN Human Rights Committee in 2005, NGOs performed this monitoring role satisfactorily, however they were not able to cover the whole of Georgia.<sup>26</sup>

A public monitoring mechanism for prisons was established in 2004 when the president approved a list of people who could enter the prisons without special permission. The list included NGO representatives as well as certain public figures<sup>27</sup> some of whom would also sit on a newly-established Advisory Council.<sup>28</sup> In parallel, based on the Law on Imprisonment, the Ministry of Justice approved a decree for the establishment of prison commissions in 2005<sup>29</sup>. The members of these commissions could be representatives of local municipality government, public figures, NGOs and religious organizations. However, these mechanisms lacked organization, coordination, resources, independence and teeth according to a report of the UN Special Rapporteur on Torture.<sup>30</sup> Thus, despite these positive changes, it was argued that human rights violations were still taking place.<sup>31</sup>

### *In contrast to law enforcement, the judiciary remained unreformed and perceived as lacking independence*

The judiciary remained one of the most serious challenges for the ongoing reforms. The courts had been roundly criticized under Shevardnadze<sup>32</sup>. After the Rose Revolution, the main priority for initial judiciary reform was to decrease corruption. This, the government argued, had been achieved early on.<sup>33</sup> Although bribery decreased other serious problems remained.<sup>34</sup> NGOs emphasized that judicial authorities suffered from undue prosecutorial influence. They also criticized developments which empowered the president to appoint and dismiss judges personally.<sup>35</sup> The judiciary was also criticized for remaining unresponsive to allegations of torture due to a "lack of professionalism and independence."<sup>36</sup> As Konstantine Kublashvili, the chairman of the Supreme Court, stated the courts had become all part of one machine in the fight against crime. "The key approach was set out at that time as a struggle against crime, corruption and drugs, everybody was involved in this, including the court. Let's say that all three branches of the government implemented it."<sup>37</sup>

Anti-corruption measures in the judiciary were undermined by the confusion and opaqueness concerning the introduction of plea bargaining. As a foreign import into the justice system, this practice gained the perception in society as another form of state-sanctioned corruption. As Transparency International later pointed out: "fairly or not, this is how plea bargaining has gained a reputation of an instrument allowing offenders to buy their freedom."<sup>38</sup> The Parliamentary Assembly of the Council of Europe criticized plea bargaining going so far as to issue a recommendation to review the practices of the mechanism. The assembly reported that: "[plea bargaining] on the one hand allows some alleged offenders to use the

proceeds of their crimes to buy their way out of prison and, on the other, risks being applied arbitrarily, abusively and even for political reasons.”<sup>39</sup> One abusive form that plea bargaining could take, as Human Rights Watch feared, was as a means of suppressing allegations of torture.<sup>40</sup>

### *Summary*

In summary, the top priorities for the new government became the fight against corruption and organized crime, to be won at all costs regardless of human rights. Social attitudes manifested differences on these issues. The reform of the police, for example, was viewed highly positively by society. However, some in society were concerned at the scale of the arrests and potential for human rights abuses. The government took some steps to eradicate violations of rights in the criminal justice system but this occurred at only a relatively superficial level. As Amnesty International reported, Georgia’s human rights record in this period was “mixed.” Moreover, there were instances when the government itself was encouraging those violations.

Even in the early years of Georgia’s reforms then, an atmosphere of punitiveness for law-breakers and impunity for state agents pursuing those law breakers was fostered by the government. A ‘win at all costs’ mentality took hold in a war against crime where any means appeared to justify the ends.

## 2.2. 2006–2009: Intensification of Punitiveness – Zero Tolerance Policy

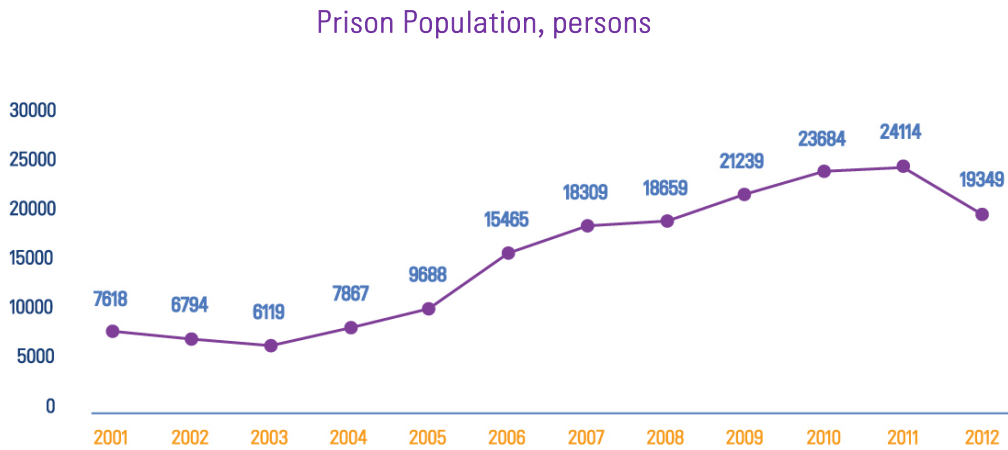
### *Mandatory custodial sentencing and zero tolerance policing introduced leading to a 300% rise in the prison population*

In 2006, a zero tolerance policy was only officially announced. Saakashvili stated at the time that: ‘I am announcing a new draft law with zero tolerance for petty crimes . . . There will be no probation sentences . . . Everyone who commits these crimes will go to prison.’<sup>41</sup> The aim of the policy was to minimize the crime rate, fight impunity and change the public’s perception of crime.<sup>42</sup> As the Ministry of Justice explained this policy is “commonly used to describe a strict and comprehensive approach to combat crime it connotes strict enforcement of minor offences and disorder as much as of serious crimes”.<sup>43</sup>

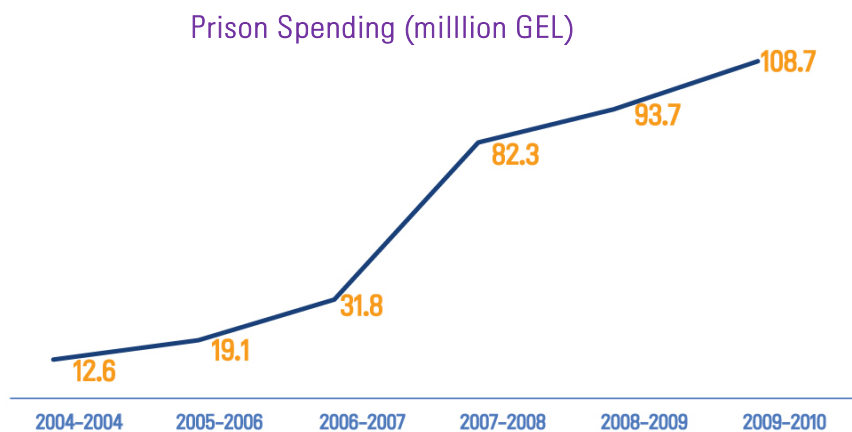
The concept itself originates from the early 1990s in New York City. Primarily, it signifies a form of policing that is proactive and heavy-handed.<sup>44</sup> In Georgia, as well as empowering the police with extraordinary powers, such as using lethal force against those resisting arrest, zero tolerance aimed at changing sentencing policy through the introduction of mandatory custodial sentencing. In essence, this took discretion away from judges, dictating that even the most minor crimes be punished by a prison sentence.

While plea-bargaining had allowed greater numbers of caseloads to pass through the courts quickly without lengthy trial proceedings, mandatory custodial sentencing, weak judges and strong prosecutors ensured that the end result of a trial was usually a prison sentence. The simple formula of high caseloads

plus low acquittal rates (0.1% in 2009) and harsh sentencing equalled a huge boom in the prison population. While there were 9,688 prisoners in 2005, the number rose to 21,075 in 2009, 23,684 in 2010 and 24,114 in 2011<sup>45</sup>. Thus, in the period, 2003–2010, there was a 300% increase in the prison population. This meant that, in 2010, Georgia incarcerated 538 people per 100,000 of the population, fifth in the world, and the highest in the eastern European region with the exception of Russia.<sup>46</sup> The graph below shows the increase in the prison population in Georgia over time.

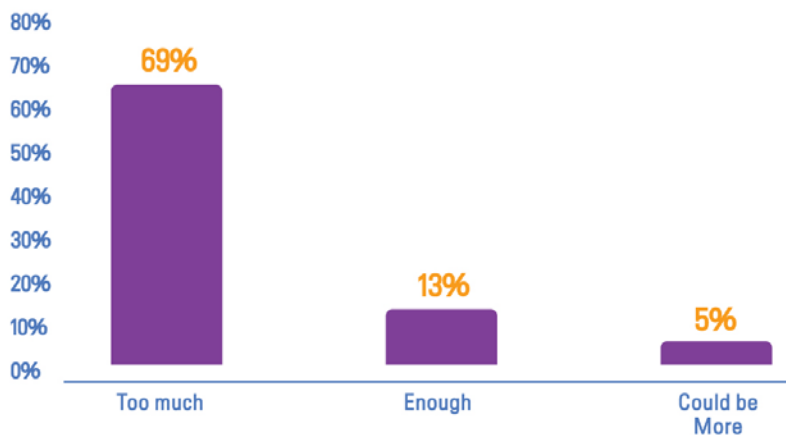


To house this increased population, prison reform in 2005 and 2006 involved a frenzy of construction and renovation. The expenditures on the Penitentiary Department within the Ministry of Corrections and Legal Aid went up 760% in the period 2003–2007, as graph 1 shows, increasing from 0.1% of GDP to 0.5%. This probably does not account for all the funds spent on construction and renovation of prison infrastructure.



*Penitentiary Department Budget in million Georgian lari (Ministry of Finance 2004–2009).*

According to Penal Reform International, if in 2004–2005 imprisonment of up to one year was used most frequently, then in 2006–2007 the most frequently used sentence was imprisonment of five to eight years<sup>47</sup>. The drastic increase in the prison population resulted in overcrowded prisons and in some cases unbearable living conditions.<sup>48</sup> While acknowledging this negative side of zero tolerance, a representative of the Ministry of Justice<sup>49</sup> argued that this increased imprisonment rate “should not outweigh the success of reforms”.<sup>50</sup> Not everyone in society agreed with this assessment, by 2009 polling data suggested that Georgians saw the prison population as too large. The graph below illustrates this.



*Graph 3: Answers to the question: There are currently approximately 20,000 prison inmates in Georgia. How do you rate this situation? Source: Penal Reform International South Caucasus (2009)*

The huge growth in the prison population provoked different reactions in Georgian society. Below we discuss the key features of the Georgian zero tolerance policy that led to this growth: plea-bargaining, confessions, illegal investigative tools of the investigative bodies, low acquittal rate and excessive use of pre-trial detention. We then also look at its effect on certain target groups including prisoners, juveniles, and drug users.

### *2.2.1. Key practices of zero tolerance: plea bargaining*

Plea-bargaining became an important and inseparable part of the Georgian criminal system as a high number of cases started to be settled using it. Its role went beyond fighting corruption and organized crime. The potential for abuse was clear – instead of contributing to speedy and effective justice, it could be used as a tool in the hands of the prosecution for covering up flaws in criminal investigations. A plea bargain requires a lower standard of proof.

From 2006 the number of criminal cases concluded with a plea bargain increased per annum. In 2007, 13% of cases ended in a plea bargain, in 2009 this figure stood at 57%.<sup>51</sup> What was the reason for this increasing prevalence of plea bargains? Data on such cases show that the defendants agreed to plea bargain only because they did not have faith in the judiciary system and the chance of acquittal.<sup>52</sup> Having an extremely low acquittal rate (it dropped to 0.1 % in 2009) pushed defendants to plead guilty even if innocent and pushed them to conclude a plea bargain.<sup>53</sup>

Moreover, a further problematic issue with plea bargaining in practice was the fact that the prosecution was leading the process. The judiciary was limited to checking the evidence, making sure that the plea agreement was not against the will of defendant and then either approving or rejecting the plea agreement, and, where necessary, suggesting changes to the conditions of the plea. Judges were accused of not using the limited powers available to them and being a “rubber stamp” for the motions of the Prosecutor’s Office<sup>54</sup>. As for the defense, it had minimized functions. Attorneys were left with the function of negotiating the best conditions possible in return for a plea.<sup>55</sup> In general, the government’s focus was on strengthening resources, increased training and influence of the prosecution, while the Georgian bar struggled to keep up.<sup>56</sup>

An important further reason for the high number of plea bargains and the low acquittal rate were the unbearable conditions in pre-trial detention. “Defendants ended up in Prison #8 in Gldani, which is notorious for problems of ill-treatment, and this contributes to the high number of defendants who wish to enter a plea bargain,” Tamar Chugoshvili<sup>57</sup> concluded during the European Union–Georgia Civil Society seminar on human rights in 2012.<sup>58</sup>

Plea bargaining was also an important source of revenue. The total sum transferred to the budget via plea bargain agreements between 2009 and 2012 was over 140 million Georgian lari<sup>59</sup>. This amount is quite significant; it is twice the size of the 2010 budget for the Georgian Parliament and the budget of eight different ministries combined. Plea bargaining became a serious revenue stream for the government and large fines, although not required by the legislation to be part of the agreement, were used in the majority of the cases.<sup>60</sup>

Recently the ECtHR delivered a judgment in the case of *Natsvlishvili and Togonidze v Georgia*<sup>61</sup>, where it was highlighted that plea bargaining, apart from offering the important benefits of speedy adjudication of criminal cases and alleviating the workload of courts, prosecutors and lawyers, can also be, if applied correctly, a successful tool in combating corruption and organised crime and can contribute to the reduction of the number of sentences handed down and as a result also decrease the number of prisoners. However, the Court also added that any waiver of procedural rights must always be established in an unequivocal manner and be attended by minimum safeguards commensurate with its importance. The Court also stressed that it is important to check whether the plea bargain was concluded by the person in full awareness of the facts of the case and consequences and that a plea bargain and the procedure related to it was subject to judicial review.

In this particular case the Court concluded that the applicant’s acceptance of the plea bargain, which entailed the waiver of his rights to an ordinary examination of his case on its merits and to ordinary appellate review, was an undoubtedly conscious and voluntary decision. However, dissenting opinion in the case argued that in a situation where the conviction rate was 99.6% the notion of voluntariness cannot be applied and that stricter safeguards should have been in place.

### *2.2.2. Key practices of zero tolerance: investigative tools*

Looking at how cases were investigated and brought before the courts can also shed insight onto the high number of plea bargains. Such methods allegedly included “conduct of searches without warrants; pressure on apprehended persons to confess a crime or incriminate someone else; allegations regarding the planting of weapons and drugs by police officers who then appeared as the sole witnesses against the defendant in trials; absence of witnesses during the conduct of searches; and no forensic examinations on the alleged object of the crime.”<sup>62</sup> While organizations were voicing concerns about these methods, defendants themselves started speaking about their cases only after the prison scandal in 2012.

Also, in 2013 it came to light that large-scale illegal surveillance had been taking place. In 2013, the Ministry of Interior discovered around 24,000 recordings of private conversations and interactions without judicial authorization. Such illegally obtained evidence could easily have been used as evidence against, or to pressure, defendants. According to the Commission on the Issue of Illegal Interception and Private Life Recordings, formed after the recordings were discovered, covert footage had been taken of political leaders, civil activists, dissenters, and civil servants. The Commission also concluded that the recordings were obtained by the installation of a virus on personal or work computers<sup>63</sup>. At the same time, some Commission members also argue that there must have been other methods of collecting private data also<sup>64</sup>. The recordings show clearly that the government was collecting a wealth of information on its citizens illegally that could be used for investigative and prosecutorial, as well as for political, purposes.

### *2.2.3. Key practices of zero tolerance: excessive use of pre-trial detention*

While the length of time a person could be held in pre-trial detention was changed, statistics from the Supreme Court show that the actual usage of pre-trial detention increased between 2007 and 2008 and maintained high levels<sup>65</sup>. The excessive use of pre-trial detention was identified as problematic at least since 2006 in country reports on human rights practices by the U.S. State Department.<sup>66</sup> According to NGOs, pre-trial detention was used regardless of the crime. Other organizations showed that even in the case of minor crime detention is used “which provides strong support for those who claim that judges are not acting according to their individual assessment regarding the need for preventive measures but instead are rigidly adhering to so-called “zero tolerance.”<sup>67</sup> The substance of the decisions was also problematic as the justification for the expediency of using a preventive measure and then a proper justification for the selected measure was missing.<sup>68</sup> Courts imposed pre-trial detention in all cases which the Georgian Young Lawyers’ Association monitored and analyzed and where the prosecution requested it.<sup>69</sup>

Taking into account the problematic picture created by the excessive use of plea bargaining, one of the recommendations of the Georgian human rights dialogue organized by the European Union, was on the use of alternatives to detention and it was also noted that pre-trial detention should be used as a last resort.<sup>70</sup>

While the above discussed initiatives concerned the whole criminal justice system, there were other initiatives targeting particular groups: in particular here we draw attention to the lives of prisoners in general, juvenile offenders and drug offenders.

### *2.2.4. Effects of zero tolerance: prison life*

In 2006, prisons were overflowing with new arrivals as we have seen. Newcomers entered a system in complete flux due to large-scale reforms being carried out. These reforms aimed to work towards the goals of zero tolerance: the elimination of corruption and the power of organized crime. The prison reform

had three main interlocking features which intentionally and profoundly affected prison society. Firstly, there was an overt aim to physically restructure social relations between prisoners. This involved moving from large capacity dormitories towards a western-style cellular system of imprisonment that minimized interaction between different types of prisoners. Secondly, the idea of contamination was tacitly maintained and indeed focused upon; the strict segregation of thieves-in-law and other criminal authorities from the rest of the prison population in separate high security institutions was implemented. Thirdly, the reform aimed at shifting responsibility for order and control firmly back into the hands of the prison administration away from the prisoners. Finally, despite all of the above mentioned, much of the old prison system remained. For example, semi-open prisons still enabled high levels of interaction among prisoners. Some prisons, even in closed regimes, maintained cells for large numbers of people.

Emulating the success of the police reform in which thousands of police officers had been fired in order to purge the police of its corrupt elements and create a smaller, more professionalized force, prisons were also cleansed of their staff, with turnover as high as 80% in some places. Some staff were rehired, or new recruits taken on. Moreover, prisons were understaffed. At the height of Saakashvili's mass incarceration policy, a staff of just over 3,000 people had to run this reformed and volatile prison system at a staff-inmate ratio of roughly 1:10, though this varied by institution. Good practice suggests this figure should be no higher than 1:3. Staff were undertrained (training courses last as little as 20 days), and overworked (shift work could lead to staff working long shifts with non-proportional time off).

The huge influx of new, inexperienced prisoners, the mass turnover of staff, and transfers of prisoners from old facilities to new ones, supposedly offering better conditions, created chaotic conditions in the early years of the reforms, 2005 to 2007. The reforms met with resistance through mass hunger strikes and riots.

In March 2006, a massive disturbance broke out in Ortachala Prison Number 5. The disturbance looked like it might spread to prisons in Kutaisi and Batumi. As a result, the government used lethal force against the rioters, killing seven prisoners and injuring many more. In other prisons, such as Batumi Number 3, police used disproportionate force to extinguish resistance<sup>71</sup>. The exact causes of these disturbances are not entirely clear. There are differing opinions: certainly, thieves-in-law were involved, and it might have been an attempt to restore lost influence. On the other hand, the riot may have been instigated against the conditions and mistreatment prisoners had received (there are reports of abuse by guards and officials directly before the riot). The result of these events was the complete closure and destruction of Ortachala and the transfer and relocation of prisoners from prisons where disturbances or hunger strikes had taken place.

The Georgian government described these events as nothing less than an armed insurrection against the current regime by those who supported the thieves-in-law. Prisons, so the government rhetoric went, were sites that fomented the last vestiges of political resistance to the modernization program that the UNM were leading. The thieves-in-law represented the old, backward, informal, norm-governed anti-rule

of law, Soviet, and Russian past. The social system of organized crime, of which the thieves-in-law were the most obvious representatives, had to be destroyed, and this meant its complete extinguishment in the prisons around the country. The prison reform then was a central element in the anti-organized crime campaign and prison order was an issue of national security. Yet, as we show later in chapter four, our data shows that prisoners and ex-prisoners believe that violence came to be not solely directed at the elite criminals but at the whole prisoner society.

### *2.2.5. Effects of zero tolerance: drug users*

One of the spheres where the government's policy was especially punitive is drug related crimes. President Saakashvili, during his annual address to the parliament in 2006 stressed the importance of zero tolerance on drugs. Although his position slightly changed in 2008 when running for a second term, in reality the harsh drug policy was not revisited.

Penalties for drug related crimes harshened significantly. Drug crimes (Article 260 of Criminal Code) received the qualification of especially grave crimes. Most articles of the criminal code envisage high fines and imprisonment of up to 14 years and even life imprisonment, which supersedes the punishment for theft, murder, rape, and so on. Legislation does not differentiate between drug users and dealers. This makes it possible to judge a person who purchased narcotic substances for personal use and a person who did this for distribution on equal legal grounds and to sentence them with penalties of equal severity.

Besides, the situation of drug users worsened as a result of the generally severe terms of the Criminal Code of Georgia. The court was deprived of the authority to apply conditional sentences in cases of aforethought grave and especially grave crimes. It became possible to apply fines as an additional sentence even when this was not foreseen by the Criminal Code for a specific crime. Moreover, based on factual circumstances and personal belief, the court did not have the authority any more to sentence a person with the lowest possible charges or charges lower than stated by the law if there was no plea bargain made among the parties. The law on the fight against drug crime, adopted in 2007, introduced additional mandatory sanctions for people charged with drug offenses (this includes, *inter alia*, the withdrawal of a driving license). Applying these charges became obligatory for the court even in those cases where judges did not see any need to resort to them<sup>72</sup>.

Thousands of Georgian citizens were criminalized for the use of drugs. Drug users and their families moreover were often the ones paying money through plea-bargaining. Data has shown that over 44 million GEL was collected from people who use drugs between 2008 and 2009 while only 2 million GEL was spent on their treatment and other rehabilitation services offered annually.<sup>73</sup> Spending on treatment has increased to up to 5 million GEL as of 2014, though information on how much money is collected in the form of administrative and/or criminal fines has not been disclosed.<sup>74</sup>



While assessing drug policy, experts note that although the generally strict policy and the reform of the police resulted in improved drug crime detection, it did not reduce either drug use or the spread of transmittable diseases. Instead, the problem became simply less noticeable.<sup>75</sup> The report “2012 International Narcotics Control Strategy Report” notes that, “a large number of the drug using population has reportedly moved to home-made synthetic drugs. These drugs are extremely dangerous, and after only six months, drug users will face a severe degradation in their health.”<sup>76</sup>

In the course of the last years there were several official statements<sup>77</sup> and initiatives aimed at changing the current policy but they were never translated into law. The parliament in February 2007 adopted “Georgia’s Anti-Narcotics National Strategy” which was unfortunately not followed by legislative change.<sup>78</sup>

### *2.2.6. Effects of zero tolerance: women in the criminal justice system*

Although the proportion of women prisoners remained pretty stable within the range of 5% of the total prison population, the actual numbers of female inmates rose dramatically between 2006 and 2012 almost doubling within this six-year period and reaching an unprecedented number in late 2011 (over 1,200 female prisoners)<sup>79</sup>. The same tendency was true also for women probationers whose number grew gradually during the years of punitive criminal justice policy and exceeded 3000 at the end of 2011, a figure unseen before<sup>80</sup>.

According to the sentencing-related statistical data of the Supreme Court, prison sentences were used less frequently for women, compared to men, however when used the average prison terms were relatively similar for men and women. It is noteworthy that the proportion of women who received long prison terms (in 2010-2012) was larger than that of male prisoners: 33 per cent of women had received sentences over five years, in comparison to 25.7 per cent of men<sup>81</sup>.

In 2008 there were two life-sentenced women in Georgian penitentiary system<sup>82</sup> while in 2010 four women were serving life imprisonment at the Rustavi prison #5 for drug-related crimes. The application of life sentences in relation to women offenders had been unprecedented before the ‘zero tolerance’ criminal policy and Georgia provided the sole example in the South Caucasus<sup>83</sup>.

Georgia’s strict narcotics legislation resulted in the incarceration of many women for drug use and possession. Article 260 of the Criminal Code, which set criminal liability for the illegal possession, purchase/storage and/or dealing in drugs, does not distinguish between possession of drugs for the purpose of personal use and/or dealing, thus stipulating similar punishment for both, applying disproportionate sanctions for drug users<sup>84</sup>. About 40 percent of women prisoners in Georgia were incarcerated for drug related crimes in 2010<sup>85</sup>. According to research conducted by Harm Reduction International, 34 per cent of women prisoners in Georgia were serving sentences for drug related offences in 2011 -2012<sup>86</sup>. In May 2013, during the ongoing large-scale amnesty, still the second most common crime for which women prisoners were serving sentences were drug-related offences at 29 per cent. Contrary to the requirements of international standards<sup>87</sup>, for years there were no institutionalized gender-sensitive substance abuse treatment programmes, including Methadone detox program available

to women prisoners. The only relief for limited period and number of beneficiaries was provided by “Atlantis” psychosocial rehabilitation program based on a 12-step principle, oriented towards the full abstinence of patients, operated by the NGO PEONI.

In May 2013, according to the statistics provided by the authorities a large proportion of women were serving rather long sentences for non-violent property-related offences, including fraud (39 per cent) and embezzlement and fabrication or sale of false documents (3 per cent of all offences)<sup>88</sup>. In a different study<sup>89</sup> conducted by PRI later during the year, some of these prisoners claimed that they were victims of a miscarriage of justice during the previous years and were convicted for a failure to pay debts under the article for fraud. According to these studies, the loss of employment was experienced by 34 per cent of women prisoners in Georgia and loss of housing by 36 per cent<sup>90</sup>.

In 2010 an amendment was made to the Article 75 of the Criminal Code changing the terms of suspending a sentence for pregnant women offenders and women with children reducing the age range of a child from five to one year. This amendment meant that only pregnant women and women with children in their first year of life could receive suspended sentences. This change limited legislative grounds for considering women’s care-taking responsibilities of minors during judicial decision-making.

In his report from 2010 the Ombudsman noted prison overcrowding at the women’s prison facility caused by the dramatic increase in the number of women inmates in mid-2010. He also pointed out the rise in prisoner deaths in the facility compared to previous years<sup>91</sup>. The report also highlighted the lack of adequate healthcare provision for remand women prisoners, and particularly the failure to address mental healthcare problem. According to the report the existing prison congestion also created another issue linked to the possibility for mothers to keep their children (up to the age of 3 years) with them in the facility due to the lack of relevant accommodation in the mother and baby unit<sup>92</sup>.

The punitive penal policies pursued by the Georgian government manifested themselves in the restriction of a number of entitlements for prisoners, also due to the growing overcrowding problem. Long-term family visits (conjugal visits) were repealed by amendments to the Law on Imprisonment<sup>93</sup> in 2006 and re-instituted back in 2011 (factually for only mostly male prisoners), leaving women prisoners without this entitlement contrary to the requirements of international standards<sup>94</sup>. The Ministry of Corrections has the obligation to arrange the relevant infrastructure for long-term visits at the women’s establishment by December 31, 2015<sup>95</sup>. Although a special kind of ‘family visit’ lasting up to 3 hours was introduced by the Code on Imprisonment<sup>96</sup> it was no adequate substitute for proper visiting rights as these kind of special ‘visits’ were conducted with glass partitions in the rooms between prisoners and visitors (including children). This was only changed in 2013<sup>97</sup>.

The overpopulation of the women’s facility was further exacerbated by the inactive parole mechanism preventing the early release of women prisoners. This led to prisoner dissatisfaction and limited possibilities for re-socialisation. Between October 1, 2010 when parole boards were first established and September 30, 2012 only 40 women prisoners were granted early conditional release out of a total of 841

parolees (this means that of all parolees 4.7 percent were women including one girl who was under 18). In contrast, 250 women prisoners (including 1 juvenile female) of a total of 1967 parolees were released on parole between October 1, 2012 and August 27, 2013 (i.e. of all parolees 12.7 percent were women in this period)<sup>98</sup>.

In its report on the visit to Georgia in November 2012, the CPT recommended the authorities take steps to improve the supply of hygiene items connected to menstruation<sup>99</sup>. The lack of provision for this gender-specific need has been particularly acutely felt by socially vulnerable women prisoners from poor families.

Despite the pressing need for mental healthcare provisions among women, women's access to psychologists and psychiatrists was very limited or non-existent during the previous administration in Georgia, as identified by surveys conducted by PRI. Rehabilitation and educational programmes were provided solely by NGOs under donor funding for a limited time.

In their responses to the list of issues<sup>100</sup> raised by CEDAW, the new prison authorities indicated improvements in the provision of gender-specific and sensitive arrangements for women. This included prison healthcare services, facilities and nutrition for mothers and children, and rehabilitation programmes. The new government also pledged to take steps to introduce individual assessment and sentence planning in relation to women prisoners, as well as better monitoring mechanisms.

Despite the progress made after the end of the 'zero tolerance' policy, challenges still remain in ensuring proportionate and sensitive responses to offending by women.

### *2.2.7. Effects of zero tolerance: juvenile justice*

In 2006, changes were introduced to Georgian legislation which lowered the age of criminal responsibility to 12 for certain crimes. Lowering the age of criminal responsibility elicited fervent criticism in society. Ordinary citizens struggled to see how the imprisonment of a 12 year old would serve the aim of rehabilitation<sup>101</sup>. The Committee on the Rights of the Child, in its concluding observations from 2008 expressed concern regarding lowering the age from 14 to 12 and urged the government to reverse the change.<sup>102</sup> The age was raised back to 14 only in 2010. The government tried to justify the change by pointing to a supposed tendency among juveniles to commit grave crimes. Opponents on the other hand believe that there was no need for lowering the age of criminal liability and that this change was merely linked to the zero tolerance policy.<sup>103</sup>

The committee was also concerned about the reduced possibility of alternative sentencing for juveniles who would also have mandatory custodial sentencing applied to them as well as lengthy pre-trial detention and the absence of physical and psychological recovery facilities.<sup>104</sup>

The Public Defender expressed his concerns about the lack of discretion exercised by judges in not taking into account the individual circumstances of juvenile cases and specifics of age.<sup>105</sup> In particular, in 2006, a 14-year old juvenile was sentenced to 10 years in prison for attempted murder, while four Ministry of

Interior officials were sentenced to just eight and seven year sentences for the brutal murder of Sandro Girgyliani<sup>106</sup>. The Public Defender also noted with regret that no juvenile had been granted clemency.<sup>107</sup>

While developing a juvenile justice strategy for the period of 2008-2011<sup>108</sup> was considered a positive step by the Committee on the Rights of the Child, this strategy did not cover all the areas of the Convention on the Rights of Child. The committee remained concerned about children being victims of arbitrary detentions, police brutality and ill-treatment in detention facilities.

From 2010 the government introduced a juvenile diversion and mediation program. Based on prosecutorial discretion, alternatives to custody were found. The first stage of the program implementation identified that the index of repeated offences is rather low among adolescents enrolled in the Diversion and Mediation Program. Yet, in 2010-2012 diversion was applied to quite non-serious infractions. Therefore, there are now amendments to the criteria for enrolling adolescents in the program. In addition, trainings are delivered for professionals involved in the juvenile justice sector in order to increase sensitivity towards the children and adolescent affairs and conceptualize the philosophy of restorative justice correctly.

Furthermore, the concept of an individual sentencing approach in the penitentiary and probation system started as part of the juvenile justice reform.<sup>109</sup> However, this approach requires effective supervision and further enhancement institutionally. As a result of these steps, despite the “zero tolerance” policy while the penitentiary system was witnessing unprecedented overcrowding equal to practically improper treatment, in 2010-2011 juveniles were the only group in which the number of inmates had declined.<sup>110</sup>

Yet, positive initiatives launched in the juvenile justice sector could not be implemented effectively. With reform pending, a disturbance occurred on 8 August 2012 in the juvenile institution, resulting in damaged infrastructure and household items. Subsequently, 11 minors were charged for organizing a “riot”. A study carried out by GCRT in the Avchala juvenile institution in 2013 has demonstrated that<sup>111</sup> this “riot” was a response to violence exercised by the institution’s administration against the detained juveniles through the period 2010-2012. The majority of respondents reported being a victim of physical violence at least once. Interviews with adolescents revealed that physical violence was exercised mainly overnight by the employees of the institution’s administration, in the basement of the main building and sometimes in the Director’s office. To conceal traces of violence, the administration was forcing detainees to cancel or postpone appointments with family members and not to attend meetings with a psychologist or a social worker. Along with physical violence, the majority of respondents reported insults directed at parents and family members and their inadequate treatment as the cause of the riot.

Experts were also interviewed as part of the study. This revealed that prior to 2010, to establish order in the institution the administration was actively applying the laws and rules of the so-called criminal sub-culture, in which the “overseer” is the single “commander” and the inmates at the low level of hierarchy must obey him unconditionally. After the influence of the administration’s newly-appointed “overseer” abated due to various reasons, the administration itself resorted to direct violence against the adolescents.

In the juvenile institution the adolescents had to live in two parallel realities – on one hand, psychosocial services were available for them and individual sentence planning was launched, while on the other hand

they were the victims of systemic violence. After all of the above it is obviously hard to talk about any positive developments in the juvenile justice sector which still faces major challenges.

Despite the severe problems in the juvenile justice sector, this was the one sector of the penal estate where the prison population declined. The decrease of the juvenile prison population was part of a general attempt from 2009 onwards to liberalize the system. It is to this liberalization that we now turn.

### 2.3. Liberalization and the Criminal Procedure Code

The Inter-Agency Coordination Council of the Criminal Justice Reform was set up in 2009 by the decree of the President of Georgia. This was part of an announced liberalization process of the penal system.<sup>112</sup> In 2010 the government also adopted a new Criminal Procedure Code. Another change that can be counted as a sign of liberalization was the slightly modified way of calculating sentences. However, no changes were in place regarding the use of plea-bargaining. As for the imposition of pre-trial detention, there was a minimal decrease. Furthermore, although the government declared a revision of the criminal code, including revisiting sanctioning, it did not happen.

The participants at the Human Rights Dialogue in 2012 welcomed the signs of liberalization, however they noted that “a more holistic approach was needed to create a criminal justice system that would be capable of re-socializing convicts.”<sup>113</sup>

As for the new Criminal Procedure Code, which came into force in 2010, its adoption and the principles it conveys have been assessed very positively. The new Code aimed at moving the Georgian legal system from an inquisitorial to an adversarial one. It instituted the following main changes: 1) a system of jury trials 2) greater equality of defense and prosecution before the court 3) enhanced role of judges as arbiters 4) the burden of proof shifting to the prosecution 5) a 12 month deadline for conviction from the moment a person has been charged and the reduction of detention during preliminary investigations.<sup>114</sup>

It is already possible to assess the practice even though it has only been a few years since the adoption of the Code. For example, in one study the Georgian Young Lawyer’s Association came to the conclusion that “disproportional and unsubstantiated” decisions on preventive measures are still in place. According to this study, the investigation is not obliged to collect evidence in favor of the defense, which puts the defense at a disadvantage if the defense is not in a position to obtain this evidence itself. Therefore, “despite high expectations, the new Criminal Procedure Code has not made any positive changes in the criminal justice system.”<sup>115</sup> It can also be noted that one of the reasons why the implementation of the new Criminal Procedure Code was not very effective is that the country and the institutions were not prepared for the change. The transfer was implemented without prior preparatory work.

In terms of early release mechanisms, a study by Penal Reform International showed that the numbers of prisoners released through early conditional release were minimal and in serious decline from 2008 to 2011. For example, in 2010 of the 4,382 prisoners released, in only 234 cases was this through an early release mechanism. The number of cases dealt and decided on these bases was low and this is even more obvious for 2012.<sup>116</sup> Early release mechanisms due to health conditions have proven to be

problematic as well. The study laid out problems not only with the legislation but with the practice as well.<sup>117</sup>

In conclusion, liberalization of the criminal justice policy was not put in practice as efficiently as the zero tolerance policy had been back in 2006 and most of the practices of zero tolerance and their effects as laid out in section two above of this chapter had remained.

### Summary: Zero Tolerance and Human Rights

Both international and domestic actors have lauded the UNM for ridding Georgia of crime and corruption. According to official figures, between 2006 and 2010, all registered crime decreased 54 per cent, while particularly serious crime went down 66 per cent.<sup>118</sup> Victimization surveys, which measure recorded as well as unrecorded crime, conducted by a polling company for the Ministry of Justice in 2010 show significant decreases in victimization compared with similar surveys from the 1990s. Georgia's victimization levels by 2010 across a range of crimes look superior to those of many countries in Europe. The 'zero tolerance' policy is undoubtedly an important causal variable explaining the remarkably low crime levels in Georgia by 2010. The mechanism linking the two however, is surely the physical exclusion of offenders from society through a huge increase in the prison population as well as the emigration of people (particularly recidivists) who felt targeted by the policies.<sup>119</sup>

The decrease in the crime rate was certainly acknowledged by broader Georgian society. According to the same victimization study, Georgia is considered a very safe country by its citizens.<sup>120</sup> There seems to be a consensus in society that the zero tolerance policy was fruitful in relation to fighting thieves-in-law, petty and organized crime. Some even argue that the public's perception of crime has changed and that people showed readiness to assist law enforcement in combating crime.<sup>121</sup>

Yet, the costs of zero tolerance have been high economically and socially. What links the narrative that we have presented in this chapter with problems of human rights? In summary, we identify the following mechanisms that link the political change and criminal justice policy with the potential for a worsening human rights situation.

- **GOVERNMENT RHETORIC TOWARDS CRIMINALS AND REFORMIST ZEAL.** The United National Movement inherited a country with numerous problems. Thus it had to meet high expectations and address several areas starting from the weak economy and ending with the human rights situation. The government justified human rights violations by the mission of reform and state building. In many instances, approval of extraordinary measures, up to and including extra judicial killing, to deal with criminals framed by an 'us and them' rhetoric came from the very top and this attitude likely suffused criminal justice institutions, including prisons.

- **MASS INCARCERATION.** Zero tolerance was successful in fighting corruption, organized crime and thieves in law; however drug and juvenile justice policies were too harsh and did not achieve their aims. Moreover, the drop in crime was achieved at a huge cost – an unprecedented increase in imprisonment. If we assume that, without rigorous oversight, human rights violations are easier committed in places of detention and confinement, simply on a probability argument, the more people in prison there are, the more human rights violations there are likely to be.
- **LACK OF OVERSIGHT.** In the Georgian case, that rigorous oversight did not exist. Without monitoring, one violation could lead to another. Preventive safeguards such as the Interagency Coordinating Council for the Fight against Torture were actually used to cover up flaws and not for revealing deficiencies and fixing them. Public oversight mechanisms over the prisons stopped functioning from 2008. We detail this problem further in the next chapter.
- **PRESSURES IN THE COURT SYSTEM.** The court system had to process a growing number of criminal cases to meet the goals of zero tolerance. There were therefore pressures creating the potential for a lack of diligence concerning human rights and due process. Political dependencies in the prosecutor's office and judiciary along with the potential for abuse of plea bargaining, extensive use of detention, and illegal methods of investigation, created a judicial system open to abuses.

This summary gives the political and criminal justice context in which worsening abuse became a clear possibility in the Georgian penal system. In chapter four, we present primary evidence of the scale that this abuse in fact reached. Before this, the next chapter reviews documentary evidence from the period 2006-2012 to establish what was known about human rights abuses in the system and the changing nature of this abuse over time.

## Chapter 3. Human Rights During Zero Tolerance: Findings of International and Local Observers 2006–2012

---

### Introduction

The purpose of this section is to highlight the findings of the various independent bodies that monitored or investigated the prison system of Georgia while the Saakashvili administration was in power. This section reviews various reports of international organizations as well as of Ombudsman of Georgia. In terms of the international community, Georgia's reforms were assisted in various ways by a plethora of outside organizations and different countries. This section documents what the international community was able to know about incidences of torture in the Georgian criminal justice system, and the sort of pressures that could be applied from outside towards prevention.

This section is based upon periodic reports of the United Nations' Special Rapporteur on Torture, Committee against Torture, Human Rights Committee, the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Human Rights Watch and Amnesty International. This section of the report also discusses the findings of the Public Defender's Office and the National Preventative Mechanism within Georgia.

This section is organized chronologically. It aims to highlight the changing nature of the problem of torture in places of detention in Georgia from 2004 onwards as documented in these reports.

### 3.1. Reports of Torture and Abuse: 2005–2006

#### *Reports of Torture Focus on Police Custody 2003–2005*

The UN Special Rapporteur on Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter Special Rapporteur) visited Georgia in February 2005 with the aim of assessing the prevailing situation regarding torture in the country. According to the Special Rapporteur, ill-treatment in Georgia persisted especially in police custody (police stations and temporary isolators)<sup>122</sup> but not in penitentiary facilities. The first 72 hours of police custody were particularly highlighted as fostering abusive practices. Torture was used to extract confessions for alleged offences at this time. The methods of torture included, among other things, 'beatings with fists, butts of guns and truncheons and the use of electric shocks, and cigarette burns; injuries sustained by the victims included, among other things, broken bones, cigarette burns, scars, as well as neuropsychological changes.'<sup>123</sup> On the contrary, no allegations of ill-treatment of prisoners by prison staff were received during the visit "and in many cases the prisoners expressed appreciation for the treatment from the guards despite the conditions of the facilities."<sup>124</sup>



Similarly, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) during its visit to Georgia in November 2003 and May 2004, highlighted the continuance of ill-treatment by the police.<sup>125</sup> Once again, this was related to the extraction of confessions in early rounds of questioning. The CPT noted ‘a widespread belief’ amongst detainees that they would suffer abuse if they did not admit to alleged crimes.<sup>126</sup> The forms of ill-treatment alleged concerned, for the most part, “slaps, punches, kicks and blows struck with truncheons; some allegations were also heard of suspension and the infliction of electric shocks. In a number of cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture”.<sup>127</sup>

The Public Defender’s Office reports similarly that forcing testimonies through torture was common and widely used, though instances of this were not as common as before 2003. “In 2005, almost one third of the detained had the traces of injuries on their bodies, occurred at a time of their detention, though, compared with the previous practice of torture, this was a serious achievement.”<sup>128</sup>

As to the situation in prison, the CPT “heard no allegations of torture or other forms of physical ill-treatment of inmates by staff” during its visit in 2003 and 2004. Overall “relations between staff and prisoners were relaxed.’ However, staff shortages, particularly in Prison No. 5 in Tbilisi the scene of a serious riot in 2006 (see below), made it difficult to control the situation in prison and increased the risk of inter-prisoner violence. Moreover, the presence of informal power structures among prisoners, gave rise to extortion and intimidation.<sup>129</sup>

Similar to the findings of the UN Special Rapporteur on Torture and the CPT, in 2005 international non-governmental organizations<sup>130</sup> reported the persistence of torture and ill-treatment in Georgia. In the main, these reports referred to ill-treatment by law enforcement. Police abuse could be inflicted during arrest, in places of police detention and police stations. These reports also documented allegations of attacks and abductions carried out on the street by plainclothes security service agents.<sup>131</sup>

Compared to other reports, Amnesty International’s review from this time refers to a greater range of methods used by law enforcement officers for the torture of detainees including gagging, blindfolding, burns, threats to the detainees family, ‘suspending a detainee from a pole between two tables,’ and placing plastic bags over the head of a detainee.<sup>132</sup>

According to Amnesty International, “in the government’s first ten months in office, its policies seemed to fuel rather than reduce abuses”.<sup>133</sup> The overriding political goals of a crackdown on crime and corruption created a strong sense of impunity in the police at this time. According to Human Rights Watch, “the biggest disappointment in torture reform since the ‘Rose Revolution’ has been the government’s weak fulfillment of its promises to punish those responsible for torture”.<sup>134</sup> The newly introduced practice of plea-bargaining unwittingly facilitated impunity “by enabling law enforcement officers who have committed torture, or their colleagues, to negotiate away the right of criminal detainees to seek redress in exchange for promises of light penalties for these detainees.”<sup>135</sup> This was further exacerbated by fear

of retribution if complaints were made, and the lack of an independent judiciary from the prosecutors and the executive.<sup>136</sup>

The UN Special Rapporteur also identified impunity for torture and ill-treatment by public officials as one of the most severe problems faced by Georgia in its 2005 report. The report illustrates that a culture of impunity for violations by public officials was being perpetuated through the inability of authorities to tackle abuse effectively.<sup>137</sup> The Special Rapporteur indicated an absence of any inquiry into allegations of ill-treatment at the pre-trial hearing stage, or any serious and effective investigation and prosecution of such allegations<sup>138</sup> and the presence of a “significant disparity between the number of allegations of abuse and the number of investigations and successful prosecutions carried out”.<sup>139</sup>

Concerns about the persistence of ill-treatment by the police was expressed by some high-level Georgian officials who met with members of the CPT delegation in 2005.<sup>140</sup> Nonetheless the CPT found that there was a general “failure to recognise that there was a problem”.<sup>141</sup> In this regard, the CPT concluded that much remained “to be done to improve accountability at the local level”.<sup>142</sup>

#### *Prisons not found to be sites of torture 2003-2005 but conditions widely criticized*

Despite the dearth of specific findings regarding prisons at this time, early reports on human rights suggested that prisons were still a problematic area of the criminal justice system. While there was a uniform observation that torture was rather focused at this time within police custody, the reports mention the terrible state of prisons in the country. The CPT 2005 report, similar to the UN Special Rapporteur, highlighted overcrowding and poor detention conditions and lack of appropriate healthcare services.<sup>143</sup> Similarly, the Public Defender reported maltreatment by prison staff and unbearable living conditions in penitentiary institutions amounting to torture and inhuman and degrading treatment.<sup>144</sup>

The CPT delegation also found that the complaints system in the penitentiary facilities was basically not functioning and that confidential complaints did not make it to their intended recipients. The low number of complaints made in some cases was a cause for suspicion, suggesting that prisoners lacked faith in the complaints’ procedure itself.<sup>145</sup>

Although CPT received no allegations regarding deliberate ill-treatment in prisons, it pointed out “that the vast majority of inmates at Prison No. 5 in Tbilisi were subject to a combination of negative factors – gross overcrowding, appalling material conditions and levels of hygiene, absence of any regime activities – the cumulative effect of which could easily be described as inhuman and degrading treatment. A similar situation prevailed at the strict-regime penitentiary establishment No. 2 in Rustavi”.<sup>146</sup> CPT found the situation at Prison No. 5 in Tbilisi as ‘alarming’<sup>147</sup> and called on the authorities to undertake immediate actions.

The situation concerning healthcare services in detention facilities was found to be substandard overall and highly unsatisfactory, mainly due to the lack of medical specialists and medication and equipment.

Additionally, in several prisons individual medical files were not kept, which made it impossible to track inmates' medical history.

Within a year of these reports of 2005 however, the most controversial case of the use of force by the government against its citizens since the Rose Revolution had occurred, and it happened in prison. Reports around 2006 and 2007 deal extensively with the alleged human rights abuses arising from the Ortachala prison riot of March 2006.

### 3.2. A Turning Point: The Ortachala Prison Riot of March 2006

#### *Response to Riot in Ortachala roundly condemned*

In 2007, the report of the Special Rapporteur documented summaries of reliable and credible allegations of torture and other cruel, inhuman or degrading treatment or punishment referred to in an incident that occurred on 27 March 2006 in Prison No. 5 located in Tbilisi where seven inmates died and a large number were seriously injured. During the clashes between prisoners and Special Task Force members, live ammunition was used against unarmed prisoners. Despite the fact that injured inmates needed treatment, a doctor was not allowed to see them until the next day after the intervention of the Public Defender.<sup>148</sup>

According to the Public Defender of Georgia, excessive force was used against prisoners and it was provoked by the prison administration itself.<sup>149</sup> Special forces were using firearms despite no resistance from prisoners in their cells.<sup>150</sup> According to the Public Defender of Georgia, the Head of Penitentiary Department was personally involved in the process and was beating the prisoners.<sup>151</sup> After the riot, the prisoners had their clothes confiscated, no medical examination was conducted for more than two weeks, and the Prosecutor's Office took no investigatory steps for examining the facts of the prison riot.<sup>152</sup>

#### *Ortachala riot response linked to over-zealous 'war on crime' policies*

International organizations also condemned the excessive and disproportionate use of force in these events.<sup>153</sup> The Saakashvili administration framed the Ortachala prison as a concerted effort to destabilize the whole of Georgia by coordinated mafia bosses in the pay of Russia. The extreme violence used to put down the riot can arguably be seen as a turning point in which prison order became an object of national security. The hardline approach to crime control on the street, which itself had seen increasing extra-judicial killings by police by 2006, became an established part of prison management.

This is recognized in the reports of international non-governmental organizations. As Human Rights Watch emphasized, the anti-organized crime policy, passed into law in December 2005, had led to "government approval of a policy of quick resort to severe physical force, including lethal force, to maintain control over the prisons".<sup>154</sup> HRW further reported that the "ill-treatment of detainees has

increased since December 2005. Some detainees reported being beaten regularly and severely or being subject to other ill-treatment and inhuman punishment. In some cases, the beatings and other abuses constituted torture”.<sup>155</sup> Some of the ill-treatment of prisoners took the form of beatings during their transfer “to different facilities, or immediately following their transfer, apparently as a means of demonstrating government authority over prisoners”.<sup>156</sup> In some penitentiary facilities, such as Tbilisi Prison No. 7, which held the most serious mafia bosses following the new legislation, “for several months in 2006, special forces members serving as guards in that facility reportedly routinely subjected detainees to beatings and strip searches”.<sup>157</sup>

UN institutions called on state authorities to conduct independent and impartial inquiries of alleged use of excessive force by security forces during the riot. In addition, the Special Rapporteur noted his concern “about reports that high-level officials have repeatedly voiced support for the use of excessive violence by security forces and publicly exculpated officers after riots in several prisons without awaiting the results of inquiries into the events”.<sup>158</sup> The Committee Against Torture also noted its concern “about the relatively low number of convictions and disciplinary measures imposed on law-enforcement officials in the light of numerous allegations of torture...as well as the lack of public information about such cases”.<sup>159</sup> The aftermath of the March 2006 riot served as a critical factor that further exacerbated the extant culture of impunity for violations committed by state officials. The Special Rapporteur reiterated that addressing impunity was a key issue in rendering torture prevention effective.<sup>160</sup>

Furthermore, as well as these flagrant examples of state violence in prison, the Committee Against Torture noted “the high number of sudden deaths of persons in custody and the absence of detailed information on the causes of death in each case”.<sup>161</sup> It has also been noted that “impunity and intimidation still persist ... 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>162</sup>

### 3.3. Reports of Ill Treatment in Prison Increase: 2007–2010

#### *Observers note improvements in cases of abuses in police custody but deterioration regarding torture in prison*

In its subsequent report delivered after its third periodic visit to Georgia in 2007, the CPT noted the progress made by the national authorities in eradicating torture and other forms of ill treatment committed in police custody.<sup>163</sup> The Committee however noted a shift of physical ill-treatment from the police to the penitentiary system. Prisoners complained of ill-treatment by staff for small violations such as “knocking on the cell door, talking to prisoners from other cells or failing to take the required position during searches, and was perceived by inmates as a means for staff to assert their dominance. Some allegations were also heard of prisoners having been placed naked in the disciplinary cells”.<sup>164</sup>

The CPT also noted that overcrowding in prisons still represented a significant challenge for the authorities.<sup>165</sup> The other problematic aspects were related to the inadequate provision of activities for inmates,<sup>166</sup> deplorable detention conditions in Prison No. 5 in Tbilisi,<sup>167</sup> fairly poor conditions in Prison No. 4 in Zugdidi,<sup>168</sup> and poor overall healthcare services in the prisons mainly due to the shortage of staff, facilities and resources.<sup>169</sup>

In its 2007 follow-up to the recommendations report, the Special Rapporteur welcomed the efforts of the state authorities to improve detention conditions through refurbishing old and building new facilities, including the new prison in Gldani district in Tbilisi. However it remained “concerned about gross overcrowding, poor rations and quality of food, inadequate access to natural light and fresh air, insufficient personal hygiene conditions, and about the large number of deaths of prisoners allegedly due to the prison conditions that amount to ill-treatment in some detentions facilities”.<sup>170</sup>

According to a 2011 report of the NGO Atlas International, the level of abuse and violence in prison reached its peak in 2007-2008.<sup>171</sup> Ill-treatment had shifted from the police, where generally physical abuse was now limited to instances of the use of excessive force during arrest or during the dispersal of protests, to the penitentiary system, where the scale of ill-treatment had become worrying.<sup>172</sup>

The consensus that ill treatment had shifted to prisons coincides with both a period of transfer of prisoners to new or renovated facilities as well as a sharp spike in the number of people being incarcerated due to the ‘zero tolerance’ mandatory custodial sentencing policy announced in 2006. In its 2009 follow-up report, the UN Special Rapporteur noted that “the overall number of persons deprived of their liberty continues to grow and that non-custodial punishment measures, such as fines and bail are not sufficiently applied”.<sup>173</sup> The Special Rapporteur mentioned Georgia in his report to the UN General Assembly in 2009 concerning levels of overcrowding in prison.<sup>174</sup>

Given the huge change in the prison system and the observation that ill treatment had been increasing there, in the follow-up to the recommendations report delivered in 2008, the Special Rapporteur welcomed the elaboration of an anti-torture action plan authored by the Inter-Agency Coordination Council for the Implementation of Activities Directed against Torture, Inhuman, Cruel and Degrading Treatment. He also welcomed “the anticipated introduction of a zero-tolerance policy vis-à-vis torture, [and] the other measures against impunity detailed in the action plan.”<sup>175</sup>

However, the subsequent report of 2009 found a very low number of investigations of allegations of ill-treatment and the punishment of perpetrators. According to official data submitted by the government concerning investigations and prosecutions for 2008 investigations had been initiated in 39 cases and 23 of these ended in termination. In total, only 5 persons were convicted and sentenced on criminal charges, and there was no data on the concrete sanctions applied.<sup>176</sup> The same tendency was mentioned in the 2010 report. The official data proved once again the reluctance of the authorities to bring perpetrators to justice. Accordingly, in 2009, investigations were initiated into 11 allegations of torture connected to public officials. Only two investigations were ongoing at that time into the allegations of ill-treatment.<sup>177</sup>

### 3.4. Ill-Treatment as Standardized Practice? 2010–2012

#### *Prison system grows more closed; Gldani prison reportedly site of abuse*

According to the reports of the National Preventative Mechanism (NPM), ill-treatment remained one of the main challenges in the period of 2010–2011. Gldani prison No 8, Medical Establishment No 18, Ksani Prison No 15 and Kutaisi Prison No 2 were the prisons highlighted as especially problematic. Although the majority of the prisoners, as indicated in the reports, refused to publicize ill-treatment and refrained from giving testimony due to fear and a climate of impunity, several cases are still included and general trends are analyzed in the reports.<sup>178</sup>

Similar issues were at the center of attention for international organizations. In the same report by the Special Rapporteur for 2010 cited directly above, it was also highlighted that non-governmental sources had alerted the Special Rapporteur to reports that prisoners held in Gldani prison No. 8 were being subjected to systematic beatings. Yet cases where excessive force had allegedly been used, and which led to death in custody, had not been investigated.<sup>179</sup> The NGO Atlas International also maintained that local representatives of civil society characterized the beating of prisoners as “quite normal”, “frequent”, “often” and “systematic”. Among the notorious prisons known for regular abuse by prison staff, the report notes, were Gldani Prison No. 8 and Prison No. 15 in Ksani.<sup>180</sup> Gldani was to become the centre of the scandal around prison abuse in 2012 yet at this time these allegations were hard to verify as the prison system became more closed around 2010, with all but those connected to the National Preventive Mechanism able to conduct independent prison inspections.

For example, a CPT report of 2010<sup>181</sup> notes that there were no allegations of ill-treatment received during a visit to Gldani prison, though some inmates did allege mistreatment by staff later to the delegation. Again, ill treatment, according to these inmates, was triggered by minor violations such as knocking on cell doors, speaking loudly or making an attempt to communicate with prisoners from other cells.<sup>182</sup> Moreover, an alarming sign that could be reasonably considered as indicative of possible widespread ill treatment was noted by the delegation with the reference to “an uncommon silence” that “reigned in the prisoner accommodation blocks at Gldani”.<sup>183</sup> Also, as indicated in the reports of NPM, it was typical for prisoners from other prisons to speak about inhumane treatment taking place in Gldani prison while refusing to publicize the facts.<sup>184</sup>

At this time, reports were often left to only speculate on possible abuse. In other prisons, such as Ksani and Geguti, the CPT report of 2010 notes that no allegations of ill-treatment by staff were brought to light: “the majority of inmates interviewed indicated that they were being treated correctly by staff working in those establishments”.<sup>185</sup> However, at both Ksani and Geguti some prisoners alleged that they had been beaten upon arrival. The report also details that placement in the disciplinary unit (“*kartzer*”) was frequent with some 1,500 placements in 2009. The report goes on: “a number of prisoners also alleged that staff were on occasion verbally abusive...a number of prisoners had declared a hunger strike

in protest against the death of an inmate who had been placed in the “*kartzer*” and, more generally, abusive treatment by staff”.<sup>186</sup>

In addition utmost importance are collective petitions submitted to the Public Defender once from Kutaisi Prison and twice from Ksani Prison about instances of ill-treatment.<sup>187</sup> Atlas International also reported similar mistreatment, but went further to insist that the beatings were more prevalent than realized and the extent of the ill treatment included acts of torture. Reportedly abuse consisted “mostly of beatings, including beatings on the head, but also of other forms of humiliation, such as insults and provocations ... aside from beatings, “*telefono*” (slamming the ears with both hands) and the hanging of persons upside-down were used as torture methods in prison”, also “newly arriving detainees would get a “welcoming beating” after being transferred to a prison in order to intimidate them”. Such treatment in some instances was fatal, for example one detainee reportedly died at the “end of March 2011 in Gldani Prison No. 8 of his severe wounds, which were inflicted on him by prison guards”.<sup>188</sup> Physical abuse was applied either as a method to maintain order in the prisons or as a means of intimidation in order to show detainees “who the boss was”.<sup>189</sup>

The report identifies several serious drawbacks in providing safeguards against ill-treatment. For instance, the complaint mechanism in prisons did not function effectively and a “systematic intimidation of potential complainants” was a further impediment.<sup>190</sup> This included threats of negative consequences for early release hearings or transfer to stricter regime prisons. Prisoners who nevertheless dared to complain to national or international bodies were reportedly subjected to physical abuse by the special task forces, which were “specifically called in to administer punishment”.<sup>191</sup>

### *Concerns raised about consistently low numbers of prosecutions of cases of torture or abuse; lack of oversight*

In his last report on follow-up recommendations in March 2012, the Special Rapporteur highlighted the fact that he remained “concerned about the low number of initiated criminal prosecutions of cases of torture and other ill-treatment allegedly committed by public officials implicated in colluding on, or ignoring evidence of, torture or ill-treatment and expressed concern that their names have neither been disclosed to the public nor to the Public Defender”.<sup>192</sup> He also noted that he “received reports indicating that detainees refrain from filing complaints out of fear of reprisal. There is no protection afforded by the State to victims of torture.”<sup>193</sup>

It is unsurprising then that “in 2008 five cases under Article 144.1 of the Criminal Code (torture) were examined by the first instance court and nine under Article 144.3 (inhuman and degrading treatment). In 2009, no cases [were] examined by the national courts under Article 144.1, and only one case was examined under Article 144.3”.<sup>194</sup> The Georgian government submitted information according to which “in 2011, investigation was commenced in relation to approximately 10 cases of ill-treatment in the penitentiary establishment No. 8 in Gldani, No. 15 in Ksani and the Medical Establishment No. 18 in Gldani”.<sup>195</sup> Also, in the same year “investigation was commenced in 23 cases under Article 144.1 (torture),

out of which in 6 cases the investigation was halted and 3 cases reached prosecution. During the same period, out of 5 investigations commenced under Article 144.3 (inhuman and degrading treatment or punishment) 2 investigations were halted and 1 case reached prosecution”.<sup>196</sup> Furthermore, despite prisoner complaints alleging torture and inhuman or degrading treatment, criminal cases are reportedly launched only under Article 333 of the Criminal Code (exceeding official powers) rather than Article 144.1 (torture) and Article 144.3 (inhuman or degrading treatment).<sup>197</sup>

Examining ill-treatment is one of the main functions of the NPM. As the NPM observed the system was facing ineffective investigation. This entailed reporting of instances of torture incorrectly, and rather lengthy investigation times or immediately terminated ones. “The inefficiency of investigative bodies creates the grounds for perception of impunity among the staff of the enforcement bodies, while causing a loss of trust towards the investigation among the victims that in no way contributes to the disclosure and eradication of the practice of ill-treatment”<sup>198</sup>

Local observers then also worried that human rights abuses could become embedded due to a lack of oversight. Moreover, besides ill-treatment, the right to health in the penitentiary system continued to be equally problematic. The topicality of the issue is illustrated by the fact that in 2010 the Public Defender’s Office prepared a special report on a right to healthcare in prisons. The National Preventive Mechanism drew attention to living conditions and recommended closing down several prisons as the conditions in them amounted to ill-treatment. In addition to this, it highlighted the problems concerning the leaving conditions in various establishments.<sup>199</sup>

Thus, in this period, evidence from a host of organizations, both international and local was compiled suggesting that abuse was occurring in the penal system, that the grounds for its occurrence were present and that general conditions and healthcare were bad. However, for a variety of reasons, while mistreatment in Georgian prisons was often alleged, the evidence for the prevalence of torture and degrading treatment was not enough to speak to whether abuse in the penal system had a systemic character.

### 3.5. After the Scandal: Findings since October 2012

*International observers express skepticism at investigation into prior abuses but observe prisons had become more humane in the wake of the September 2012 scandal*

The CPT carried out an ad-hoc visit to Georgia in November 2012 following the leak of video recordings of torture and inhuman treatment of prisoners directly prior to the parliamentary elections of 1 October. These videos had created a scandal, sparked protests and possibly swung deciding votes to the Georgian Dream opposition coalition, which subsequently ousted the United National Movement in the polls. One of the aims of the visit was to discuss the progress of investigations into the mistreatment of prisoners, measures aimed at preventing ill-treatment in penal institutions and the new government’s plans to reform the prison system and the criminal justice system in general. CPT visited Prison No.8 in Gldani (Tbilisi) and Prison No.2 in Kutaisi.



According to the newly appointed Chief Prosecutor, an investigation into the alleged ill-treatment of prisoners at Gldani prison was in progress and there were twelve persons detained including the former director of Gldani prison and other senior officials of the Penitentiary Department. The Chief Prosecutor emphasized that the ill-treatment in Gldani prison had a “systemic” character and that: “the purpose of this ill-treatment was to obtain prisoners’ obedience to the prison’s administration and to secure their co-operation, as well as to destroy any possible influence of informal prisoner power structures”. Generally, this abuse “had taken place shortly after arrival to prison (usually on the day when the prisoners were moved from the “quarantine” cells to normal accommodation) and that prisoners aged below 40 had been particularly targeted”.<sup>200</sup>

After discussions with the Chief Prosecutor and investigators, the CPT delegation noted that it could not “escape the impression that, since November 2012, after the change in responsibility for the investigation into the Gldani events, the competent prosecutorial authorities have focused more on proving the thesis of “systematic” ill-treatment of prisoners and of the “manipulation” of video footage (and, consequently, criminal responsibility of former senior officials), rather than first establishing whether and – if so, which – acts of physical ill-treatment had actually taken place at Gldani Prison”.<sup>201</sup>

While visiting Prison No. 8 in Gldani and Prison No. 2 in Kutaisi the delegation did not find any allegations of physical ill-treatment by custodial staff, in fact the prisoners stressed “that there had been a dramatic change for the better in the attitude by the management and the staff (and in the general atmosphere) in the two establishments after 18 September 2012. Several inmates attributed this to the fact that the management of both prisons had been replaced following the release of the videos, and that many custodial officers had been either removed or transferred to other duties (where they were no longer in direct contact with the inmates)”.<sup>202</sup> However, inmates of Prison No. 2 in Kutaisi informed the delegation that they still feared that certain custodial officers, who had been allegedly involved in ill-treatment, remained in their posts.<sup>203</sup> At the same time, a large number of allegations of ill-treatment that had occurred prior to 18 September 2012 were received by the members of the delegation.

The CPT delegation noted that at Prison No. 8 in Gldani “not a single prisoner had been punished with disciplinary isolation (“*kartzer*”) after 18 September 2012, which was in striking contrast to the situation prior to that date”. This indeed constituted an important development, taking into consideration the fact that disciplinary isolation was largely used in the past as a source of punishment of prisoners. In this context, the delegation itself noted that this past abusive practice “...was excessively severe, disproportionate and unjustified”.<sup>204</sup> By contrast “a similar abrupt change was not observed by the delegation at Prison No. 2 in Kutaisi, although the number and severity of disciplinary sanctions had somewhat diminished after 18 September 2012. The general impression was that disciplinary sanctions (including placement in the “*kartzer*”) were not applied excessively and in a disproportionate manner in that establishment”.<sup>205</sup>

With regard to healthcare services the delegation noted some progress but also some negative developments. An improvement of healthcare staff resources at Gldani prison since the CPT’s 2010 visit

was noted,<sup>206</sup> including an adequate supply of medication in both prisons,<sup>207</sup> and generally appropriate premises and equipment at Gldani<sup>208</sup> though premises in Ksani were deemed inadequate.<sup>209</sup> The worsening of medical staff working conditions was also observed.

### 3.6. Oversight Mechanisms and Governmental Recognition of the Problem of Torture

In the course of the period under discussion, there were several mechanisms in place which in principle should have ensured identification of flaws in the system and, if nothing more, at least an appropriate reaction. We briefly provide an overview of the formal institutions in place designed to stop abuse.

As was already mentioned above, in 2004 President Saakashvili had established a working group which developed a Georgian Criminal Justice Reform Strategy and an Action Plan. The goal of the group was ensuring the compliance of the system with international standards. The Strategy and Action Plan were revised in 2008 and a consultative and monitoring Criminal Justice Reform Inter-Agency Coordinating Council was established. Several subgroups, as of 2004, were created. As indicated in the analysis paper prepared by the Secretariat of the Criminal Justice Reform Council, groups were not only tasked with preparing the respective strategies and action plans but with responding to challenges such as ‘prison overcrowding and measures aimed to improve the situation of juveniles’. The members of the Council and the subgroups were representatives of public agencies, local and international organizations and experts.<sup>210</sup>

In 2007, the government created the Inter-Agency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>211</sup>, the membership of which was similar to the Criminal Justice Reform Council. The Council aimed at monitoring the situation in relation to the fight against torture, supporting the effective functioning of state agencies and the elaboration and implementation of respective strategies.

Tsira Chanturia, director of Penal Reform International South Caucasus Office, points to two successes of this Council. Firstly, the Council acted to lay the groundwork for designating the Ombudsman as the National Preventative Mechanism under the Optional Protocol of the Convention against Torture (OPCAT). Moreover, the Council enabled greater coordination with NGOs and government bodies. Chanturia however concludes that ‘the oversight function of the Council turned out to be rather formalistic in nature lacking real political will to tackle the problems raised by the Ombudsman and civil society organisations in terms of torture and other cruel, inhuman treatment and punishment in particular, in Georgia’s prisons.’<sup>212</sup> Moreover, Chanturia argues that the NPM was limited as it was not opened up to wider civil society participation and ‘although a great number of planned and ad hoc visits had been undertaken by the NPM, these did not really have preventive effect as apparently the regularity was not quite sufficient due to limited personnel and financial resources.’<sup>213</sup> This view is rejected by the former Ombudsman, Giorgi Tugushi, in an interview given for this report. In his view, the main problem was impunity of abusers and a lack of responsiveness to the NPM at the level of government. But, he says, despite this, ‘the NPM prevented numerous cases of ill-treatment and supported the restoration of

the rights of numerous convicts.... No NPM will be able to effectively prevent ill-treatment when the government and prosecution are not responding to the findings of the NPM.’

Last but not least, an external monitoring mechanism was set up in 2006 and there were several independent prison commissions set up by the Ministry of Justice. The members were representatives of human rights NGOs, Georgian Orthodox Christian priests and local councilors. From 2008, the members of these commissions were not given special passes to enter prisons so the mechanism ceased functioning. The government claimed that the establishment of the National Preventive Mechanism (NPM) would substitute all the monitoring mechanisms and there was no need for other mechanisms.<sup>214</sup> Therefore, it was only the NPM that would have access to closed institutions in Georgia. Chanturia, again, argues that the NPM was limited as it was not opened up to wider civil society participation and ‘although a great number of planned and ad hoc visits had been undertaken by the NPM, these did not really have preventive effect as apparently the regularity was not quite sufficient due to limited personnel and financial resources.’<sup>215</sup> Furthermore, the broader problem of a climate of fear prevented torture from being reported to the NPM. Tugushi, again, disputes these claims saying that the total resources of the NPM ‘allowed it to perform its functions without interruption to cover all places of the deprivation of liberty. The NPM had the resources to pay for core staff and experts, to carry out both periodic and ad hoc visits to all institutions under its mandate and to produce bi-annual and special reports. In the course of its activities the NPM has documented hundreds of cases of ill-treatment and has addressed the relevant authorities with numerous recommendations.’

There is some evidence that the government simply did not take the problem of oversight seriously enough. The UN Special Rapporteur Manfred Nowak was prevented from implementing anti-torture strategies in Georgia as part of his Atlas of Torture project. The reason given by the Ministry of Justice was that ‘Georgia has made impressive progress in the fight against all forms of ill-treatment and further benefits from various targeted national and international projects’.<sup>216</sup> This was perhaps an indication that the Georgian authorities did not acknowledge the problem of torture in the country.

An atmosphere of fear in the prisons and a lack of acknowledgement of problems surrounding torture by the government relate to another pressing issue: the impunity of abusers. For several years many instances of alleged ill-treatment cases, including torture, were reported to the Prosecutor’s Office and respective state authorities, nevertheless only a few cases were successful and ended with criminal sentences. For the past years, the Public Defender’s Office was transferring the cases to the Chief Prosecutor’s Office. Investigations were launched, however there were no prosecutions for alleged crimes and the proceedings were delayed.<sup>217</sup>

There are failings in criminal procedure that also led to impunity in cases of ill-treatment. Firstly, the new CPC of 2009 defined the prosecutor’s discretion to prosecute an alleged perpetrator according to a policy document adopted by the Ministry of Justice of Georgia.<sup>218</sup> The principle of discretion based on guidelines from the executive is in line with standard procedure in other countries. However, this principle should be supported by respective guarantees that ensure the proper administration of criminal justice. The

guarantees include, inter alia, judicial review of any discretion and the possibility for the victim of pursuing private prosecution.<sup>219</sup>

The latter aspect is not present in Georgia. According to Article 12.2 of the CPC only the prosecutor can initiate criminal prosecution. Generally, in countries that have prosecutorial discretion, private prosecution is permitted since it gives the victim of the crime the chance to provide respective evidence before the judge and thus bring the perpetrator to justice.<sup>220</sup> Today, it is only possible for the victim of the crime to appeal to the court when the prosecutor uses his or her discretion not to prosecute especially grave crimes. However, no mechanism is included in Georgian legislation for enforcing court judgments which quashes the prosecutor's decision not to prosecute certain crime. Moreover, judicial review of the prosecutor's discretion, was absent in Georgian legislation until amendments of July 24, 2014.<sup>221</sup>

Besides the prosecutor, the judiciary was also involved in failing to address ill-treatment and torture cases. No respective steps were taken by judges when prisoners were brought with clear signs of ill-treatment. According to Georgian Young Lawyers' Association's monitoring project of trials from 2011, in many instances judges did not explain to the defendant his or her right to lodge a complaint about torture, inhumane or degrading treatment and did not make any effort to find out whether the defendant had a complaint concerning this. During plea agreement hearings, judges also did not explain to the defendant his or her right to lodge a complaint about such treatment.<sup>222</sup> The tendency was the same in 2012.<sup>223</sup> This practice contradicts Council of Europe standards.<sup>224</sup>

## Summary

This overview of the findings of the various reports of bodies from the UN, Council of Europe and international NGOs as well as local bodies reveals that human rights abuses in places of detention have remained a significant problem in Georgia and have continually been flagged by observers. The reports agree that there was a shift from the use of mistreatment and torture in police custody to prisons around 2007-2008. The prison riot of March 2006 emerges as a significant event in which extreme violence against prisoners was committed with impunity, perhaps creating further fertile ground for the embedding of abusive practices.

After this point, NGOs and international observers found fragmentary evidence to suggest that ill treatment had become worse in Georgia's prisons, though its exact extent and form was not clear in large part because information was simply not available. Prisons by 2010 had become virtually closed systems. Prisoners were heavily disincentivized to report rights' abuses and few observers were able to actually investigate prisons thoroughly.

The purpose of the next chapter is to fill precisely this gap in knowledge. We will present data from a quantitative survey intended to detail the prevalence and form of ill treatment in Georgia's prisons during this period of reform.

## Chapter 4.

# Human Rights Between 2003 and 2013: Findings of a Survey of Prisoners and Ex-Prisoners

---

### 4.1. Introduction

In order to study the situation in the prisons in the years of 2003–2013 a quantitative survey interviewing prisoners and former prisoners was carried out between January and March 2014. The survey aimed to identify living conditions of inmates and their treatment in penitentiary institutions since 2003, as well as to study the reasons for and the context of inmates' torture and inhuman treatment. In this chapter we will discuss the key findings of the survey as well as illustrate various stories of survivors of torture. The main objectives of the research were to:

- Identify the prevalence and frequency of cases of torture and inhuman treatment of inmates in penitentiary institutions;
- Identify methods of torture and inhuman treatment of inmates in penitentiary institutions.
- Determine the reasons for torture and inhuman treatment of inmates in penitentiary institutions.
- Understand the types of protection prisoners sought, if they sought it at all.
- Understand the consequences of torture and imprisonment on health and well-being.

As an appendix to this chapter, in depth testimonies from recorded in depth interviews with torture victims are also given. As talking only about numbers creates distance from the actual events, this section is included at the end of this section to give the reader some understanding of the nature of some of the experiences that victims went through.

The next sections below are structured according to these six issues enumerated above. Firstly, however, we provide a note on the methodology of the survey.

### 4.2. Methodology

For the purposes of the survey, 1,199 former and current prisoners were interviewed. More precisely, 601 respondents were former inmates and 598 were current prisoners (of which 21 were in pre-trial detention). The survey utilized simple random sampling. A sampling frame was drawn up at the initial stage of the survey. For former inmates, this frame drew on identifying the geographic distribution of those released. On behalf of the research team, probation agencies nationwide then contacted former prisoners and asked them if they would agree to participate in the survey. The research team contacted those who agreed to participate. In case of current inmates, the sampling frame drew lists of all prisoners from across penitentiary institutions. The survey was conducted in all penitentiary institutions throughout Georgia except in juvenile prisons. The research instrument was a questionnaire that involved formalized questions. The questionnaire was developed jointly by the Institute of Social Studies and Analysis, non-

governmental organizations with extensive experience of dealing with human rights, judiciary, penitentiary issues, torture and inhuman treatment<sup>225</sup>, and international experts Baroness Vivien Stern and Professor Andrew Coyle. Due to the delicate and complicated nature of the research and its goals, it was decided that representatives of the respective NGOs<sup>226</sup> who had a solid background in working in prison settings and interviewing prisoners would conduct the interviews in penitentiary institutions of Georgia. As well as the questionnaire, in depth interviews were also carried out with some respondents to provide qualitative information, some of this is presented below.

Of those surveyed who were still inmates, 23% (137) were in Gldani prison; 17% (101) were in Rustavi prison #17, 17% (99) in Ksani #15, 11% (68) in the Mtisdziri prison in the Gardabani District (Rustavi #6), 10% (60) in Geguti prison #11, 10% (59) in Kutaisi prison #2. The remaining 12% were held in the 'Matrosov' prison (Tbilisi #9), 'Tube' (tuberculosis) prison (Ksani #19) and the women's prison in Gardabani (Rustavi #5).

Of those surveyed who were ex-prisoners, 54% of interviewed former inmates had been released after being granted amnesty<sup>227</sup>, 18% after fully serving the sentence, 10% through early release mechanisms, 8% after being granted amnesty as a political prisoner<sup>228</sup>, 4% zero-result plea bargain (release without sentence), 4% through pardon from the president.

The majority of former and current inmates had one conviction. A full 91% of interviewed former inmates had only one conviction, 7% had two, 0.8% (5 persons) three, and 1.5% (9 persons) – four convictions. Of current inmates surveyed, 64% had one conviction, 24% had two, 8% three, and 4% four convictions.

### *Limitations*

There were several limitations to the research approach adopted. For one thing, at this stage it was not possible to survey the prison staff. This was due to difficulties in identifying respondents. Many staff had been let go following the abuse scandal. Furthermore, this was a matter of time and resources and the questions asked: we were more focused on the issue of how prevalent torture had been and what form it took. In terms of why the torture happened, without staff we can only give a partial answer. However, here we present what prisoners (both current and former) understood as the reason for their abuse and we see this as valuable in and of itself to our understanding of why torture was occurring.

A further limitation that should be stressed is that while asking questions regarding torture and/or inhuman treatment, the respondents were not given a legal definition of torture and inhuman treatment, therefore their answers might have encompassed forms of abuse that do not amount to torture. Moreover, in the list of forms of abuse provided in the questionnaire, the research team included such deprivations as inadequate healthcare and poor living conditions. We are aware that these may not always amount to torture, but as severe human rights violations we were interested in understanding their prevalence too.

The discrepancy in the answers of former and current prisoners in terms of frequency of the facts of torture can be explained by the fact that current inmates continue to be in the same environment where

torture took place, whereas for former prisoners this is a matter of the past. On the one hand, current inmates might have a tendency towards exaggeration, on the other former prisoners might be inclined towards not wanting to remember prison life. Despite the discrepancies, in terms of the evaluation of the frequency of torture and places where torture took place, once it comes to factual data and personal experiences of torture the answers of these two groups offer many similarities.

### 4.3. How Prevalent was the Use of Torture?

#### *Respondents believe that the prevalence of torture is widespread*

The majority of respondents, 74%, responded that they ‘had definite knowledge’ about torture and inhuman treatment of inmates in penitentiary institutions before this was exposed in September 2012. Fully 83% of current prisoners (hereafter CPs) and 65% of former prisoners (FPs) gave this response. This was against only 10% of CPs and 20% of FPs who responded that they ‘had heard about unconfirmed cases’. In terms of personal experiences of torture both FPs and CPs concurred: 80% had heard the sound of others being abused while incarcerated. The certainty of the belief that torture was occurring in the prison system is of course interesting in itself as likely to create a climate of fear regardless of the truth of the actual situation.

According to 64% of respondents, torture and inhuman treatment ‘occurred daily’ in penitentiary institutions. As for the police investigation cells and departments, 25% of respondents claimed that torture and inhuman treatment were daily occurrences in these institutions. Similarly, only 1.5% of respondents claim that torture and inhuman treatment occurred ‘almost never’ in penitentiary institutions. In the case of the police investigation cells, departments and the security isolation units (in special situations for security threats – the so-called ‘Module’ building), 13-14% of respondents claim the facts of torture and inhuman treatment had hardly occurred in these institutions. Importantly, there is a much higher degree of certainty in discussing the frequency of torture in prisons compared to other institutions. Only 6.2% struggle to answer this question, compared to 55% when discussing security isolation wards. This appears to support the interpretation of international observers, reported in chapter 3, that at some point the locus of abuse moved from police custody to prisons, including pre-trial detention. Table 1 below summarizes these findings.

Table #1: Evaluation of frequency of facts of torture and inhuman treatment in various institutions

	Daily	Often	Sometimes	Almost Never	Have Difficulties Answering
Penitentiary institutions (prisons)	63.9	24.9	3.6	1.5	6.2
Police isolation wards	21.2	19.9	12.5	13.8	32.6
Police departments/units	20.9	18.8	11.5	13.4	35.7
Security isolation ward (so-called Module building)	13.5	11.5	5.4	14.2	55.4

*The majority of current and former prisoners claim some form of torture happened to them personally and frequently*

In terms of personal experiences of torture, 75% of respondents stated that they had been tortured physically, while 84% of respondents claimed that they were subjected to psychological torture. The discrepancy between CPs and FPs was virtually non-existent concerning psychological torture though a gulf existed concerning physical torture (66% of FPs versus 84% of CPs claimed this). Of those who claimed to have been physically tortured, 39% allege that this happened almost every day. The percentage is higher for CPs, 54%, than for FPs, 24%. A lower number, 15% of all respondents who claim physical torture, note they were tortured physically at least once a week (13% of CPs and 18% of FPs). In terms of psychological abuse the majority of respondents, 64% allege that this was 'almost daily'. Again this number was much higher (70%) for CPs than FPs (58%).

Was torture confined to very specific groups of prisoners? The results of the survey suggest the answer to this is 'no'. Of CPs, 77% believe that all type of prisoners were tortured, 65% of FPs believe the same. The second most common answer was that followers of the 'criminal traditions' – the thieves-in-law and their supporters – were targeted. Of both CPs and FPs, 14% believed this. Otherwise, 9% of FPs and 4% of CPs saw 'opposition-minded' prisoners as targets.

*Claims of torture span across institutions; there are much higher levels in prisons than in police custody; Gldani Prison #8 stands out as by far the worst prison for torture*

Was the torture confined to one or two institutions? Again, the results of the survey suggest that while it seems to have been more prevalent in some prisons rather than others, the answer to this is 'no'. When asked if they had been victims of torture, respondents were asked where this took place. The results below show the percentage of respondents, from the total 1,199, who named a particular institution as the site of their torture. There are a couple of standout points.

Firstly, the data across institutions once again reveals that reported torture for both CPs and FPs is much higher in penitentiaries than police custody and other forms of confinement. To give one illustrative example, whereas 14% of respondents claimed physical torture in the new Ortachala prison in Tbilisi only 2% claimed the same for the Tbilisi police investigative cells.

Secondly, while there is much variation across institutions, rates of reported physical and psychological torture are quite high for all the major prisons of Georgia. However, there is variation. Some institutions, such as Batumi (6% claiming physical torture), 'performed' better than others, such as Ksani (13% claiming physical torture). These differences are not negligible and should be investigated further. However, relatively high rates across institutions mean that as a prisoner was transferred around the system the probability of being a victim of torture was relatively high. Gldani and Kutaisi have the highest reported torture prevalence. Gldani stands out as a prison where torture appears to have been systematized and institutionalized. A full 55% of respondents claimed that this was a site of their torture. Gldani is such an outlier that it should be treated as a particular case in the malfunction of political, institutional and professional culture.



Still, Gldani is not completely unique. In Kutaisi, 19% reported physical torture and in Ortachala this was 14%. This can be explained also by the fact that all pretrial detainees are placed either in Gldani or Kutaisi. Other than Gldani and Kutaisi, Ortachala (14% of respondents named this location as the place of torture), Ksani (13%) and Geguti (11%) were all named as significant sites of physical torture. Further research is required to establish the relationship between the regime type (Gldani, Kutaisi and Ortachala are exclusively closed type) and torture. Moreover, the prevalence of Kutaisi and Gldani in the data suggests that pre-trial detainees may have been particular targets of inhuman treatment.

The data tell us then, that perceptions of widespread torture were prevalent among the prison population. Moreover, the vast majority feels they have been victims of torture at some point within the prison system. The data cannot confirm for certain the degree to which torture was institutionalized in the system and the degree to which it was ordered from above individual prison administrations. The data provides strong evidence that torture had become a widespread feature of Georgian custodial punishment across institutions.

Was torture a political directive to break the will of those the government saw as enemies? Was it used as a pragmatic method of governing prisons? Was it simply a sadomasochistic indulgence for prison officials - the logical psychological consequence of wielding power in conditions of impunity and lack of oversight? We now turn to these questions.

#### 4.4. What Was the Purpose of Torture?

*Respondents believe torture was part of corrections policy and was ordered from high up*

Was prison abuse part of a broad strategy of governing prisons, known and endorsed by the government? It is impossible, on the basis of these data, to answer this question. However, we can say that CPs and FPs believe this to be the case. The data show that prisoners and ex-prisoners perceive a system of mutual responsibility among the Ministry of Interior, Prosecutor's Office, the Ministry of Corrections and the President's Administration for the ordering of torture in prisons. All these institutions score highly on this question, the Ministry of Corrections (43%) perceived as most culpable. Fewer, 27%, believe that individual prison administrations were to blame. Most seem to feel that the ordering of torture came from higher up.

The absolute majority of respondents believe that torture was part of wider prison policy. In total, 70% 'fully agree' that the torture and inhuman treatment of inmates was a deliberate part of the government's corrections policy and not simply the initiative of a prison administration or individual prison employees. Both 77% of CPs and 64% of FPs thought this. Only 4% of all respondents 'disagreed' or 'fully disagreed' with this. Again, this does not prove that the government did indeed sanction abuse as a means of governing its penal system but the high percentage of those who believe it did once again indicates that abusive practices were both perceived and experienced as systemic by prisoners.

*Prison order and pressure to confess to crime are seen as the main goals of the torture*

Prisoners and former prisoners believe that the ultimate cause of torture in the prison system was its ordering by individuals in powerful institutions of the state. What do they perceive as the proximate or most immediate reason to torture prisoners? Respondents were asked to rate the significance of a particular motive according to a 5-point scale where 1 represented ‘totally insignificant’ and 5 ‘extremely significant’.

The table below summarizes the findings. It is ordered from most significant to least, based on the average score from the two groups of respondents.

Motive	Significance according to Current Prisoners	Significance according to Former Prisoners
Instill fear in prison	4.9	4.8
Subjugate a person	4.9	4.7
Damage physical and mental health	4.6	3.8
Admission of crime not committed	4.5	3.9
Derive pleasure from abuse	4.5	4.2
Fight against criminal world	4.3	4.1
Admission of crime	4.4	3.9
Serve as an agent	4.4	3.8
Obtain information	4.1	3.8
Force a false testimony	4.0	3.7
Prevent appeals in international court	4.2	3.5
Affect plea bargain process	3.9	3.6
Extort property	3.5	3.7
Push towards suicide	4.0	3.0
Prevent appeals in domestic courts	3.8	3.1
Impact political views	3.3	3.4
Cause death	3.5	2.6
Create damaging material against authority figures	2.6	2.6
Demean religious beliefs	2.6	1.9
Demean ethnic identity	2.6	1.7

Categorizing these responses, the table suggests that prisoners perceived a number of key goals as incentives for torture. In order of significance, these are:

1. PRISON ORDER: creating a climate of fear and subjugation to authority is seen as the most important goal of torture. Similarly, sixth in the list, the fight against the criminal world, can be assigned to this category.
2. TO SUPPORT CRIMINAL PROSECUTION: forcing innocent people to admit guilt and people to confess are perceived to be significant goals of abuse in prison. Moreover, forcing false testimony,

affecting plea bargains, and preventing appeals in international courts can be added to this category.

3. NON-INSTRUMENTAL AFFECTIVE IMPULSES: clearly, respondents feel that a significant part of the torture had no rational goal over and above providing pleasure for the tormentors and the will to inflict damage to health/life.
4. GAIN INFORMATION: this can be strongly linked to category one. The high scores for the significance of pushing people to become agents or informants for the prison regime and generally to 'obtain information' is seen as an important goal of torture by respondents. Information is crucial to control and order in prisons. Torture and fear, respondents believe, had become a means to get information in the Georgian system.

Two other points bear highlighting here. Firstly, although respondents believe that torture was ordered from high up the political chain, the goals of the torture are not seen as overtly political. There are relatively low scores for the significance of changing people's political views or preventing appeals in domestic courts. However, preventing an appeal in an international court is seen as relatively significant and this should be judged as a highly political goal of torture, tied as it is to Georgia's international image. This chimes with the Ombudsman's claim that prison staff 'negotiated' with prisoners to force them to withdraw complaints from respective institutions.<sup>229</sup>

Secondly, the goals of torture, respondents believe, were certainly not about demeaning religious or ethnic identity. This fits with the findings that respondents believe that everyone in the system was tortured, not just particular groups. It also fits with the result that first and foremost the general goal of torture was general prison order and the instrumental needs of an overburdened court system rather than an overt attack on political, ethnic or religious identity.

*Videos are believed to have been taken to increase humiliation but also to act as leverage over prisoners*

The majority of respondents - 52% - claimed their own torture had not been photo or video documented. However, 11% of CPs and 5% of FPs did claim there was photo or video taken of their torture. Moreover, 42% of CPs and 39% of FPs also said they 'did not know' if it had been photo or video documented.

Why were videos taken of torture? There is some unanimity among respondents on this point - most - 82% - think that humiliation and infringement on an inmate's dignity was the intention behind photo and video documenting torture. A further widespread belief, among 63% of respondents, was that the footage could be used as leverage against an inmate or their family member. The same percentage thought the videos could also be used to control and suppress inmates and 55% claimed that videos of torture were a mechanism to prevent inmates disclosing its occurrence. Similarly, many, 46%, respondents believe that videos could be used as compromising material against staff. A similar figure, 43%, stated that videos could be used by staff as proof of carrying out orders to superiors within the prison administration. Again,

the majority of respondents, 67%, believed that videoing was simply part of finding pleasure in torture and carried out for this reason.

#### 4.5. What Form Did Torture Take?

*Beatings with either fists or batons and in particularly sensitive areas were reported as the most common form of physical abuse respondents experienced*

The majority of respondents, 74%, stated they were beaten with fists and kicks. Of the respondents 83% of CPs reported this experience, and 66% of former inmates referred to this method. Rubber or wooden batons were used against respondents in 70% of cases in terms of CPs and 56% of FPs. Fewer respondents, but still a significant number reported being beaten with cell keys, iron bed posts or other metal items – 50% of CPs claimed this against 33% of FPs. Many of these beatings were aimed at particularly sensitive areas. The majority of respondents, 63% stated they were hit in especially painful parts of a body (for example, palms, feet, already existing wounds) - 76% of CPs and 50% of FPs claimed this. Hitting on or near the ears, as a particular form of torture was reported by 51% of respondents overall. Eye-gouging was reported by 23% of respondents.

Given the infamy of the use of special forces in prison, it is of note that quite a large number, 41%, of respondents stated that the special forces as a punitive squad (organized, and targeting the entire prison) was used against them.

Other than beatings, respondents reported being pressured in other ways. This included being denied access to drinking water – 35% claimed this – being kept in unbearably cold or hot conditions for the purposes of torture – 51% - and being held in compulsory body postures such the so-called "Fuchs" i.e. being held in a 1m<sup>2</sup> cage – 37% claimed this.

Perhaps unsurprisingly, many noted the conditions they were kept in as a form of abuse - 68% of respondents claimed they were placed in cells congested with inmates. Overcrowding was a problem - 70% of current inmates and 65% of former inmates asserted they were placed in congested cells; 62% of respondents stated they were placed in humid and soggy cells; 74% of respondents said they were denied limited access to medical services.

Small numbers of respondents reported rather more imaginative forms of torture against them. For example, 10% of respondents stated the so-called strangling method was used against them (drowning with a head in the water, putting on a gas mask, etc.); 8% of respondents said the burning method (with a cigarette, blazing iron, etc.) was used against them; 11% of respondents said the electric current torture method was used against them - 15% of CPs and 7% of FPs claimed this.

Interestingly, given the sexual nature of the initial videos that were leaked to the public, only 2.3% of respondents referred to sexual abuse - 4% of CPs and 0.8% of FPs claimed this. These figures should be treated with care as sexual abuse is often underreported by victims, yet, it does raise the possibility that the leaked videos were exceptional in their content.

*Psychological torture consisted of threats, harshening of cell life in which even talking was banned, and ensuring that abuse was common knowledge among prisoners*

As might be expected, the main reported form of psychological abuse was verbal insults – 85% of both FPs and CPs claimed this. After this however and in line with other sources, 75% claimed they were prohibited from talking in a cell – 77% of CPs and 73% of FPs stated this. On top of this, 77% of respondents alleged they were prohibited from listening to a radio or reading the press. Moreover, most had to spend all their time in the cell – 67% noted they were prohibited from taking a prison walk. Times outside the cell were more likely spent in a segregation unit – 45% of respondents stated they were kept isolated in a punishment cell for a prolonged period, in a special condition (for example, naked, without water and toilet, or without a bed).

Cells were places of distrust with 42% of respondents claiming that in their cell they were subject to the impact of a cellmate cooperating with the prison administration. Sleep was limited – 59% claimed their sleep was disturbed and 46% of respondents stated they were prohibited from turning off the light during the sleep. These figures on sleep were virtually identical for both FPs and CPs.

The majority of prisoners, 57%, claimed they were threatened with beating, rape, or death. On top of this, 39% of respondents said they were threatened with harm to their family members. These threats were made credible by making torture public. An overwhelming majority of respondents – 69% – noted they were made to hear the sounds of torture of other inmates; this was true of 71% of CPs and 67% of FPs. Moreover, 47% of respondents claimed they have attended the torture of another inmate; 52% of CPs and 43% of FPs asserted this. Finally, a small number, 4%, of respondents claimed they were forced to watch/listen to audio-video recordings of torture; 8% of respondents alleged they were threatened by showing his or her documented torture to others.

#### 4.6. Did Torture Achieve its Perceived Goals?

To evaluate whether perceived goals were achieved respondents were asked *inter alia* if they knew people who, as a result of torture, had provided information on other persons, accused others of committing crimes they had not committed, participated in the torture of others, concealed their political views, or agreed to plea bargain. Respondents acknowledge knowing or having heard of other prisoners doing such things, however the absolute majority denies that they themselves did similar things. This can be explained by the high level of stigma and shame associated with such actions in the prison setting. These answers have been grouped into a number of categories:

- USE PRISONERS AGAINST EACH OTHER
- GAIN INFORMATION FOR PROSECUTION
- ACHIEVE PRISONER COOPERATION WITH THE REGIME

Below we illustrate in greater detail the answers of respondents.

*Use prisoners against each other: respondents believe that a relatively large number (over 40%) provided information and accused others of committing a crime due to torture.*

Some 54% of respondents, stated they do not know anyone personally who had provided information on other persons. Those who claim to know such persons are represented equally with 42%; 4% of respondents refused to answer this question. A full 93% of respondents stated they personally did not provide information on other persons. A small number, 2.4%, of respondents (5% of current inmates and 0.3% of former inmates) claimed this.

Similarly, 40% of respondents claim to know someone who, as a result of torture and inhuman treatment, had accused someone of committing a crime they had not committed. The majority of respondents – 55% stated they did not know anyone who had done this. Only 1.7% of respondents said that, as a result of torture and inhuman treatment, they themselves had accused others of committing a crime they had not committed. 4.6% of respondents refused to answer this question.

In the same vein, 69% stated they did not know anyone who, as a result of torture and inhuman treatment, had participated in the torture of other inmates. The proportion of respondents who claimed to know some individuals who had participated in the torture of other inmates was 29%. Concerning themselves, 7% of respondents refused to answer the question on their own participation in torture. A very small number, 1.5% of current inmates and 0.3% of former inmates said they have participated in the torture of other inmates.

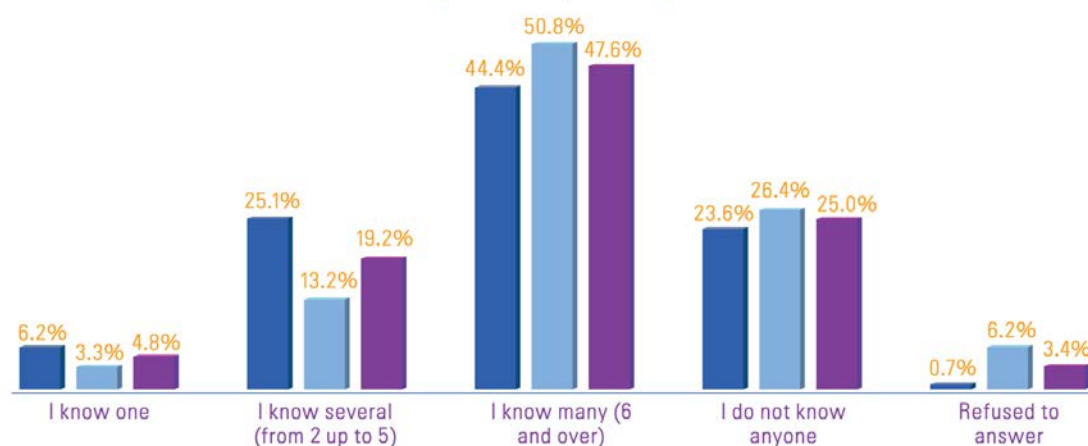
*Gain information for prosecution: respondents believe a relatively large number admitted to crimes, plea bargained, or forfeited assets due to torture*

In comparison, every third respondent stated they knew ‘many’ (defined as 6 and over) who, as a result of torture and inhuman treatment, have admitted committing a crime they had not committed; 23% claimed to know ‘several’ persons (from 2 up to 5) who had admitted guilt when innocent. The majority of respondents – 77% – stated that they personally had not admitted committing a crime they had not committed, while 19% of respondents admitted committing a crime they had not committed.

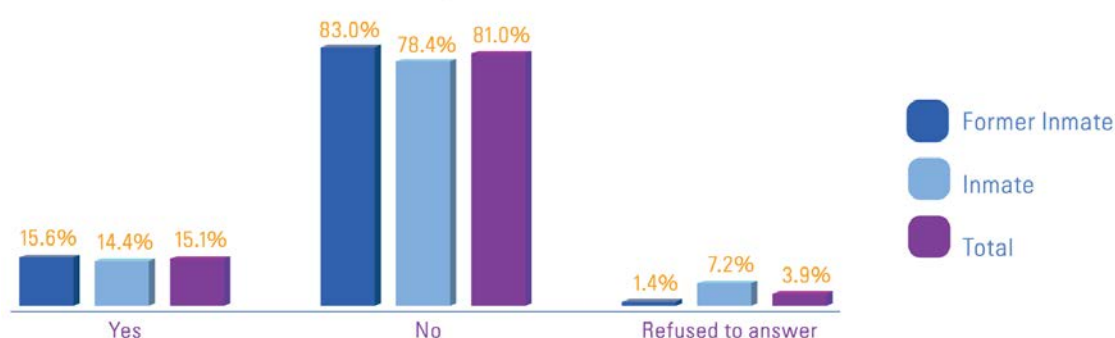
Similarly, approximately every third respondent (35%) claimed to know ‘many’ individuals who, as a result of torture and inhuman treatment, had paid money or given up property. This result is almost equal for both CPs and FPs, working out at 34% and 36% respectively. Personally, 10% of respondents claimed they themselves had done this.

Respondents were even more emphatic regarding plea-bargaining. Almost half, 48%, of respondents stated they know ‘many’ individuals who, as a result of torture and inhuman treatment, had agreed to a plea bargain. Moreover, 15% of respondents claimed they had personally agreed to a plea bargain as a result of torture and inhuman treatment. This was relatively similar across groups: the majority of CPs – 51% – and 44% of FPs said they claimed to know ‘many’ individuals who had agreed to a plea bargain due to torture. The graph below shows this data.

Do you personally know anyone who, as a result of torture and inhuman treatment, has agreed to a plea bargain?



Your Own Experience



*Co-opt prisoners and achieve order: prisoners believe that torture was not fully affecting membership of criminal gangs; however, it did push people to act on behalf of the administration and hide political views.*

The majority of respondents - 69% - stated they do not know anyone who, as a result of torture and inhuman treatment, has given up membership of the criminal world – the so-called ‘thieves’ world’. However, 17% of current inmates and 13% of former inmates noted they know many individuals who did give up membership of the criminal world. Furthermore, 3% of current inmates claim they have personally given up membership of the criminal world.

Around half, 56%, of respondents stated that they do not know anyone who or whose family members, as a result of torture and inhuman treatment, had concealed personal political views. Over 39% of respondents know some individuals who or whose family members had concealed their political views. Personally, 7% of current inmates and 8% of former inmates stated they or their family members had concealed political views due to torture.

In comparison, only 38% of both CPs and FPs stated that they do not know anyone who, as a result of torture and inhuman treatment, started cooperating with the prison administration. A similar number, 35% of CPs and 32% of FPs, claimed they know ‘many’ individuals who did this. Indeed, 4% of current inmates said they themselves had started cooperating with a prison administration as a result of torture and inhuman treatment.

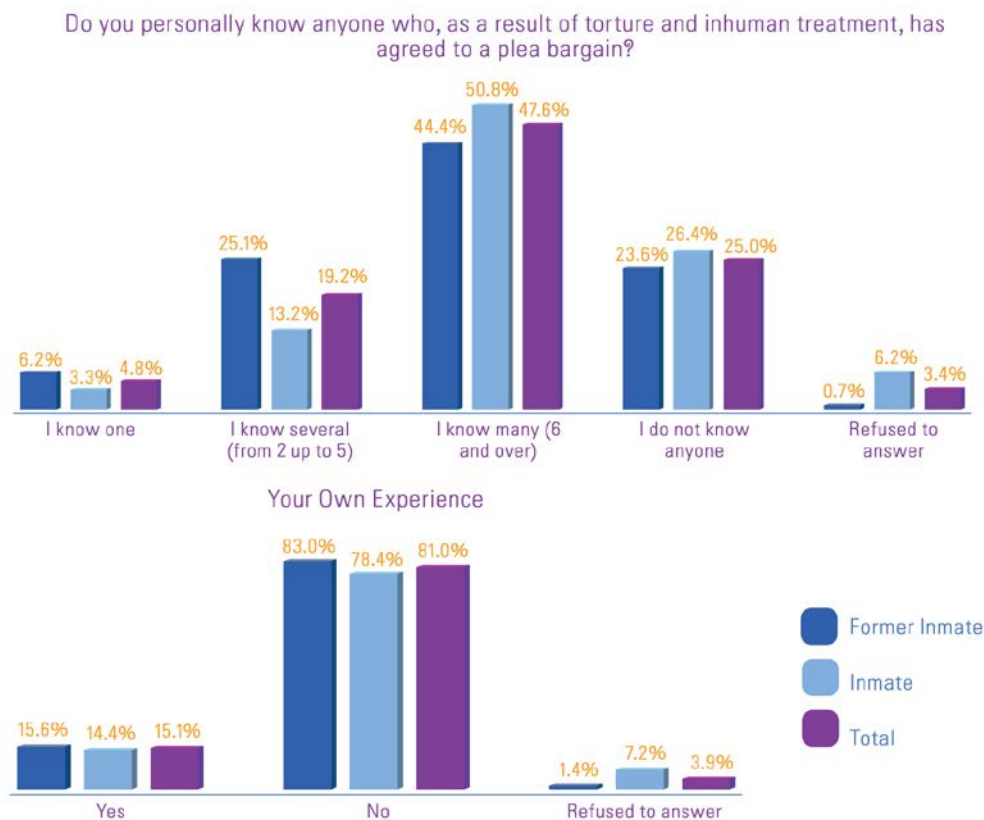
#### 4.7. How, if at all, did Prisoners Protect Themselves from Torture?

*Few prisoners met with representatives of human rights protectors; few were ready to disclose torture even to private attorneys mainly out of fear and skepticism as to the consequences*

When asked about relations with human rights organizations the majority of respondents claimed that they had never met with representatives of the Public Defender's Office (62% had never met anyone from this institution), representatives of any local Human Rights NGO (75%), representatives of international Human Rights NGOs (88%), representatives of the UN, Council of Europe and other international intergovernmental organizations (93%), or representatives of the Human Rights Committee of the Parliament of Georgia (91%). Of those who did meet human rights' defenders, very small numbers reported actually informing these organizations about instances of abuse..

A certain amount of respondents consulted with a private attorney - 74% claimed this. 27% stated they were consulting with a private attorney frequently - 32% of respondents who answered that they used an attorney claimed they were fully informing the attorneys about facts of torture and inhuman treatment. On the other hand, 45% noted they were not informing private attorneys about this. This figure is smaller for public attorneys - 15%, of those who were consulting a public attorney claimed they were disclosing instances of torture.

Respondents were asked as to why they did not report torture and inhuman treatment that they or others had experienced. To this question, 40% of respondents claimed they had no hope to improve the situation, 26% of respondents claimed they were afraid that they or their family members would be punished or even worse. Another factor however, was ineffectiveness, 75% of respondents, who had fully informed the human rights activists and organizations about torture and inhuman treatment, claimed this had no consequences. The graph below shows the answers to this question.





Furthermore, prisoners found no solace in their families. The majority of respondents – 62% – stated their family members did not know about torture and inhuman treatment exercised against them. This was true for 64% of CPs and 61% of FPs. Only 13% of respondents stated that their family members were informed about violence exercised against them; 6% of respondents refused to answer this question.

#### 4.8. Consequences of Imprisonment

*The vast majority of prisoners claim imprisonment created serious health problems particularly mental health issues*

The absolute majority of respondents – 84% – claimed that imprisonment had created problems (social, medical, psychological, etc.) they had not experienced before. Every third respondent stated that during imprisonment they had developed a chronic health problem that is not subject to treatment; 72% claimed that as a result of imprisonment they have developed a health problem requiring long-term treatment; 48% of respondents noted that their labor ability has deteriorated or been lost; 32% claimed they have difficulties communicating with other people (including family members); perhaps as a consequence, 14% of respondents claimed their family has broken up. On this point, materially, 38% of respondents alleged they had lost property as a result of imprisonment. In terms of wider claims about how torture directly affected them and beliefs about how it affected other prisoners, almost half of respondents, 49%, stated that they know ‘many’ individuals who, as a result of torture and inhuman treatment, had developed mental health problems. Speaking personally, 31% of respondents alleged they themselves have developed mental health problems as a result of torture and inhuman treatment.

Moreover, the majority of respondents – 59% – claimed they know ‘many’ individuals who, as a result of torture and inhuman treatment, had been injured physically. There was a big disparity on this point with 71% of CPs and 47% of FPs stating this. Furthermore, 48% of respondents stated they had been personally injured physically as a result of torture and inhuman treatment.

More than a third, 35%, of respondents stated they do not know anyone who, as a result of torture and inhuman treatment, has committed suicide/attempted to commit suicide. However, 10% of respondents said they have personally attempted to commit suicide as a result of torture and inhuman treatment; In terms of specific illnesses, mental health problems were the most common ailments developed during imprisonment (depression and neuroses); apart from this problems with the digestive system were also highly cited, as well as gastric ulcers, Hepatitis C and cardiovascular diseases. These results are summarized in the graph below.

*Many respondents claim that no medical care was given for health problems resulting from torture and that often they did not disclose the causes of these problems to staff*

It is a clear that inhuman conditions during imprisonment resulted in grave physical and mental health problems among prisoners. Yet, 38% of respondents asserted they were provided with inefficient (unqualified) medical care during the imprisonment, while 36% of respondents claimed they were not provided with medical care at all. The majority of respondents 51%, stated that the real cause of their ill

health had not been included formally in medical documentation. Furthermore, the majority - 62% - claimed they did not have the opportunity to talk confidentially with doctors. Even if they had had this opportunity, the majority of respondents, 59%, asserted that they did not trust medical staff.

## Summary

The data from this survey partially sheds light onto the prevalence, scope, goals and practices of torture in Georgia's penal system throughout the last decade. While we cannot assert that this data provides a fully objective picture, representative random sampling and voluntary participation enables us to understand beliefs of prisoners about torture in the Georgian penal system.

Clearly, there is much future research to be done. It is imperative, for example, that research is carried out with prison staff and civil servants, as well as the architects of the criminal justice system at the time. The role of staff, professional subculture, lack of training, work conditions, and pressures are critical in understanding why torture occurred and are all questions that this survey here cannot answer.

However, there are a number of stand out conclusions from the data. These are:

- From prisoners and former prisoners' testimony torture and inhuman treatment was widespread in the prison system. Moreover, the belief among prisoners that it was widespread was itself pervasive.
- Such treatment was not confined to particular prisons, however, in one in particular, Gldani #8, it was endemic. In others, such as Kutaisi #2 and Ksani #15 it was common.
- On the basis of these data, it is not clear if torture was a systemic part of corrections policy, or whether it became institutionalized in only certain prisons, however most respondents believe it *was* a systemic part of corrections policy.
- For respondents, torture and inhuman treatment is highly instrumental: it serves to control penitentiaries through fear and provide information for prosecution.
- Torture has led to admissions of guilt, plea bargains and forced cooperation with the prison regime.
- On the flip side, torture is not seen as being ideologically driven or based on any specific ethnic or religious grounds.
- Forms of torture could be highly inventive and not limited to any particular form. However, very few respondents claimed any abuse of a sexual nature. A small proportion, around one in ten, said their torture had been photographed or filmed.

- Victims remained remarkably quiet about instances of torture both to impersonal and personal (family) contacts. This is partly due to lack of hope to improve the situation, fear of further punishment, and ineffectiveness of protection mechanisms.
- The consequences of torture for most were traumatic, particularly in terms of mental health. Serious questions arise concerning access to medical care generally but particularly after instances of torture and levels of knowledge about the reasons for injuries among medical staff. Moreover, the survey results bring up questions about the collusion of medical staff in ill treatment and/or failure to report it.

## Appendix: Testimonies of Torture Victims

### Nugzari, 37 years old

*(This account describes instances of torture and inhumane treatment in Ortachala Prison #5, Rustavi Prison #1, Ksani Prison #19, and Gldani Prison #18.)*

I was arrested and sent to Gldani Prison #8. I don't know what happened to me afterwards. It was like a shock. I've never seen such torture in my life before... This so-called *karantinis dashla*<sup>230</sup>, the inhuman screams of prisoners. If a prisoner refused to sign and co-operate with them, they would treat them very brutally in the cells. This "quarantine" was like a circle, and everybody had to walk through it. Every prisoner would be beaten, especially those who were sentenced for murder or robbery.

After going through "quarantine", they took us to the cells, and the guard there warned us that we weren't allow to talk, not even in whispers. They would enter the cell for the slightest noise, and would beat us and intimidate us, forcing us under our beds (*shponka*). They had different ways of punishing us: making prisoners kneel for hours on end, forcing them to swallow pieces of soap, and beating them on their spines.

I guess all this was done to disable prisoners. They were using high levels of psychological pressure. Personally, I didn't think of myself as a human being in there. I was nothing, and I could see no future.

Everybody was involved in beating prisoners, and all of them were allowed to hit us—except the [controller]; he just opened and closed the doors to the cells. We weren't allowed out in the fresh air. If we asked to be allowed to go out for a walk, they would shout at us and insult us so badly that we would never ask again. The food was awful... It's really difficult to remember that... Now that I'm trying to remember, I realize that I went through enormous psychological stress in Gldani Prison... because during my first sentence, I didn't experience this pressure and neither physical nor psychological trauma... and remembering all that...

It was everyday stress! Every day, we were expecting something terrible to happen. Sometimes we would prefer to be beaten up rather than being insulted and humiliated so badly. They had a way of punishing us: they would put you in the middle of a cell for five or six hours, and you had to remain silent and immobile. Of course we would prefer to be beaten rather than having to undergo that

I began to have panic attacks and hallucinations. I lost all hope, and no longer felt human. I would have nightmares when I was asleep, and I even tried to commit suicide several times. I asked for a doctor, and I was finally able to see one. After asking for a long time, a psychiatrist finally came to see me and gave me some pills. Prisoners are very rarely given such effective medicine. I took them for eight months, and my condition improved slightly, but the pressure continued. If they weren't touching me personally, the fact that they were beating my friends before my eyes, in the cell, was like torture. Basically, we were all in the same situation.

It has been four months since I was released, and I still feel terrible. I'm psychologically destroyed. I can't control myself, and my nervous system is shattered because of the stress I was subjected to.

I suffer from insomnia; I take some pills and my condition has improved slightly, but my family's difficult social situation, unemployment, the lack of human relations... I have begun to be afraid of many things: if I see a man in uniform in the street, for example, I'm afraid he will arrest me and beat me. When I'm at home and I hear a knock on the door or the voice of a man I don't know, it gives me a bad feeling.

### Gaga, 36 years old

*(This account describes instances of torture and inhumane treatment in Gldani Prisons #8 and #18 as well as in Ortachala Prison #1.)*

'Because I came from the same region as [a prominent opposition figure at the time] I was offered the chance of being moved to better conditions and being released early in exchange for giving false evidence against members of his political party. They wanted me to say that activists from his party had told my family that they would arrange for me to be released early in exchange for their votes. I felt so duty-bound to [the opposition politician], but, first of all, why should I have lied? And, secondly, he was paying my salary when I was working at the school, and he paid for my father's and my operations—not because we knew each other personally, or because I “was somebody” for him, but simply as a kind person helping a poor family. Imagine what a burden I would have had to shoulder in order to write something incriminating him. How could I have lived with myself? And how would I be able to look into my child's and my relatives' eyes? That's why I categorically refused to play along. After that, the heads of the prison's regime service and social services department dragged me to the morgue, tied me to the operating table, and broke my toes with special pincers. I later managed to put some of them back into place, but two of them are so deformed that I have difficulty putting on shoes and walking. Besides breaking my toes, they were also beating me with truncheons and insulting me, and whenever I lost consciousness they brought me back to my senses with cold water and continued to torture me. But I managed to survive.'

### Genrikh, 44 years old

*(This account describes instances of torture and inhumane treatment in Gldani Prison #8.)*

I have terrible memories of one particular day in Gldani Prison: the door to our cell opened, and around six or seven very strong men came in and began shouting at us, asking us why we had made so much noise two days ago? I answered that we hadn't, and that even if we had, why had they not objected then, and why was it important today? One of them became very angry and asked me to give him my name. Then they told all of us to line up and walk to the showers. Most of the beatings took place in the showers, because that was the only part of the prison without surveillance cameras. Among us was an eighteen-year-old boy, the same age as my child. They began to lay into us, and threw us to the tiled floor, covered in blood. I looked at the boy, and saw that one of them had cornered him and was forcing

him to insult the thieves-in-law<sup>231</sup>, but the boy refused to insult anybody. He was then told to open his mouth, and the guard began to undo his trousers. I couldn't take it any longer, so I shouted—politely, without insulting him—'Stop! What are you doing? He's just a boy! Aren't you ashamed of yourselves?' This really made them angry, so they ordered everybody to put their clothes back on (we were all naked to our waists), and took everyone except me back to the cell. They continued to beat me, and then dragged me back to the cell, half-dead.

The beatings were very heavy. Neither they nor you could tell whether or not you would survive. We weren't simply being beaten: when you beat someone, you normally think about where your blows will land, but they didn't care. Imagine being beaten as you lie on the floor and not being able to move, and then a 120-kilogramme man jumping onto your chest, back or head... They had clearly been given the green light to beat us, and didn't even bother to hide their faces behind masks... The motto was 'beat, kill if you have to, but keep the system going.' That's what they called "discipline". Gldani Prison, with 5,000 inmates, was so quiet that you really could hear a pin drop... Absolute.

Around three weeks before my release, some members of the prison administration led by the (then) chief of the regime service burst into our cell and, as usual, accused us of having made some noise. They grabbed one of my cellmates and began to strangle him. They weren't just holding him by the neck: he began to choke and turned black, his tongue sticking out... I told them to stop at first, but when I saw that they weren't listening to me I pushed one of the guards. I guess my behaviour must have somehow scared them, because they all left the cell. Exactly five minutes later, however, they opened the door to our cell and called us out—first the man they had tried to strangle, and then me. They took us to the "quarantine" area and told us to undress. One of the guards later recognized the other prisoner; apparently, they used to live in the same neighbourhood, so he was saved. I remained standing, naked. In short, I was severely beaten. I wouldn't even call it a beating, because while I was standing they began to punch me. There were lots of them; I can't say how many of them were beating me, how many fists were flying at me. Then I fell, and the only thing I managed to do was protect my face with my hands. When he saw that, the chief of the regime service made me remove my hands and spat in my face. I can't remember how long this went on for; I fell unconscious at some point, and when I came to my senses I was lying in an empty cell in the "quarantine" area, completely naked. My clothes were lying next to me in shreds. They had torn my clothes to pieces on purpose. My first reaction was to get dressed, but I couldn't move. I couldn't even stand up to drink some water. I spent around half an hour like that, lying on the concrete floor, then the door opened and a guard entered. I think he had not taken part in my beating. He asked me why I wasn't getting dressed? I answered that I couldn't move, but I couldn't hear my own voice; I realized that I had gone deaf. I couldn't hear my voice, and I began to talk rubbish. I couldn't control what I was saying. I was shouting, asking if anybody could hear my voice? They nodded, then one of them somehow lifted me and the other managed to put some of my clothes on me; they were all torn to pieces. Then they picked me up and dragged me, because I couldn't walk. They dragged me to a different building and threw me into a cell, the way you would throw a heavy sack to the ground, and closed the door on me. The cell was for eight people, and the prisoners who were in it had no idea who I was, what was happening or what was wrong with me. I no longer looked human. They were talking to me, but I couldn't answer them. It lasted for two hours. It took me three weeks to recover. I was then

taken to court, and gave the judge the usual answer: I had fallen down some stairs. I wasn't allowed to give him any other answer, because it would have made my situation even worse and I may not have been released at all. I did everything that was expected of me, and was released on bail.

### Mikheil, 59 years old

*(This account describes instances of torture and inhumane treatment in Gldani Prison #8, Ortachala Prison #1, and Ksani Prison #15.)*

I was arrested in August 2010, and in September five men burst into our cell and gave us a brutal beating. I am recognized as a second-category invalid; I suffered a trauma when I was young, and underwent surgery to my head. It took five years of treatment for me to recover. So when they burst into the cell, one of them approached me and hit me twice in the head, violently, exactly where I had had surgery. Their boss knew that I was an invalid, so he took me aside and sat me down. But they beat the other prisoners in front of my eyes. They were throwing them to the ground and kicking them, as if they were playing football. They didn't need a reason to beat us: on Monday, for example, they would randomly select the 2nd and 3rd cells on the first floor; the week after, they would move up to the second floor; then to the third; then back to the first, and so on. They didn't need a reason at all. The worst is being in a cell on the first floor; we all had to whisper and listen to the radio with our ears glued to the speaker. From time to time, they would come into our cell and take us to the showers. It's awful: you're standing there completely naked as they beat you—not because you've done something wrong or somehow misbehaved, but simply because they want to do it.

A representative of the Public Defender's office visited me in hospital, and asked me what had happened to me? You may not believe me now, but I told him that I had had a nasty fall and had hurt my head. Had I told him the truth, I wouldn't have survived. When we left the room and walked out into the corridor, the Public Defender's representative told me that his office would be unable to help me unless I stated that I had been the victim of torture. It was 2010 and I didn't dare say anything, but I made him understand that they were recording our conversation. In the end, the Public Defender's office wrote in their report that I had been subject to inhumane treatment.

As for torture, I experienced it several times. When I arrived, they beat me so violently that they broke my forehead and some teeth. I didn't understand what they wanted. I felt totally helpless. I guess everybody goes through conflicts in their lives, but I could never have imagined that someone could be beaten the way I was. I remember when my forehead was broken: it made such a noise that they took fright and stopped beating me. I couldn't think about anything, so I grabbed one of them by his leg and began to insult him and to tell him to kill me. I realized then that killing someone meant nothing to them.

They could destroy you in a second and snap you like a twig.

I'm trying to live with this trauma, because this is my life and I can't erase it, I can't just tear a page out of the book and throw it away... I loved fairy tales when I was small. My mother taught me to read when I

was at kindergarten. I remember reading a fairy tale which had a bad ending; I became so anxious that I tore out the last page and wrote my own ending in the book instead. But I can't do the same with my life. I have this broken forehead; what can I do about it? Every time I look into the mirror, I remember everything. How can I erase those memories? What can I replace them with?

### Shota, 57 years old

*(This account describes instances of torture and inhumane treatment in Gldani Prison #8 and Ksani Prison #15.)*

I was arrested by men from the Special Operations Department ["Sodi"], who told me that both my sons would be joining me in prison unless I confessed. I truly believed they were capable of carrying out their threat, because I had heard of lots of similar cases. I agreed. They promised to arrange for me to be able to enter into a plea bargain—which they never did, of course, so I was sentenced to four years in prison. The only thing I really worried about was that I had ended up in prison for such a silly mistake, and I felt embarrassed before my family.

The door would open and they would ask us why we were listening to the radio? (I'm talking about Gldani)—regardless of whether the radio was on or not. If you would answer back that the radio wasn't on, they would all rush back into the cell fifteen minutes later and beat us, usually with plastic bottles full of water. If they were planning a serious punishment, they would take all of us to the showers and "work" on us there. I think all this was happening to oppress us and shut us up, so that nobody would say anything. Cases like this were quite frequent.

Six months later, I was taken to the old Ksani Prison. As soon as we got out of the cars, they lined us up along a wall and told us to salute and swear that we served the Georgian state. If you swore the oath, they would only hit you lightly; but if you would refuse, then they would almost kill you. The prison's deputy director was a young man, only 26 years old. I don't know what made him so bitter, so evil; I never found out. His technique was to hang prisoners by their arms, beat them with truncheons until they bled, and break some of their bones. I myself experienced this "treatment" of his.

One day, I received a parcel (*dachka*) from my family; there was a *khachapuri* (cheese pie) in it. I guess someone must have denounced me, because I was sent for again. I was taken to the deputy director's office, where I was asked why I had given a slice of *khachapuri* to another prisoner? They told me that, in theory, I wasn't allowed to have a cheese pie myself, but that they had made an exception for me. I answered that I had been brought up in a Georgian family according to the sacred traditions of hospitality, and asked them why a slice of *khachapuri* was such a problem? The deputy director then asked me how dare I answer back? How old was I? I answered that I was 56. He said he was 26, and then told me what he usually did to men of my age. I asked him why he was so embittered? He was a young man, and had his life ahead of him. I told him that he wouldn't stay in prison for ever. It was a small room. He stood up and approached me. I was facing the wall, and he gave me a blow to the kidneys with a truncheon. Then he kicked me between my legs. I needed an operation later, and my left testicle was



removed. My kidneys are still damaged—they are too low—and I no longer have any teeth left in my mouth. I was sent to solitary confinement for five days. A commission then came, and they let me go, telling me to be more careful in future.

I lay immobile for two months after this beating; my condition worsened, and it took me two months to force them to transfer me to a hospital (*rezbalnitsa*) to have an operation to remove my testicle. But they were all animals there too. After an operation, there is a special bell to call the doctor if you are in pain. The doctor isn't allowed to enter your room without being accompanied by someone. When I would ring this bell, I was told to stop or else they would come and beat me. I know a patient who was beaten for ringing the bell; he had undergone an operation and said he was in pain.

There were special passages (*prokhodi*) from which the first, second or third group of guards (*atriadi*) would come... They would close the door of the *atriadi* and would take prisoners from the side of the duty officer's station, and would beat the prisoners there, for nothing. It was all done to instill fear in us. Five people committed suicide during my time in prison: one hung himself in the loo (*parasha*); the other cut his veins; the third cut his stomach open... They were all young men, but they were no longer normal, psychologically speaking. My mind resisted because I read a lot. I was trying not to think about what was happening around me, and I also had some friends. Those prisoners who didn't keep in touch with the others suffered from psychological problems.

What terrible things could a 26-year-old child [the deputy director of Ksani Prison] possibly have seen to make him quite so evil and do the things he did? I guess there was something about them, and that people like him were selected. All the older guards were normal; you could even talk to them. They would sometimes warn us, asking us not to do this or that, because then they would be ordered to punish us and they didn't have much time to go until they could retire... They were ordered to beat us. If someone was around, watching, then they would beat us, but if nobody else was around then they wouldn't, but they would then be fired. Do you know how many of them were fired for that? There was this one guard; he would notice that we had no cigarettes left, and he would come into the cell without the other guards seeing him and give us some. But the others were absolute animals: they had sadism in their blood and in their very nature

Several times, I saw the deputy director come into the library and call someone. They would tell me to leave, close the door, and the person who had been called in would later come out covered in bruises or bleeding. This would happen systematically, and psychologically weak people simply couldn't deal with it. Some had heart attacks and died; their heart just couldn't take it, and stopped. And there was nothing you could do about it. They would bind your hands together, push you and start beating you.

## Chapter 5. Lessons Learned and Recommendations

---

### 5.1. Lessons Learned

#### *International Support was not effective in combating torture and ill-treatment*

In shifting the prison system away from its Soviet roots, Georgia received a lot of external support. Much has been spent, both economically and in terms of human resources. While the international support programmes were well-intentioned and have often provided much needed assistance and improvements the problems of torture and abuse in the penal system persisted and perhaps worsened. The lessons to be learnt from Georgia's reforms then are not solely for Georgians but for the wider international community.

#### *Zero tolerance policy was achieved by disregarding human rights not only outside but in the prison as well. A violent prison management style and unqualified staff also played a role in failing to deal with prisoners and ensure order through lawful methods*

The top priorities for the new government became the fight against corruption and organized crime, to be won at all costs regardless of human rights. The government took some steps to eradicate violations of rights in the criminal justice system but this occurred at only a relatively superficial level.

Even in the early years of Georgia's reforms then, an atmosphere of punitiveness for law-breakers and impunity for state agents pursuing those law breakers was fostered by the government. A 'win at all costs' mentality took hold in a war against crime where any means appeared to justify the ends.

The government justified human rights violations by the mission of reform and state building. In many instances, approval of extraordinary measures, including hiring unqualified staff, up to and including extra judicial killing, to deal with criminals framed by an 'us and them' rhetoric came from the very top and this attitude likely suffused criminal justice institutions, including prisons.

In the closed environment of the prison there is an ever-present danger of abuse. In Georgia the state's message of impunity for its agents fostered an ethos in which torture and ill treatment of prisoners by staff came to be regarded as acceptable and even encouraged.

#### *Penitentiary reform in Georgia was a façade: inconsistent, unaccepting of criticism, and lacking transparency.*

Zero tolerance policy was reflected in the processes within the penitentiary system, including and not limited to: the fight with subcultures, staffing policy, prison architecture, and oversight mechanisms. The

drop in crime was achieved at a huge cost – an unprecedented increase in imprisonment. If we assume that, without rigorous oversight, human rights violations are more easily committed in places of detention and confinement, simply on a probability argument, the more people in prison there are, the more human rights violations there are likely to be.

In the Georgian case, that rigorous oversight did not exist. Without monitoring, one violation could lead to another. Preventive safeguards such as the Interagency Coordinating Council for the Fight against Torture were actually used to cover up flaws and not for revealing deficiencies and fixing them.

*There was no parliamentary scrutiny of the executive branch, no Annual Reports of the Public Defender or international observers were taken into account or ameliorative steps carried out. No Parliamentary investigatory commission was set up in order to investigate the reports of the Public Defender.*

The overview of the findings of the various reports of bodies from the UN, Council of Europe and international NGOs as well as local bodies reveals that human rights abuses in places of detention have remained a significant problem in Georgia and have continually been flagged by observers. The reports agree that there was a shift from the use of mistreatment and torture in police custody to prisons around 2007–2008. The prison riot of March 2006 emerges as a significant event in which extreme violence against prisoners was committed with impunity, perhaps creating further fertile ground for the embedding of abusive practices.

The human rights community had a minimal impact on combating torture, since no parliament or any other state institutions had made any substantial steps in this regard. After the prison riot of 2006, NGOs and international observers found fragmentary evidence to suggest that ill treatment had become worse in Georgia's prisons, though its exact extent and form was not clear in large part because information was simply not available. Prisons by 2010 had become virtually closed systems. Prisoners were heavily disincentivized to report rights' abuses and few observers were able to actually investigate prisons thoroughly.

*The judiciary and Prosecutor's Office's failed to play any role in combating ill-treatment. This contributed to practices of torture becoming systemic.*

The court system had to process a growing number of criminal cases to meet the goals of zero tolerance. There were therefore pressures creating the potential for a lack of diligence concerning human rights and due process. Political dependencies in the prosecutor's office and judiciary along with the potential for abuse of plea bargaining, extensive use of detention, and illegal methods of investigation, created a judicial system open to abuses.

## 5.2. Recommendations

To the Parliament and Government of Georgia

- Having ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government of Georgia has a legal obligation under Article 1 of the Protocol to “establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”. Specifically, the Government has a legal obligation to ensure that its National Preventive Mechanism conforms with the requirements contained in Articles 17 to 23 of the Optional Protocol.
  - In order to ensure the practice of meaningful, independent investigations in cases where there have been allegations of torture or other forms of abuse of detained persons, by state officials, Georgia must establish a system where such investigations are not performed exclusively by the existing investigatory or prosecution structures accused of, or having a stake in the outcome of, the abuse. Investigations of allegations of misconduct, criminality and human rights abuses should be conducted by an agency or persons that are institutionally, culturally and politically independent of bodies or individuals being investigated.
  - Georgia’s legislation regarding the independent mechanism should detail its personal jurisdiction and subject matter jurisdiction, its reporting and accountability structure, an open process for selection of the head of the agency and mechanism for submission of complaints by the public and duties of security forces to report incidents. Moreover, investigatory legislation should include enforceable timelines. It is also extremely important that the legislation protects the investigating body from any external interference.
  - Any model which is utilized in Georgia must be fully funded and resourced, including sufficient provisions for forensic capabilities. Without the necessary staff and support, independence will be impossible to achieve. The staff must reflect the community and contain women, young people, ethnic and religious minorities. Without proper resourcing, investigators will be forced to take short cuts and rely on other institutions, which will undermine their independence and effectiveness.
  - Public scrutiny is key to a successful investigatory mechanism and the most successful models all ensure access to information on investigations, trends in police abuse, recommendations made by investigatory bodies and follow-up. Investigatory bodies must actively attempt to inform the public to develop trust in them as well as the policing forces that they investigate.
  - The investigatory bodies should report to Parliament on an annual basis. These reports should be published.
- Develop regular measurement (barometer) on prison conditions to be repeated at least once in 2 years and ensure its independence. The measurements could be based on the various points of the European Prison Rules concerning standards in prison. These include, inter alia, issues of health, education, work, use of force, information and so on. It could also borrow from sociological survey research carried out in other jurisdictions that seek to measure prison experience along

different parameters that measure prison performance such as respect; humanity; fairness; order; safety; and staff–prisoner relationships.

- Ensure efficient and proper oversight of executive branch:
  - In the past, the government simply ignored the recommendations and alerts provided by the NPM. It is necessary to define a method of implementation of the Ombudsman’s Reports that would be binding. It is not enough to merely receive the reports as a notice. Implementation mechanisms for recommendations must be laid out and followed.
- Identify additional supervisory mechanisms to complement the work of the NPM in monitoring penitentiaries.
- Define clear criteria for status of victims of torture and ensure in the Georgian legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. As set out by the UN convention against torture Article 14 of the Convention Against Torture.

#### To the Ministry of Penitentiary

- Georgia should adopt a national code of ethics for penitentiary staff according to the Council of Europe’s Code of Ethics for Penitentiary Staff (Recommendation CM/Rec (2012)5 of the Committee of Ministers to member States on the European Code of Ethics for Prison Staff).
- Introduce European Prison Rules as minimum standards for staff selection
  - Introduce a staff performance barometer linked to agreed international standards. For example, Part V of the European Prison Rules.
- Increase the professional independence of the medical service in the penitentiaries so that torture is recognised and reports produced about it that can form the basis of complaints by prisoners. Ensure that reports involving possible ill-treatment are fully consistent with the Istanbul Protocol.
- Create an individual approach to prisoner management. In the first place, prisoners must be seen as individuals rather than merely as members of a group. On first admission they should take part in an assessment exercise to identify their specific personal medical, security and other needs and how they should subsequently be managed. Their progress should be kept under regular review. An individualized approach may help to reduce interpersonal violence by breaking down antagonistic group identities.
- Develop a comprehensive and needs-based strategy, with engagement of local and international stakeholders, for rehabilitation and reintegration services and allocate relevant budget.
- Ensure that the buildings of penitentiary institutions are compatible with international standards;
- The penitentiary system should operate according to the Basic Principles contained in Rules 1 to 9 of the European Prison Rules, implementing a correctional as opposed to punitive approach.

#### To the International Community

- Before entering into any agreement about international support, particularly of a financial nature there should be a thorough assessment of local circumstances and the relationships between the various parts of the criminal justice system. This should take account of all reports made by

relevant intergovernmental and regional bodies as well as those of independent national bodies, including the Ombudsman, as well as those of non-governmental organisations.

- The assistance offered should be appropriate to the local circumstances. Solutions provided should be in conformity with the relevant international standards and should not merely reflect practice in the donor country or region. This is particularly important in respect of the construction of new prison buildings.
- There should be full accountability in the fulfillment of conditions attached to any assistance.
- There should be proper coordination of international assistance to guard against duplication or contradictory initiatives.

## Endnotes

---

<sup>1</sup> This amount is a rough estimate, derived mainly from the public information gathered on CoE joint projects website: <http://www.jp.coe.int/CEAD/JP/Default.asp?TransID=212>

<sup>2</sup> Ministry of Foreign Affairs, Georgia.  
[http://coe.mfa.gov.ge/index.php?lang\\_id=ENG&sec\\_id=595&info\\_id=11311](http://coe.mfa.gov.ge/index.php?lang_id=ENG&sec_id=595&info_id=11311)

<sup>3</sup> A Human Rights Watch Briefing Paper, Agenda for Reform: Human Rights Priorities after the Georgian Revolution, February 24, 2004, available at:  
[http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650\\_txt.htm](http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650_txt.htm).

<sup>44</sup> Interview with Matthew Bryza, 3 February 2014,  
<http://www.georgianews.ge/politics/26212-matthew-bryza-nobody-is-above-the-law-including-saakashvili.html>

<sup>5</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:  
<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>6</sup> A Human Rights Watch Briefing Paper, Agenda for Reform: Human Rights Priorities after the Georgian Revolution, February 24, 2004, available at:  
[http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650\\_txt.htm](http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650_txt.htm)

<sup>7</sup> Civil Georgia, *New Leadership Pledges Fundamental Reforms* available at:  
<http://www.civil.ge/eng/article.php?id=5721&search=>

<sup>8</sup> For examples see: Transparency International Georgia, *Who owned Georgia*, 2012 available at:  
[http://transparency.ge/sites/default/files/post\\_attachments/Who%20Owned%20Georgia%20English.pdf](http://transparency.ge/sites/default/files/post_attachments/Who%20Owned%20Georgia%20English.pdf)

<sup>9</sup> Tax evasion, misuse of power and the misappropriation of funds

<sup>10</sup> There were cases when detainees paid more than they were accused of hiding For example in case of Eduard Shevardnadze's a son-in-law of Gia Jokhtaberidze

<sup>11</sup> Transparency International, *Plea Bargaining in Georgia*, available at:  
<http://transparency.ge/sites/default/files/TI%20Georgia%20%20Plea%20Bargaining%20in%20Georgia%20ENG.pdf>

<sup>12</sup> World Bank. *Chronicling Georgia's Public Sector Reforms*

<sup>13</sup> Recently, on July 15, 2014, ECHR delivered judgment in the case of *Ashlarba v. Georgia*, where it was concluded that the criminalisation of the offence of being a member of the “thieves’ underworld”, was precise and foreseeable enough to appreciate what kind of conduct could be regarded as relating to the membership of the criminal underworld

---

<sup>14</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:  
<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>15</sup> Cited in Amnesty International Report, Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution” , November 2005, available at:  
<http://www.amnesty.org/en/library/asset/EUR56/001/2005/en/cbaa5e94-d482-11dd-8743-d305bea2b2c7/eur560012005en.pdf>

<sup>16</sup> A Human Rights Watch Briefing Paper, Agenda for Reform: Human Rights Priorities after the Georgian Revolution, February 24, 2004, available at:  
[http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650\\_txt.htm](http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650_txt.htm)

<sup>17</sup> See Human Rights Watch Brief Paper, “Georgia: Uncertain Torture Reform”, April 12, 2005; Amnesty International Report “Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution”, 23 November 2005; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Georgia, E/CN.4/2006/6/Add.3, 23 September 2005, at para. 29.

<sup>18</sup> Georgia: Torture and ill-treatment two years after the "Rose Revolution" , 2005 23 November,  
<http://www.amnesty.org/en/library/asset/EUR56/002/2005/en/5c0a78ff-d482-11dd-8743-d305bea2b2c7/eur560022005en.pdf>

<sup>19</sup> Amnesty International Report, Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution” , November 2005, available at:  
<http://www.amnesty.org/en/library/asset/EUR56/001/2005/en/cbaa5e94-d482-11dd-8743-d305bea2b2c7/eur560012005en.pdf>

<sup>20</sup> See: Alternative Report to the UN Human Rights Committee, Human Rights Violations in Georgia, 24 April 2006, available at:  
[http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo\\_georgia90.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo_georgia90.pdf), see also Georgian Young Lawyers’ Association” torture and violence in Georgia”, 2005

<sup>21</sup> A Human Rights Watch Briefing Paper, Agenda for Reform: Human Rights Priorities after the Georgian Revolution, February 24, 2004, available at:  
[http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650\\_txt.htm](http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650_txt.htm)[http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650\\_txt.htm](http://www.hrw.org/legacy/english/docs/2004/02/24/georgi7650_txt.htm)

<sup>22</sup> Human Right Watch, Georgia: uncertain torture reform, April 12, 2005 available at:  
<http://www.hrw.org/legacy/backgrounder/eca/georgia0405/georgia0405.pdf>

<sup>23</sup> U.S. Department of State, Country Reports on Human Rights Practices, 2004, available at:  
<http://www.state.gov/j/drl/rls/hrrpt/2004/index.htm>

<sup>24</sup> Human Right Watch, Georgia: uncertain torture reform, April 12, 2005 available at:  
<http://www.hrw.org/legacy/backgrounder/eca/georgia0405/georgia0405.pdf>

<sup>25</sup> U.S. Department of State, Country Reports on Human Rights Practices -2005, available at:  
<http://www.state.gov/j/drl/rls/hrrpt/2005/61649.htm>

<sup>26</sup> [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo\\_georgia90.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo_georgia90.pdf)



---

<sup>27</sup> Decree N 309, August 3, 2004.

<sup>28</sup> Decree N1211, October 1, 2004

<sup>29</sup> Order #2190 of the Minister of Justice on November 29, 2005.

<sup>30</sup> “Primarily widely differing dates; lack of overall coordination among them; lack of a regular and systematic programme of visits, including regular follow-up; lack of investigatory powers; lack of adequate resources; and lack of independence, particularly in the case of the council appointed by the President”-Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/160/45/PDF/G0516045.pdf?OpenElement>

<sup>31</sup> Amnesty International also provides statistics to demonstrate that Saakashvili claiming that the cases of violations being stopped from January 2005 didn't reflect the reality. <http://www.amnesty.org/en/library/asset/EUR56/001/2005/en/cbaa5e94-d482-11dd-8743-d305bea2b2c7/eur560012005en.pdf> See also GYLA's report

<sup>32</sup> <http://www.state.gov/j/drl/rls/hrrpt/index.htm>

<sup>33</sup> Fourth Periodic Report of Georgia under article 40 of the International Covenant on Civil and Political Rights, available at: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=GEO&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=GEO&Lang=EN)

<sup>34</sup> <http://www.state.gov/j/drl/rls/hrrpt/2004/41682.htm>

<sup>35</sup> U.S. Department of State, Country Reports on Human Rights Practices, available at: <http://www.state.gov/j/drl/rls/hrrpt/2005/61649.htm>; see also Alternative Report to the UN Human Rights Committee, Human Rights Violations in Georgia, 24 April 2006, available at: [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo\\_georgia90.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ngo_georgia90.pdf)

<sup>36</sup> U.S. Department of State, Country Reports on Human Rights Practices, available at: <http://www.state.gov/j/drl/rls/hrrpt/2005/61649.htm>

<sup>37</sup> Interview with, Chairman of the Supreme Court, 22 July, 2013 [http://geotimes.ge/index.php?m=home&newsid=28619&lang=eng#Scene\\_1](http://geotimes.ge/index.php?m=home&newsid=28619&lang=eng#Scene_1)

<sup>38</sup> Transparency International, Plea bargaining in Georgia: Negotiated Justice, TI, December 2010, available at: [http://transparency.ge/sites/default/files/post\\_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf](http://transparency.ge/sites/default/files/post_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf)

<sup>39</sup> Parliamentary Assembly, Resolution 1415 (2005) Honoring of obligations and commitments by Georgia, available at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/ERES1415.htm>

<sup>40</sup> Human Right Watch, Georgia: uncertain torture reform, April 12, 2005 available at: <http://www.hrw.org/legacy/backgrounder/eca/georgia0405/georgia0405.pdf>

---

<sup>41</sup> President's Office of Georgia 2006. State of the nation address [online]. Available from: [http://www.president.gov.ge/index.php?lang\\_id\\_GEO&sec\\_id\\_228&info\\_id\\_2686](http://www.president.gov.ge/index.php?lang_id_GEO&sec_id_228&info_id_2686) [Accessed 20 May 2011]

<sup>42</sup> [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=658&lang\\_id=GEO](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=658&lang_id=GEO)

<sup>43</sup> Criminal Justice policy by the ministry of Justice was available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=658](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=658). However information related to the zero tolerance Policy is no longer available on the website of the Ministry of Justice.

<sup>44</sup> The logic of the strategy comes from so-called 'Broken Windows' theory that emerged in the 1980s. This holds that by harshly policing the smallest misdemeanors, more serious crime is also prevented. New York City witnessed a large crime decline in the 1990s and the authors of the zero tolerance policy, such as New York Mayor Rudy Giuliani and Chief Police Commissioner Willie Bratton, attributed this to their policing policies. The evidence for this attribution is weak – crime declined across most major US cities at the same time, regardless of policing strategies. Despite this, 'zero tolerance' became a product to be sold elsewhere, from northern England to Mexico City

<sup>45</sup> [http://geostat.ge/index.php?action=page&p\\_id=602&lang=eng](http://geostat.ge/index.php?action=page&p_id=602&lang=eng)

<sup>46</sup> However, even this is probably an underestimate. The incarceration rate per capita assumes the government's population figure of 4.4 million. However, the Institute for Demography and Sociology estimates that the real population of Georgia is 3.8 million.<sup>46</sup> This latter figure, if correct, would mean there were 632 prisoners per 100,000 in Georgia by 2010, making it the second biggest incarcerator in the world proportionately, above Russia and behind only the United States.

<sup>47</sup> Penal Reform International, From Zero tolerance to liberalization, 2011

<sup>48</sup> For example establishment #1 where in some cells the prisoners had to take turns in order to sleep and In general the conditions were unbearable that is why the recommendation of closing it has been issued several times. The establishment was closed down only in 2013

<sup>49</sup> Otar Kakhidze, Former Head of Analytical Department at the Ministry of Justice

<sup>50</sup> European Union-Georgia, Civil Society seminar on human rights, Tbilisi 21-211 June, 2012, final report, available at:

[http://eeas.europa.eu/delegations/georgia/documents/civil\\_society\\_library/civil\\_society\\_seminar2012\\_01\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/civil_society_library/civil_society_seminar2012_01_en.pdf) and [http://geostat.ge/index.php?action=page&p\\_id=602&lang=eng](http://geostat.ge/index.php?action=page&p_id=602&lang=eng)

<sup>51</sup> According to the study no information on the plea bargains concluded before 2006 is available

<sup>52</sup> The same is reported by the *The UN Working Group on Arbitrary Detention which is cited in the report of the US State department. "detainees effectively relinquished their right to fair trial because they felt pressured to enter plea bargains, believing a fair and impartial trial was not possible."*

<sup>53</sup> Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Georgia from 18 to 20 April 2011, available at :

---

<https://wcd.coe.int/ViewDoc.jsp?id=1809789>

<sup>54</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:

<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>55</sup> Transparency International, Plea Bargaining in Georgia, available at:

<http://transparency.ge/sites/default/files/TI%20Georgia%20-%20Plea%20Bargaining%20in%20Georgia%20ENG.pdf>

<sup>56</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:

<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>57</sup> Chairperson of Georgian Young Lawyers Association at the time.

<sup>58</sup> European Union-Georgia, Civil Society seminar on human rights, Tbilisi 21-211 June, 2012, final report, available at :

[http://eeas.europa.eu/delegations/georgia/documents/civil\\_society\\_library/civil\\_society\\_semi\\_nar2012\\_01\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/civil_society_library/civil_society_semi_nar2012_01_en.pdf)

<sup>59</sup> <https://idfi.ge/ge/news-84>

<sup>60</sup> Transparency International, Plea bargaining in Georgia: Negotiated Justice, TI, December 2010

[http://transparency.ge/sites/default/files/post\\_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf](http://transparency.ge/sites/default/files/post_attachments/Plea%20Bargaining%20in%20Georgia%20-%20Negotiated%20Justice.pdf)

<sup>61</sup> Case of Natsvlishvili and Togonidze v Georgia, Application #9043/05, available at: [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"fulltext":\["natsvlishvili"\],"documentcollectionid2":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-142672"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{)

<sup>62</sup> [http://eeas.europa.eu/delegations/georgia/documents/virtual\\_library/cooperation\\_sectors/georgia\\_in\\_transition-hammarberg.pdf](http://eeas.europa.eu/delegations/georgia/documents/virtual_library/cooperation_sectors/georgia_in_transition-hammarberg.pdf)

<sup>63</sup> <http://police.ge/ge/shss-shi-piradi-tskhovrebis-amsakhveli-faruli-chanatserebi-ganadgurda/6122>

<sup>64</sup> Dissenting Opinion of the Members of Temporary Commission on Illegal Surveillance and Wiretapping, 14 February, 2014 Lasha Tughushi, Eka Gigauri and Kakhi Kakhishvili, available at: <http://transparency.ge/en/post/general-announcement/dissenting-opinion-members-temporary-commission-illegal-surveillance>

<sup>65</sup> From 43.7% it reached 54.2 % and then started decreasing but not significantly.

<sup>66</sup> <http://www.state.gov/j/drl/rls/hrrpt/2006/78813.htm>

<sup>67</sup> Georgian Young Lawyers' Association, Tbilisi City Court Criminal Chamber monitoring report, December 2011, available at:

---

[http://gyla.ge/uploads/publications/2012/tbilisi\\_city\\_court\\_criminal\\_chamber\\_monitoring\\_report-1.pdf](http://gyla.ge/uploads/publications/2012/tbilisi_city_court_criminal_chamber_monitoring_report-1.pdf)

<sup>68</sup> Coalition for an Independent and Transparent Judiciary, Study of the Preventive Measures in Criminal Law Proceedings: Analysis of Legislation and Practice, , 2012, summary available at:

[http://www.coalition.org.ge/article\\_files/139/Study%20of%20The%20Preventive%20Measures%20in%20Criminal%20Law%20Proceedings.pdf](http://www.coalition.org.ge/article_files/139/Study%20of%20The%20Preventive%20Measures%20in%20Criminal%20Law%20Proceedings.pdf)

<sup>69</sup> Georgian Young Lawyers' Association, Tbilisi City Court Criminal Chamber monitoring report, December 2011, available at:

[http://gyla.ge/uploads/publications/2012/tbilisi\\_city\\_court\\_criminal\\_chamber\\_monitoring\\_report-1.pdf](http://gyla.ge/uploads/publications/2012/tbilisi_city_court_criminal_chamber_monitoring_report-1.pdf)

<sup>70</sup>

[http://eeas.europa.eu/delegations/georgia/documents/civil\\_society\\_library/civil\\_society\\_seminar2012\\_01\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/civil_society_library/civil_society_seminar2012_01_en.pdf)

<sup>71</sup> Public Defender, Situation of Human Rights and Freedoms in Georgia – 1<sup>st</sup> half of 2006, available at: <http://www.ombudsman.ge/uploads/other/0/75.pdf>

<sup>72</sup> Human Rights Education and Monitoring Center, Unethical Drug Policy, 2014, available at: [http://emc.org.ge/2014/05/27/araetikuri\\_narkopolitika/](http://emc.org.ge/2014/05/27/araetikuri_narkopolitika/)

<sup>73</sup> Human Rights Education and Monitoring Centre 'Unethical Drug Policy: The analysis of national legislation and practice', 2014, Georgia

<sup>74</sup> *Ibid*

<sup>75</sup> Guram Innadze, 6 March, 2014, <http://blogs.liberali.ge/ge/blog/1846/117950/>

<sup>76</sup> Bureau of International Narcotics and Law Enforcement Affairs, [2012 International Narcotics Control Strategy Report \(INCSR\)](http://www.state.gov/j/inl/rls/nrcrpt/2012/vol1/184099.htm#Georgia), available at: <http://www.state.gov/j/inl/rls/nrcrpt/2012/vol1/184099.htm#Georgia>

<sup>77</sup> For example Mikheil Saakashvili, when he was running for the presidential elections in 2008

<sup>78</sup> Levan Jorbenadze, Legislative analysis of the narcotic politics in Georgia available at: [http://drugpolicy.dsl.ge/drug%20policy%20research.htm#ნარკოტიკების\\_მონიტორინგი](http://drugpolicy.dsl.ge/drug%20policy%20research.htm#ნარკოტიკების_მონიტორინგი)

<sup>79</sup> Statistical data provided by the Penitentiary Department

<sup>80</sup> National Probation Agency statistics, [www.probation.gov.ge](http://www.probation.gov.ge)

<sup>81</sup> 'Who are Women Prisoners': Survey results from Armenia and Georgia, PRI, 2013, p.10 [http://www.penalreform.org/wp-content/uploads/2013/09/PRI-Research-report\\_Armenia-and-Georgia\\_Reprint-2014\\_ENG.pdf](http://www.penalreform.org/wp-content/uploads/2013/09/PRI-Research-report_Armenia-and-Georgia_Reprint-2014_ENG.pdf)

- 
- <sup>82</sup> ‘Life Imprisonment and Conditions for Serving the Sentence in the South Caucasus countries’, Penal Reform International, 2009, p.88 <http://www.penalreform.org/wp-content/uploads/2013/06/South-Caucasus-Life-Term-2009.pdf>
- <sup>83</sup> ‘The Abolition of the Death Penalty and its Alternative Sanction in South Caucasus: Armenia, Azerbaijan and Georgia’, Penal Reform International, 2011. <http://www.penalreform.org/wp-content/uploads/2013/05/South-Caucasus-Research-Report-Death-Penalty-and-Alternatives-ENGLISH.pdf>, pp.39, 42; <http://www.ipsnews.net/2010/09/qa-georgian-lifers-spared-death-stuck-in-their-cells/>
- <sup>84</sup> N. Kvavilashvili, K. Pilauri, *Illicit Drug Use in Prisons of Georgia*, The Georgian Centre for Psychological and Medical Rehabilitation of Torture Victims (GCRT), pp. 3,4 (Illicit Drug Use)
- <sup>85</sup> Women and Drug Policy in Eurasia. Eurasian Harm Reduction Network (EHRN), 2010. <http://www.countthecosts.org/sites/default/files/Women%20and%20Drug%20Policy.pdf>
- <sup>86</sup> E Iakobishvili, Harm Reduction International, Cause for Alarm: The Incarceration of Women for Drug Offences in Europe and Central Asia, and the need for Legislative and Sentencing Reform, UK, 2012, p. 10
- <sup>87</sup> The Bangkok Rules (Rule 62) require the provision of gender-sensitive substance abuse treatment programs both for crime prevention, as well as for diversion and alternative sentencing purposes
- <sup>88</sup> ‘Who are Women Prisoners’: Survey results from Armenia and Georgia, pp.8-9
- <sup>89</sup> Study of the Needs and Priority Issues facing Women Prisoners in Georgia, Prepared by PRI (Penal Reform International) for UN WOMEN, under IAGE programme, December 2013
- <sup>90</sup> ‘Who are Women Prisoners’: Survey results from Armenia and Georgia’, PRI, p.17
- <sup>91</sup> The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2010, p.96
- <sup>92</sup> *Idem*, p.297-298, <http://www.ombudsman.ge/uploads/other/1/1351.pdf> (Eng), <http://www.ombudsman.ge/uploads/other/0/84.pdf> p.493-494 (Geo)
- <sup>93</sup> Article 48, Law on Imprisonment of Georgia, 1999
- <sup>94</sup> Rule 27 of the ‘Bangkok Rules’ explicitly provides that ‘Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men.’
- <sup>95</sup> Article 124<sup>1</sup> of the Code on Imprisonment of Georgia, 2010
- <sup>96</sup> Amendment to the Article 72.8, Code on Imprisonment, 2010
- <sup>97</sup> Human Rights Defender’s report covering 2012
- <sup>98</sup> Ministry of Corrections, [www.mcla.gov.ge](http://www.mcla.gov.ge), as at December 2013

---

<sup>99</sup> Paragraph 34, [Report to the Government of Georgia on the visit carried out by CPT to Georgia during 19-23 November, 2012, http://www.cpt.coe.int/documents/geo/2013-18-inf-eng.htm](http://www.cpt.coe.int/documents/geo/2013-18-inf-eng.htm)

<sup>100</sup> List of issues and questions in relation to the combined fourth and fifth periodic reports of Georgia, Addendum, Replies of Georgia to the Committee on the Elimination of Discrimination against Women, 23 January 2014,

<sup>101</sup> Radio show, Eurovision, topic-juvenile justice system in Georgia, 10 September, 2009 <http://www.internews.ge/ka/node/120>

<sup>102</sup> UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Georgia*, 23 June 2008, CRC/C/GEO/CO/3, available at: <http://www.refworld.org/docid/4885cfab0.html> [accessed 30 June 2013]

<sup>103</sup> Radio show, Eurovision, topic-juvenile justice system in Georgia, 10 September, 2009 <http://www.internews.ge/ka/node/120>

<sup>104</sup> UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Georgia*, 23 June 2008, CRC/C/GEO/CO/3, available at: <http://www.refworld.org/docid/4885cfab0.html> [accessed 30 June 2013]

<sup>105</sup> Public Defender, Situation of Human Rights and Freedoms in Georgia-2006, available at: <http://www.ombudsman.ge/index.php?page=21&lang=1>

<sup>106</sup> EurasiaNet, *Harsh sentence for juvenile offender raises questions about Georgia's justice system*, 22 September 2006, available at: <http://www.refworld.org/docid/46a4852cc.html> [accessed 30 June 2013]

<sup>107</sup> Public Defender, Situation of Human Rights and Freedoms in Georgia-2006, available at: <http://www.ombudsman.ge/index.php?page=21&lang=1>

<sup>108</sup> Main directions according to the documents are: crime prevention, legislation, alternatives to the criminal prosecution, imprisonment as a last resort, rehabilitation and reintegration, development of the information system

<sup>109</sup> Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Georgia from 18 to 20 April 2011, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1809789>

<sup>110</sup> Public Defender, Situation of Human Rights and Freedoms in Georgia-2011, page 356., available at: <http://ombudsman.ge/uploads/other/0/85.pdf>

<sup>111</sup>

<http://www.gcrt.ge/sites/default/files/Prison%20riot%20as%20a%20response%20to%20violence.pdf>

<sup>112</sup> [http://old.justice.gov.ge/index.php?lang\\_id=GEO&sec\\_id=313&lang\\_id=ENG](http://old.justice.gov.ge/index.php?lang_id=GEO&sec_id=313&lang_id=ENG)

---

<sup>113</sup> European Union-Georgia, Civil Society seminar on human rights, Tbilisi 21-211 June, 2012, final report, available at :  
[http://eeas.europa.eu/delegations/georgia/documents/civil\\_society\\_library/civil\\_society\\_semi nar2012\\_01\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/civil_society_library/civil_society_semi nar2012_01_en.pdf)

<sup>114</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:  
<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>115</sup> Legal Analysis of Cases of Criminal and Administrative Offences with Alleged Political Motive, Georgian Young Lawyers' Association, 2011, available at:  
[http://gyla.ge/uploads/publications/2011/savaraodod\\_polit\\_motivaciis\\_saqmeebi\\_eng.pdf](http://gyla.ge/uploads/publications/2011/savaraodod_polit_motivaciis_saqmeebi_eng.pdf)

<sup>116</sup> Number of early released in 2012 is 1218 (and the majority of this number was in December) and 1205 for the first 3 quarters of 2013.  
[http://www.mcla.gov.ge/index.php?action=page&p\\_id=1168&lang=geo](http://www.mcla.gov.ge/index.php?action=page&p_id=1168&lang=geo)

<sup>117</sup> Georgian Young Lawyers' Association, Mechanism for Early Release and Reprieve of Convicts for Health Problems in Georgia, 2012, available at:  
<http://gyla.ge/uploads/publications/2012/p172.pdf>

<sup>118</sup> Slade, G. Georgia's War on Crime: Creating Security in a post-Revolutionary Context. European Security 21/1 37-56. 2012.

<sup>119</sup> Interview with head of Intelligence and Analytics, Ministry of Internal Affairs. 12.06.2012

<sup>120</sup> [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=23&info\\_id=4702](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=23&info_id=4702)

<sup>121</sup> Ed Cape and Zaza Namoradze, Effective Criminal Defence in Eastern Europe, Chapter Criminal Besarion Bokhashvili, 2012 available at:  
<http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe>

<sup>122</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Georgia, E/CN.4/2006/6/Add.3, 23 September 2005, at para. 29.

<sup>123</sup> Preliminary note by the Special Rapporteur on torture, 16 March 2005, at para. 8

<sup>124</sup> Report of the Special Rapporteur on torture, 23 September 2005, at para. 51.

<sup>125</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 November 2003 and from 7 to 14 May 2004, Strasbourg, 30 June 2005.

<sup>126</sup> *Ibid* para. 17.

<sup>127</sup> *Ibid* para. 17.

<sup>128</sup> Public Defender's Office of Georgia. Report from 2005. p.5.

<sup>129</sup> *Ibid* para. 149

---

<sup>130</sup> See Human Rights Watch Brief Paper, “Georgia: Uncertain Torture Reform”, April 12, 2005; Amnesty International Report “Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution”, 23 November 2005.

<sup>131</sup> Amnesty International Report “Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution”, 23 November 2005.

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid* p. 2.

<sup>134</sup> *Ibid.* p.9.

<sup>135</sup> Human Rights Watch Brief Paper, Georgia: Uncertain Torture Reform, April 12, 2005, p.3.

<sup>136</sup> Amnesty International Report “Georgia: Torture and ill-treatment. Still a concern after the “Rose Revolution”, 23 November 2005.

<sup>137</sup> *Ibid* para. 33.

<sup>138</sup> Preliminary note by the Special Rapporteur on torture, 16 March 2005, at para.8

<sup>139</sup> Report of the Special Rapporteur on torture, 23 September 2005, at para. 31.

<sup>140</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 November 2003 and from 7 to 14 May 2004, Strasbourg, 30 June 2005. para. 20.

<sup>141</sup> *Ibid* para. 21

<sup>142</sup> *Ibid* para. 21.

<sup>143</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 November 2003 and from 7 to 14 May 2004, Strasbourg, 30 June 2005.

<sup>144</sup> Public Defender’s Office of Georgia. Report from 2005.

<sup>145</sup> *Ibid* para. 140.

<sup>146</sup> *Ibid* para. 63.

<sup>147</sup> *Ibid* para. 13.

<sup>148</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum, Summary of information, including



---

individual cases, transmitted to Governments and replies received, A/HRC/4/33/Add.1, 20 March 2007 at pp. 99-100.

<sup>149</sup> Annual Report of the Public Defender of Georgia (2012) 99, Available online: < <http://www.ombudsman.ge/uploads/other/1/1563.pdf> > visited [13/08/14].

<sup>150</sup> *Ibid.* 100.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.* 101.

<sup>153</sup> *Ibid* p. 58.

<sup>154</sup> Human Rights Watch Report “Undue Punishment: abuses against prisoners in Georgia”, Volume 18, No. 8(D) September 2006, p. 1

<sup>155</sup> *Ibid* p. 2.

<sup>156</sup> *Ibid* p. 83.

<sup>157</sup> *Ibid.*

<sup>158</sup> Report of the Special Rapporteur on torture Follow-up to the recommendations made by the Special Rapporteur Visits to Georgia 15 March 2007 at para. 194.

<sup>159</sup> *Ibid* para. 12.

<sup>160</sup> *Ibid.*

<sup>161</sup> *Ibid* para. 17

<sup>162</sup> *Ibid* para. 9.

<sup>163</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 2 April 2007, Strasbourg, 25 October 2007 at paras. 10-11.

<sup>164</sup> *Ibid* para. 34.

<sup>165</sup> *Ibid* Para. 32.

<sup>166</sup> *Ibid* Para. 33.

<sup>167</sup> *Ibid* para. 43-44.

<sup>168</sup> *Ibid* paras. 66-74.

<sup>169</sup> *Ibid* paras. 76-84.

<sup>170</sup> Concluding observations of the Human Rights Committee, Georgia, CCPR/C/GEO/CO/3, 15 November 2007 at (para. 11)

---

<sup>171</sup> Atlas International Report “Georgia Short report on problems and needs in the area of torture prevention, Conclusions of the consultations held in April 2011”, September 2011, p. 3.

<sup>172</sup> *Ibid* p. 4.

<sup>173</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum, Follow-up to the recommendations made by the Special Rapporteur visits to China, Georgia, Jordan, Nepal, Nigeria, A/HRC/10/44/Add.5, 17 February 2009 at para. 15.

<sup>174</sup> Interim Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, submitted in accordance with Assembly resolution 63/166 to the General Assembly, 3 August 2009 at para. 43.

<sup>175</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum, Follow-up to the recommendations made by the Special Rapporteur Visits to Azerbaijan, Cameroon, Chile, China, Colombia, Georgia, Jordan, Kenya, Mexico, Mongolia, Nepal, Pakistan, Russian Federation, Spain, Turkey, Uzbekistan and Venezuela, A/HRC/7/3/Add.2, 18 February 2008 at para. 168.

<sup>176</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum, Follow-up to the recommendations made by the Special Rapporteur visits to China, Georgia, Jordan, Nepal, Nigeria, A/HRC/10/44/Add.5, 17 February 2009 at p. 24.

<sup>177</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum, Follow-up to the recommendations made by the Special Rapporteur Visits to Azerbaijan, Brazil, Cameroon, China (People’s Republic of), Denmark, Georgia, Indonesia, Jordan, Kenya, Mongolia, Nepal, Nigeria, Paraguay, the Republic of Moldova, Romania, Spain, Sri Lanka, Uzbekistan and Togo, Distr.: General, 26 February 2010 at p. 67.

<sup>178</sup> Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2010 Monitoring of Penitentiary Establishments and Temporary Detention Isolators; Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators; Public Defender of Georgia, Georgian Young Lawyers’ Association, National Preventive Mechanism, Ill-treatment in the Penitentiary Establishments and Temporary Detention Isolators of Eastern Georgia in 2012

<sup>179</sup> *Ibid*.

<sup>180</sup> Atlas International Report “Georgia Short report on problems and needs in the area of torture prevention, Conclusions of the consultations held in April 2011”, September 2011, p. 3.

<sup>181</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 February 2010, Strasbourg, 21 September 2010 at para. 14.

---

<sup>182</sup> *Ibid* para. 49.

<sup>183</sup> *Ibid* para. 49.

<sup>184</sup> Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators; P 19

<sup>185</sup> *Ibid* para. 48.

<sup>186</sup> *Ibid* para. 48.

<sup>187</sup> Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2010 Monitoring of Penitentiary Establishments and Temporary Detention Isolators, p 20; Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators, p. 9; Public Defender of Georgia, Georgian Young Lawyers' Association, National Preventive Mechanism, Ill-treatment in the Penitentiary Establishments and Temporary Detention Isolators of Eastern Georgia in 2012, p 7

<sup>188</sup> *Ibid.*

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid* p. 5.

<sup>191</sup> *Ibid.*

<sup>192</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez - Addendum - Follow-up to the recommendations made by the Special Rapporteur visits to China, Denmark, Equatorial Guinea, Georgia, Greece, Indonesia, Jamaica, Jordan, Kazakhstan, Mongolia, Nepal, Nigeria, Paraguay, Papua New Guinea, the Republic of Moldova, Spain, Sri Lanka, Togo, Uruguay and Uzbekistan, A/HRC/19/61/Add.3, 1 March 2012 at para. 26.

<sup>193</sup> *Ibid* para. 28.

<sup>194</sup> *Ibid* p. 68.

<sup>195</sup> *Ibid* p. 63.

<sup>196</sup> *Ibid* p. 68

<sup>197</sup> *Ibid* pp. 64-65

<sup>198</sup> Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators, p. 28

<sup>199</sup> Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2010 Monitoring of Penitentiary Establishments and Temporary Detention Isolators p. 24; Public Defender of Georgia, National Preventive Mechanism, Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators p. 35

<sup>200</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 23 November 2012, Strasbourg, 31 July 2013 at para. 12.

---

<sup>201</sup> *Ibid* para. 18.

<sup>202</sup> *Ibid* para. 28

<sup>203</sup> *Ibid* para 30.

<sup>204</sup> *Ibid* para. 53.

<sup>205</sup> *Ibid*.

<sup>206</sup> *Ibid* para. 46.

<sup>207</sup> *Ibid* para. 48.

<sup>208</sup> *Ibid*.

<sup>209</sup> *Ibid*.

<sup>210</sup> Secretariat of the Criminal Justice Reform Council, Criminal Justice Reform in Georgia, September 2009, available at: <http://www.osce.org/odhr/38718>

<sup>211</sup> <http://www.justice.gov.ge/AboutUs/Council/227>

<sup>212</sup> Interview Tsira Chanturia, head of Penal Reform International South Caucasus Office.

<sup>213</sup> *Ibid*

<sup>214</sup> Penal Reform International, National mechanisms for the prevention of torture in the South Caucasus, available at: <http://www.penalreform.org/wp-content/uploads/2013/06/south-caucasus-torture-v10-web.pdf>

<sup>215</sup> Interview Tsira Chanturia, head of Penal Reform International South Caucasus Office

<sup>216</sup> Email correspondence between the Ministry of Justice and Manfred Nowak, provided by Tsira Chanturia.

<sup>217</sup> Giorgi Burjanadze, Report and Analytical Study of the Fulfilment of the Recommendations Issued by the Public Defender of Georgia in 2008-2013 (Public Defender's Office, UNDP) 2014, 18. Available online: < <http://www.ombudsman.ge/uploads/other/1/1773.pdf> > visited [13/08/14]

<sup>218</sup> Art 105.

<sup>219</sup> Antoinette Perrodet, 'The Public Prosecutor' in Mirreille Delmas-Marty, J.R. Spencer (eds) 'European Criminal Procedure (CUP, 2006) 415-445.

<sup>220</sup> *Ibid*.

<sup>221</sup> Art 168.

<sup>222</sup> Georgian Young Lawyers' Association, 'Tbilisi City Court Criminal Chamber Monitoring Report' (October-December, 2011) Report #1, 2012, 14. Available online: < [http://gyla.ge/uploads/publications/2012/tbilisi\\_city\\_court\\_criminal\\_chamber\\_monitoring\\_report-1.pdf](http://gyla.ge/uploads/publications/2012/tbilisi_city_court_criminal_chamber_monitoring_report-1.pdf) > visited [13/08/14].

---

<sup>223</sup> Georgian Young Lawyers' Association, 'Tbilisi City Court Criminal Chamber Monitoring Report' (January-March, 2012) Report #2, 2012, 16. Available online: < [http://gyla.ge/uploads/publications/2012/tbilisi\\_city\\_court\\_criminal\\_chamber\\_monitoring\\_report-2.pdf](http://gyla.ge/uploads/publications/2012/tbilisi_city_court_criminal_chamber_monitoring_report-2.pdf) > visited [13/08/14].

<sup>224</sup> 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 28. Available online: < <http://www.cpt.coe.int/en/annual/rep-14.htm> > visited [13/08/14].

<sup>225</sup> Organizations involved included: Georgian Young Lawyers Association, Georgian Centre for Psychosocial and Medical Rehabilitation of Torture victims (GCRT), Penal Reform International, Article 42 of the Constitution, Public Advocacy, Human Rights Priority, Human Rights Centre, Youth for Justice, and Open Society Georgia Foundation (OSGF).

<sup>226</sup> With the exception of OSGF.

<sup>227</sup> This high figure is due to the fact that a mass amnesty was declared after the change of government. Almost half the prison population was released at the end of 2012 and beginning of 2013. See chapter 1 for context.

<sup>228</sup> After the change of government in October 2012 there was a discussion over which prisoners could be classified as 'political' to be listed for quick release.

<sup>229</sup> Report of 2012 Public Defender's Office of Georgia p.31 2012

<sup>230</sup> *Karantini*, "quarantine", is the process by which newly-arrived prisoners are kept in a holding cell before being allocated their definitive cells and dismissed (*karantinis dashla*). Prisoners would very often be beaten during this initial stage of their detention.

<sup>231</sup> A criminal fraternity, also known as the "Georgian Mafia".