

Recent Developments affecting Freedom of Peaceful Protest and Demonstrations in Georgia

by Tamar Khidasheli

The Georgian Young Lawyers' Association

After November 7, 2007 events when the riot police violently dispersed peaceful protesters in the capital Tbilisi and shut down an independent TV channel Imedi, the Government of Georgia under huge international pressure issued a formal apology to the public. However, despite numerous calls from the domestic and international NGOs, there have been no effective investigation and no one was held accountable for ordering and executing violent beatings and raid of the TV channel, except dozens of peaceful protesters who have been administratively sanctioned or imprisoned for alleged resistance to the police.

However, the authorities 'learnt' the lesson and apparently changed the strategy in relation to the continuous demonstrations held in Tbilisi since April 9, 2009. From the first sight it looked like the authorities showed a high degree of tolerance towards the demonstrations on the main avenue in the capital though it caused a lot of disruption to the public life. Except two violent episodes, (I will talk about them below), the authorities allowed the opposition to have the main avenue closed for almost three months, something I believe will not be tolerated in some of the European countries. However, the Ombudsman of Georgia, Human Rights Watch and domestic NGOs documented a pattern of attacks on opposition demonstrators and concluded that the attacks appeared to be a concerted effort to intimidate the demonstrators and prevent them from exercising their right to freedom of assembly¹. In particular, unidentified men in civilian clothes, often armed with rubber truncheons and wearing masks, have beaten and threatened individual demonstrators late at night as they had been leaving protest sites. These attacks resulted in broken bones and other injuries. According to different sources around 30-35 persons have been attacked. In response to the requests to investigate the cases, the authorities claim that "investigation is ongoing". However, until now perpetrators have not been identified and no one was held accountable. Though in at least two cases, patrol police appeared to be in the vicinity of the attack and in a position to intervene but did not do so.²

On 6 May 2009, the police violently dispersed protesters gathered in front of the Main Department of the Ministry of Internal Affairs using plastic bullets, type of weapon, that under the legislation in force by that time was not allowed to use. As a result of the incident several have been seriously injured and it is believed that two of the protesters lost their eye. However, the authorities claimed that they acted legally and no investigation was ordered.

¹ Human Rights Watch, *Letter to Georgian Authorities Regarding Attacks on the Protesters*, the letter can be accessed at <http://www.hrw.org/en/news/2009/05/07/letter-georgian-authorities-regarding-attacks-protesters>

² *ibid.*

On June 15th a small number of peaceful protesters gathered in front of the same Police Main Department building were unexpectedly attacked and brutally beaten up by a group of policemen, including men in civilian clothes. As a result dozens of peaceful protesters have been seriously injured, including journalists and representative of the Ombudsman Office, who, acting in his official capacity, was observing the events. Violent crowd of policemen and men in civilian clothes smashed or confiscated video cameras belonging to journalists. Later on the same day, the deputy Minister of Interior issued a formal apology to the journalists stating that it was a 'misunderstanding'. Cameras have been returned to the journalists; however, video tapes have been destroyed. After detention, five activists of the youth movement have been brutally beaten up by the police in the temporary detention isolator. In the court proceedings that followed shortly, they have been denied their right to have a lawyer. The court proceedings were closed and the lawyers have been allowed in the court building only after the proceedings were finished. In response to the request to punish those responsible, the Ministry stated that 7 police officers were disciplinary sanctioned. However, in response to our request to issue the names, the Ministry refused stating that information contained personal data.

Starting from June 2009 the authorities have begun arrests of the opposition members and activists, who have been actively participated in the demonstrations. It is believed that the arrests are politically motivated, though the government claims those detained are ordinary criminals. Still the arrests show the same pattern – almost in all the cases charges brought against arrested are either for allegedly illegal keeping of firearms or drug offences. In almost all of the cases, those arrested have been denied their right to invite witnesses to attend the process of search and seizure and the only eyewitnesses are the police officers. In some of the cases there have been serious procedural violations, though judges, who do not show any degree of independence, seem to share the position of the prosecution without taking into consideration the arguments of the defense side. According to different sources, it is believed that the number of arrests is quite high, however the exact number is unknown.

Following the continuous demonstrations and apparently for the prevention of the future protests the authorities of Georgia were quick to introduce the amendments to the Law on Demonstrations, Law on Police and the Code of Administrative Procedure, that increased the term of administrative detention from 30 to 90 days. Despite the calls from the civil society groups to wait for the Council of Europe Venice Commission recommendations before the adoption of the amendments, the Parliament adopted the amendments in just 20 days. We believe that these amendments will seriously hamper the Georgian citizens to exercise their right to peaceful assembly to express their protest.

Bearing in mind all the above mentioned, we recommend to urge the Government of Georgia:

- to effectively investigate the cases on November 7, 2007; May 6, 2009 and June 15, 2009 for the purpose of holding those accountable who ordered raids or executed illegal orders;
- to request effective investigation of the brutal beatings of peaceful protesters;
- to disclose the names of disciplinary sanctioned policemen to the public;
- to ensure fair trial proceedings to those who have been arrested for political reasons;
- stop politically motivated persecutions;
- take into consideration the Venice Commission opinion on the recent amendments to the legislation;