



Background Note on Enforced Disappearances in Georgia (2005-2009)

Enforced disappearance is any form of deprivation of liberty, e.g., arrest, detention, abduction, etc. committed by agents of the state or by persons or groups of persons who act with the authorization, support or acquiescence of the State. Those who commit enforced disappearance deny custody of the victim or conceal his/her fate or whereabouts so as not to be held accountable. Enforced disappearance places the person outside the protection of the law.”¹ International Convention against Enforced Disappearances states that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.²

Enforced disappearance violates the rights of the person who is subjected to disappearance, in particular the right to life, to liberty and security of the person, freedom from torture and ill-treatment and to be recognized as a person before the law. But it also may cause mental anguish in the victim’s relatives sufficient to amount to a violation of the prohibition on torture and cruel, inhuman or degrading treatment or punishment.

¹ Article 2, Convention for the Protection of all Persons from Enforced Disappearances

² Article 1, Convention for the Protection of all Persons from Enforced Disappearances

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Georgian legislation, as it stands today does not provide for the criminalization of enforced disappearance *per se*. Neither is Georgia a party to the International Convention against Enforced Disappearances. Thus, although certain cases of enforced disappearance may trigger criminal responsibility of the perpetrators under the provisions in Georgian Criminal Code prohibiting illegal deprivation of liberty, etc. enforced disappearance *per se* is not addressed by Georgian legal system; consequently, no effective remedy exists to redress the rights of the victims of this crime and of their relatives, who, as noted above, may also suffer violation of their rights as a result of mental suffering.

The legislative lacuna and absence of effective mechanism of redress of rights violated as a result of enforced disappearance is one of the greatest obstacles in the fight against enforced disappearances in Georgia. Another obstacle is the lack of public awareness about the criminality of enforced disappearance. Enforced disappearance has rarely been a part of public discourse in Georgia, very few human rights groups have been active in this direction until now despite the fact that the practice of enforced disappearances has not been unknown to Georgia.

In fact the statistics of enforced disappearances in Georgia are disturbing for a country of less than 5 million population at least one million out of that live abroad.

According to the data provided by the Ministry of Internal Affairs of Georgia, In 2008, 310 facts of people missing were registered by the Ministry. 100 out of that 310 are women, 210 are men, 25 are under age. 116 people out of that 310 were found alive. 34 people are found dead. 27 people from those 34 are men, 7- women and 1- under age. Nothing is known about the remaining 160 people. In 2008 13 unrecognized dead bodies were found. From the cases of 2008, the preliminary investigation is started only on the 11 criminal cases, among them only 2 cases are disclosed.³ These figures do not reflect the missing people from the conflict regions (Abkhazia and South Osetia), where the number is much higher.

Below are some reported cases of enforced disappearances:

June 28, 2005 - Saradin Palangov, ecclesiastic mullah, the inhabitant of village Sadakhlo, Marneuli, disappeared in Marneuli. Mullah was the leader of an ethnic community and he organized protest actions in 2004 and March, 2005 in which the Azerbaijan population demanded the decision of the problems connected with distribution of allotments between

³ This MIA data was shared with Human Rights Center by the national NGO *Disarmament and Non-violence*

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representatives of national minorities of the region and the natives and also disclosing of the murders happened in the region.

On June 28, Mullah took the animals on a pasture, since then he was disappeared. The sounds of shots were heard in the village, and on a disappearance place blood-stained clothes of mullah were found. The protest meeting in Marneuli concerning this fact has been dispersed by groups of a special purpose of police.

November 3, 2007 - members of the oppositional party “For United Georgia” Zviad Mchedlidze and Nodar Mazmishvili were detained by police in Tbilisi. Information concerning their whereabouts was not provided for several hours.

November 7, 2007 - Koba Davitashvili, leader of the opposition People’s Party reported that he was kidnapped and brutally beaten by seven men in civilian cloths. Davitashvili’s disappearance on November 7 sparked rumours in Tbilisi the following morning that he had been killed. Davitashvili appeared at a news conference in his party headquarters in Tbilisi with a bruised face on November 8. He said that he was attacked and beaten early on November 7 at an outdoor market in Tbilisi, where he went to buy a power generator for the protest rally.

August 28, 2008 - Paata Kardava, an employee of the Ministry of Internal Affairs military service, disappeared in uncertain situation in Zugdidi. There are allegations that government agents are involved in this case, authorities deny the allegations.

August 16, 2008 - David Tsindeliani, the Head of the timber department was abducted in Kutaisi. Father of Tsindeliani who is a witness of the incident alleges that representatives of law enforcement officials abducted his son. Law enforcement officials deny the fact of Tsindeliani’s abduction.

On August 16, 2009 - A sergeant of a special intelligence department Shavadze was seen being beaten by the representatives of Special Forces in Batumi in the middle of the day. After that he disappeared for several hours. The widow of Shavadze recalls how she was desperately running from one state organ to another trying to find her missing husband. Neither patrol police nor the military police assisted the family to look for the missing Shavadze. The family members were not allowed to enter the Adjara Office of the Ministry of Internal Affairs. Law enforcement institutions avoided to answer the questions of the family members. Several hours later the

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family was told about the death of Shavadze. After several hours of searching by the family, they were notified that Shavadze was found dead.

May 20, 2009– Ombudsman of Georgia and the family lawyer reported that in Tbilisi the police detained relatives brother of Koba Otanadze, who was declared as a suspect of organizing mutiny at the Mukrovani military base and was wanted by the authorities. Reportedly, brother of Koba Otanadze Jimsher Otanadze, his wife Gulo Zaridze and their son Giorgi Otanadze were taken from their house at 3am on May 20 by law enforcement officials. Their whereabouts were unknown for the whole day.

Moreover, a number of other relatives of Koba Otanadze, including several months old child, were also detained by law enforcement officials for several hours without releasing any information about their whereabouts. The authorities officially denied the facts of their detention.

June 22, 2009 – brother of a political leader, Eka Beselia and his 4 other friends were abducted by the police, their whereabouts was not disclosed. After several hours they were released by the police under the bail.

Several cases of disappearances have also been reported during the opposition demonstrations starting from April 9 in Georgia, mainly in Tbilisi but not only.

Very recently there have also been reports of disappearances of several people, however due to a very limited factual information available Human Rights Center will restrain itself from assessing the cases at this stage.

The examples demonstrated above show, that the geography of disappearances in Georgia is not confined to any particular region.

The list provided above is just a tip of an iceberg. They were selected to demonstrate the nature and reasons for enforced disappearances in Georgia - to exercise pressure on political opponents or those who are not considered to be loyal to the government and thus may create some problems to it.

Enforced disappearances have been particularly prevalent on the territories which are not under *de facto* control of Georgia, South Osetia and Abkhazia.

The number of disappeared people in Georgia rose significantly after Russia-Georgia war in August 2008.

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Human Rights Center considers that several steps are needed to be undertaken by the authorities as well as the human rights groups, in the spheres of their competences, order to effectively deal with the problem of enforced dissapearances in Georgia:

The national legal mechanism has to be created to identify the cases of enforced dissapearances, bring the perpetrators to justice and redress the rights of the victims and their relatives. In this respect, Georgia should also consider becoming a party to the Convention for the Protection of all Persons from Enforced Disappearances in addition to creating effective national legal mechanism to fight enforced dissapearances.

Reliable and comprehensive data should be created and made public about enforced dissapearances in Georgia.

General public, law enforcement authorities, lawyers, NGOs and mass media should be made well aware of the problem of enforced dissapearances and the ways of how to deal with it.

These measures may not prove adequate in the conflict zones and territories beoynd Georgia's de fact control. On those territories involvement of international actors is necessary to tackle the problem of enforced dissapearances. International protection mechanism has to be created and imlemented in order to ensure that the rights of victims are redresssed and perpetrators are brought to justice.