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# **The violations of social, economic and environmental rights during development and energy infrastructure projects**

Case of South Caucasus countries



Tbilisi

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The views expressed in this report reflect Green Alternative’s position and should not be taken to represent those of Bread for the World – Protestant Development Service.



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## Introduction

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The paper assesses the shortcomings in the protection of social, economic, and environmental rights in South Caucasus countries based on ongoing development and energy infrastructure projects. It reviews the existing legislative framework and correlates it with the problems that emerge during the implementation of rights—right to a healthy environment, right to information, right to development, right to participation, right to private property, right to compensation, right to remedy, and right to access national resources, for instance. The paper aims to present general and country-specific recommendations to decision makers in different international organizations, donor countries, CSO organizations, and the media for application and protection of the socio-economic and environmental rights of the citizens of the South Caucasus.

### Context and overview—Socioeconomic and environmental rights in the South Caucasus countries

All three South Caucasus countries, despite their common Soviet Union history, have different political environments. However, the issues regarding the protection of socio-economic and environmental rights during development and energy infrastructure projects are similar in all three countries.

The South Caucasus, at the crossroads of Europe and Asia, represents the most complex and unstable region of the Former Soviet Union. The strategically important crossroad makes the region of key geopolitical interests for Russia, Turkey, USA and the EU.

After more than 25 year of restoring independence in 1991, all three countries, Armenia, Azerbaijan and Georgia are still experiencing the legacy of the past. At the end of the eighties, when socio-economic cataclysms took place in the entire territory of the former Soviet Union, the South Caucasus countries were not unique in terms of economic crisis. However, additionally, acute political crisis due to the hard-civil war and ethnic conflicts resulted in unresolved conflicts in Abkhazia, Nagorno-Karabakh and South Ossetia and closed walls between Armenia and Azerbaijan as well as with thousands of refugees and internally displaced people, increased migration, disruption of health and education, increased levels of poverty and pollution of environment.

For the past two decades, the region was associated with the rush for vast amounts of oil and gas resources connected with the US and the EU energy security game as well as the ongoing pro- and anti-democratic political turmoil, with official statistics showing rapid economic growth and increased welfare throughout the Caucasus region. As the Caspian Sea's oil and gas reserves were at least as large as those in the North Sea, bringing the Caspian Sea energy resources safely to the international market through the Caucasus region has been considered a new world challenge.

Driven by US and the EU's special interests, Azerbaijan managed to establish a transit route for energy resources to the Black Sea and on to the Mediterranean, bypassing Russia. Georgia has become an essential part of the Caspian energy transit architecture, hosting sections of two major pipelines: Baku-Tbilisi-Ceyhan Oil Pipeline (BTC) and Baku-Tbilisi-Erzurum Gaz pipeline. EU's energy security concept (2006) that aims for the diversification of the bloc's energy supplies away from Russia lead to the establishment of The Southern Gas Corridor concept, that is under implementation and would lead the gas transportation from

Baku, Sangachal terminal, to Erzurum (Turkey) and then to Greece, Albania, and Italy. It represents the major EU energy security driven project for 2015–2020<sup>1</sup>.

The approach of the US and the EU based on the strategy of broadening energy and economic ties with the countries of the region, accompanied with some funds for democracy support for all three countries, was believed that to ensure broadening and intensification of the human rights dialogue and proper socioeconomic development, eradicate poverty and improve education. The increased pressure and demand for natural resources leads to violations of local citizens rights during the implementation of various infrastructure and energy projects. The unfair and unjust judiciary system, the high level of corruption, weak political parties, and power consolidation attempts in all the countries almost deprived “ordinary” citizens of their rights.

All three countries are part of the European Neighborhood Policy (ENP) and the Eastern Partnership Initiative. Georgia has ratified the Association Agreement (AA) with EU (2014) and takes the obligation to become the European Energy Treaty party and member of the European Energy Community. Furthermore, Georgia commits to transpose the quite substantial European *acquis* in the Georgian legislation including environmental governance and horizontal issues, public access to environmental information and participation, implementation of multilateral environmental conventions (MEA) as well as development of a competitive energy market, promotion of energy efficiency, and renewable. Armenia, in the fall of 2017, signed the Comprehensive and Enhanced Partnership Agreement (CEPA) with the EU to have almost the same commitment in an area while additionally committing to cooperation in the sector of nuclear safety.

In terms of the human rights situation and the shrinking of the civil society space, Azerbaijan faces the most undesirable circumstances. According to the Amnesty International (2017) report, at least 150 people remain in custody on politically motivated charges while all mainstream media remained under effective government control with independent media outlets facing undue restrictions and media workers facing harassment. Access to oppositional newspaper websites was blocked. Additionally, Radio Free Europe/Radio Liberty Azerbaijani service, Meydan TV, and Azerbaijan SAATI remained blocked following a claim by the prosecutor’s office that they posed a threat to national security. Azerbaijan ranks among the ten most censored countries in the world, trailing behind Eritrea, North Korea, Saudi Arabia, and Ethiopia.

Azerbaijan is the most problematic case due to the existing law on NGOs, however, there is a sad and growing trend of not only introduction of deliberately tough legislative and regulatory measures against NGOs but also demonizing the strong and independent human rights defenders and groups by portraying them as agents of unidentified forces, arguing their ties with corruption, etc. The abandonment of the CSO space in Azerbaijan has been largely connected with its withdrawal from the Extractive Industry Initiative (EITI). Additionally, this also caused further splits among the human rights groups there and increased tension in an already problematic environment.

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<sup>1</sup> This is one of the most complex chain of pipelines that is planned to stretch over 3,500 km, cross seven countries, and is comprised of several separate projects with total required investments estimated at up to EUR 45 billion. It includes the second phase of the Shah Deniz field and the expansion of the Sangachal terminal in Azerbaijan, the extension of the South Caucasus Gas pipeline in Azerbaijan and Turkey (SCPX), the Trans Anatolian Pipeline (TANAP) in Turkey, the Trans Adriatic Pipeline (TAP) in Greece, Albania and Italy, the expansion of the Italian gas transmission network, and further connections with south-eastern, central, and western Europe

Human rights organizations rightly criticized the EU's stance towards the Southern Gas Corridor as its implementation would strengthen the dictatorship in Azerbaijan and thus, worsen the human rights situation there. Additionally, with respect to the generally marginalized civil society and politically driven arrests, the affected people along the pipeline been poorly consulted, suffering from widespread health related issues they believed linked to the project area. While project gains and will gain the billions of USD as profit, the villages along the road are economically depressed, with lacking paved roads, basic sanitation and heating in schools.

On the other hand, in Georgia and Armenia, the situation is far better. The groups working on human rights and business-related issues including environmental, social, and labor protection are under increased pressure. This involves the cases of defamation by high level officials, running wide campaigns accusing organizations as state traitors, foreign funded agents supporting foreign state interests (including Russian agents) in unsustainable and harmful energy and infrastructure projects. The partly-free media in these countries often pursues the interests of the Oligarchs, corporations and high politicians.

Despite the high amount of the foreign investments flowing in the South Caucasus countries, both from international financial institutions as well as from international transnational corporations, the major investments go into the area of energy, natural resources, and infrastructure that often adversely impact citizens' constitutional rights and have severe impacts on the environment and health, leading towards land and water grabbing practices, feeding corruption, and undermining the law.

The human rights - civil, political, economic, social and cultural – are indivisible, interdependent and interrelated. This means that it is difficult and, in many cases, impossible to realize any of the human rights in isolation; protection of one right facilitates protection of other rights, and deprivation of one right might adversely affect the enjoyment of other rights. The right to a healthy environment, right to clean water, right to proper compensation, right to development, right to decent labor, along with freedom of expression, right to assembly and right to participate, gender rights, with various degrees but still is most commonly violated rights in the South Caucasus countries.

The international organizations, donor governments, CSOs and media should support the establish of the good governance standards in decision making, that involves wider public participation. Strengthening of the democratic institution, rule of law and human rights protection should be essential tools. However, only declaration and paper written promotion of democracy would not work, the donor organizations and governments should their actions are directing towards protection of human rights and contribute to sustainable development of the South Caucasus countries. The investments of Transnational Companies as well as local oligarchic structures should not override the rights of ordinary citizens in the environment of the shrinking space for civil society. The international organizations and donor governments should ensure that countries have free and enabling environment for civil society at country and local level, as a precondition for further cooperation.

## Armenia

In Armenia, in the last few years, situations with respect to the socio-economic and environmental rights have not progressed. On the contrary, the situation with constitutional rights that guarantee a safe environment was changed in 2015. The Constitution of Armenia, 2005, Article 33 guarantees, "Everyone shall have the right to live in an environment favorable to his/her health and well-being, and shall be obliged

to, individually or as a group, protect and improve it. The public officials shall be held responsible for the concealment of or the denial of access to information on environmental issues”. It also underlines that “The main goals of the State in the economic, social and cultural fields shall be to: conduct policies aimed at guaranteeing environmental security for current and future generations,” while requiring from the government to “implement state policies in the areas of science, education, culture, health, social security and environmental protection.”

All the above-mentioned articles were amended in the constitution of 2015. The only provision for the environment is prescribed in Article 12, “Preservation of the Environment and Sustainable Development”, “The State shall promote the preservation, improvement and restoration of the environment, the reasonable utilization of natural resources, guided by the principle of sustainable development and taking into account the responsibility before future generations” and “Everyone shall be obliged to take care of the preservation of the environment. Issues like the right to a healthy environment, as well as the responsibility of the public officials in terms of access to environmental information being lost.”

Human and environmental rights defenders commented on the amendments in the following manner: “It [right to healthy environment] is a fundamental right and it’s impermissible to deprive our citizens of this fundamental right with one strike of the pen. It found its place in the Constitution of 2005 due to great pressure exercised by NGOs. Till 2005 the absence of this provision led to the violation of our citizens’ rights prescribed by the Aarhus Convention. If the provision that we have a right to live in the healthy environment is missing, it means that our citizens have no right to call upon the courts. If this provision is missing in the Constitution, it can’t be in other laws, as there will be contradictions with the Constitution. Fundamental rights are laid down in the main law, which is the Constitution of the Republic of Armenia<sup>2</sup>.”

The general economic situation within the country is still pure, with economic growth of only 0.5% and excessive public debt that exceeds 6 billion USD. Meanwhile, the international financial institutions such as the EBRD, IFC, World Bank and its, continue to fund the large infrastructural, extractive, and energy projects that often lead to violation of the basic rights of Armenian citizens including the right to private property, traditionally owned lands, access to water etc., that ultimately leads to even more poverty as the traditional agricultural communities lose their incomes. In 2017, Armenia became a member of the Asian Infrastructure Investment Bank led by China.

It should be noted that Armenian energy security faces numerous challenges, the emerging supply gap, the need to maintain energy supply reliability, the need to ensure affordability of the tariffs, due to the background of its limited domestic energy resources (that can meet only 35% of the total energy demand). Armenia imports oil and oil products from Georgia, Iran, Russia, and Europe. Natural gas is imported from Russia through Georgia (with a limited volume of natural gas imported from Iran in a gas for electricity swap arrangement) and nuclear fuel is imported from Russia. Exacerbating the situation, Armenia has very low levels of energy efficiency compared to developed countries.

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<sup>2</sup> Nazeli Vardanyan, Director of “Forests of Armenia” Environmental NGO, Environmental Lawyer, at the press conference held at EcoLur Press Club on 9 October 2015 (<http://www.ecolor.org/en/news/electionspoliticsecology/human-rights-omitted-from-draft-constitution/7722/>).

The decision-making system is not transparent while the environmental and social safeguards system is very weak, accompanied with elite corruption and the oligarchs, and the ineffective justice system leaves people almost unprotected against developers that leads to strikes and demonstrations.

In April 2018, there were major protests following the parliamentary election when the parliament decided to elect the former President Serzh Sargsyan as the Prime Minister. The mass public protests pushed the parliament to elect the opposition leader as the Prime Minister. However, it is still not clear what impact it will have on the civil society space from the mid- and long-term perspective.

In November 2017, Armenia signed the Comprehensive and Enhanced Partnership Agreement (CEPA) that could serve as the foundation for strengthening the civil society position in dialogue with the government. CEPA addresses issues such as nuclear safety (see below) as well as transparency regarding the extractive industry revenues. CEPA has positive potential for project implementation as it provides legal tools to the Armenian Civil Society groups to request implementation of the agreement. However, as practice shows in the Eastern Partnership (EaP) countries, the government can imitate the processes for European Integration rather than really follow it.

## Right to a healthy environment

The Constitution of Armenia was adopted by a nationwide Armenian referendum on July 5, 1995. This Constitution established Armenia as a democratic, sovereign, social, and constitutional state. It defined the rights of the citizens of the Republic of Armenia (RA). The Constitution was amended thrice-in 2005 and 2015. The 1995 Constitution didn't consist of any provisions for the protection of the people's environmental rights. It merely underlined the need for the protection of nature under Article 89 (5) that states, "The Government shall implement state policy in the areas of science, education, culture, healthcare, social security, and nature protection."

The amended Constitution of 2005 contained provisions to protect environmental rights, including the right to know under Article 33 (2) that states, "Everyone shall have the right to live in an environment favorable to his or her health and welfare, as well as shall be obliged to preserve and improve the environment individually and in community with others. Officials shall be liable for concealing or refusing to provide environmental information"<sup>3</sup>.

This Constitution also defined the responsibilities of the state in terms of environmental protection that states, "The main tasks of the state in the economic, social, and cultural spheres include to implement a policy providing for the environmental security of present and future generations<sup>4</sup>", the government shall "implement state policy in the areas of science, education, culture, healthcare, social security, and nature protection."

The RA Constitution of 2015 significantly weakened the environmental rights of citizens that were prescribed in the Constitution of 2005, and it refrained from stating the responsibility of public officials in

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<sup>3</sup> The Constitution of Armenia, <http://www.president.am/en/constitution-2005/>

<sup>4</sup> The Constitution of Armenia, <http://www.president.am/en/constitution-2005/>

terms of nature protection. According to Article 12 Preservation of the Environment and Sustainable Development,

1. The State shall promote the preservation, improvement, and restoration of the environment, the reasonable utilization of natural resources, guided by the principle of sustainable development and taking into account the responsibility before future generations.

2. Everyone shall be obliged to take care of the preservation of the environment<sup>5</sup>.

Therefore, the Constitution of Armenia no longer guarantees the right to a healthy environment<sup>6</sup> that has become common in most countries around the world. In almost all constitutions, “the right to a healthy environment is treated in much the same way as any other fundamental human right, as enforceable but subject to limitations.”<sup>7</sup> Renouncing the right to a healthy environment and the government’s responsibility to ensure accessibility of environmental information is significant step back. According to the 2015 Constitution, the state only obliges to promote the preservation of the environment (Article 12), and it tries to shift the responsibility of environmental protection from the state to every citizen, making the identification of the responsibilities and obligations of the state and government ambiguous.

Human rights defenders in the environmental sector believe, “It’s a fundamental right and it’s impermissible to deprive our citizens of this fundamental right with one strike of the pen. It found its place in the Constitution of 2005 due to great pressure exercised by NGOs. Till 2005 the absence of this provision led to the violation of our citizens’ rights prescribed by the Aarhus Convention. If the provision that we have a right to live in the healthy environment is missing, it means that our citizens have no right to call upon the courts. If this provision is missing in the Constitution, it can’t be in other laws, as there will be contradictions with the Constitution. Fundamental rights are laid down in the main law, which is the Constitution of the Republic of Armenia”<sup>8</sup>.

The concerns related to the right to a healthy environment are not merely theoretical. Armenia is well known for its mining industry, as Armenian mines are replete with significant deposits of gold, copper, and molybdenum as well as smaller deposits of zinc, lead, iron, and silver and semiprecious stones such as agate, jasper, and obsidian. Armenia produces aluminum foil from the aluminum imported from Russia, ferromolybdenum, molybdenum metal, and rhenium salt (potassium perrhenate) from local ores and industrial minerals such as cement, bentonite, diatomite, gypsum, limestone, Tuff, marble, and perlite<sup>9</sup>. In addition, Armenia owns the Metzamor power plant<sup>10</sup> and has started extensive development of small and medium hydropower plants that have a negative impact on local communities in terms of access to water as well as property rights and right for development.

It should be stressed that “Mining has led to widespread deforestation and the destruction of arable land. Moreover, heavily polluted tailings are discarded in ways that contaminate lakes, rivers, and soil. Smelters

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5 The Constitution of Armenia, <http://www.president.am/en/constitution-2015/>

6 <https://davidsuzuki.org/wp-content/uploads/2013/11/status-constitutional-protection-environment-other-nations.pdf>

7 Ibid.

8 Nazeli Vardanyan, Director of “Forests of Armenia” Environmental NGO, Environmental Lawyer, at the press conference held at Ecolur Press Club on 9 October 2015 (<http://www.ecolur.org/en/news/electionspoliticsecology/human-rights-omitted-from-draft-constitution/7722/>).

9 Safirova, E. (2013). The Mineral Industry of Armenia, 2011 Minerals Yearbook, United States Geological Survey (<http://minerals.usgs.gov/minerals/pubs/country/2011/myb3-2011-am.pdf>)

10 <http://www.world-nuclear.org/information-library/country-profiles/countries-a-f/armenia.aspx>

pollute the air. Mining thereby endangers the health and the subsistence of RA's citizens."<sup>11</sup> Therefore, it is crucial that public authorities establish political commitments as well as legislative and administrative means to prevent activities that cause environmental pollution and protect the health of Armenian citizens. Environmental pollution is one of the major causes of the increased burden of noncommunicable diseases, including cardiovascular diseases, cancer, mental health problems, diabetes, chronic respiratory disease, and musculoskeletal conditions. According to the Ministry of Health of RA, the frequency of cancer and related deaths was higher in the regions of Lori, Syunik, Shirak, and Yerevan<sup>12</sup>.

Despite legal requirements, the Ministry of Health of RA is not adequately involved in the environmental impact assessment procedures, since the state authorities are responsible for public health issues. The Ministry of health does not carry out wide-range assessments to address the impact of different industries on public health either, therefore it is the responsibility of the citizens to prove the damage to public health caused by environmental pollution caused by mining wastes. Only in this case will the citizens be entitled to the compensations that are almost impossible for community residents and ordinary citizens to obtain<sup>13</sup>.

## Aarhus Convention

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, abbreviated as the Aarhus Convention, was ratified by RA in May 2001.

The implementation of the Aarhus Convention is regulated by the RA Law "On Environmental Impact Assessment and Expertise" (HO-110-N 21.06.2014), and in its bylaw on governmental resolution "On Establishing Procedure of Providing Information and Holding Public Discussions" (N 1325 19 11.2014). The resolution comprises of a provision to hold preliminary discussions in impacted communities. Business companies can proceed with the project in question if the opinion of the community is positive and if it has no objections with the project idea.

In practice, there are several recorded cases of violation of the provisions of the Convention and public participation wherein local communities are misled. However, there are examples of the best practices of public participation as well, wherein residents have upheld their rights and rejected project ideas, and the Ministry based on the minutes (video and notes) has been forced to take into account the negative opinion of the locals. For instance, in November 2017, during one such public hearing, the Gladzor community rejected the proposal of Vayq Metal Company to start gold extraction in the vicinity of the village in the frames of the law on the local government.

However, the implementation of the Aarhus Convention in RA has faced challenges and has been hindered by authorities, and this is recorded in the reports by the Aarhus Convention's Compliance Committee.<sup>14</sup> In terms of the provisions of the public participation procedures and access to justice, the Aarhus Convention's

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<sup>11</sup> Stefes, C. and K. Weingartner (2015). Environmental crime in Armenia: A case study on mining. A study compiled as part of the EU Action to Fight Environmental Crime (FFACE) project. Berlin: Ecologic Institute [http://ecologic.eu/sites/files/publication/2015/stefes-15-efface\\_environmental\\_crime\\_in\\_armenia.pdf](http://ecologic.eu/sites/files/publication/2015/stefes-15-efface_environmental_crime_in_armenia.pdf)

<sup>12</sup> Armenia Examines Its Record on Cancer, 3 Apr 16, Institute for War and Peace reporting, <https://iwpr.net/global-voices/armenia-examines-its-record-cancer>

<sup>13</sup> Public Health, Ecoright, <http://ecoright.am/en/ecology/424-2/>

<sup>14</sup> Decision V/9a of the Meeting of the Parties on compliance by Armenia with its obligations under the Convention, <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fifth-meeting-of-the-parties-2014/armenia-decision-v9a.html>

Compliance Committee has assessed RA as non-compliant. The Committee reiterates that requirement of the law that obliges NGOs to have previously participated in the discussion of any of the activities or acts falling under the purview of the Convention in order to exercise their right to access to justice and to challenge pertinent decisions at a later stage. This is not in line with the Convention, and the Committee finds that the party concerned has not fulfilled the requirements of the Convention.

Two complaints have already been submitted to the Committee. The first (2006) addressed the case wherein several horticultural businesses in Dalma, Yerevan were deprived of their land without any compensation, indicating non-compliance to the provisions of the Aarhus Convention. The second complaint (2009) was submitted by environmental groups regarding the Teghout copper and molybdenum mining project. In both cases, the Committee found numerous violations and non-compliance, stressing that the Armenian State has failed to ensure the public function of effective public participation in decision-making regarding specific activities<sup>15</sup>.

## Eminent domain and property rights in Armenia

The law on Alienation of Property for the Needs of Society and State (Eminent Domain Law) deals with the issues of land/property takings and resettlement. It stipulates cases where alienation of the property needs to be executed and the procedure through which the alienation should be conducted. It applies to all objects (immovable and movable property, property rights, securities, and so on) that belong to physical persons, legal entities, and communities by ownership right and are officially registered in RA in accordance with the law.

The law establishes the principals/conditions according to which the exceptional priority public interests should be determined. Thus, it stipulates,

- (i) Public interest must be superior over the interests of the owner of the property;
- (ii) Effective implementation of the public interest cannot be achieved without the alienation of the property;
- (iii) The alienation of the property must not do unjustified harm to the owner of the property;
- (iv) The public interest must be acknowledged as superior through the Government decision;
- (v) The fact of existence of exceptional public interest may be argued through litigation in the court.

The law also underlines that exceptional public interest shall serve the following purposes,

- (a) Protection of public and state security'
- (b) Implementation of the obligations assumed by the Republic of Armenia under international treaties;
- (c) Preservation of historical and cultural values or monuments of international and national importance as well as the creation and preservation of special protected nature areas;
- (d) Protection of the environment;
- (e) Development of education, healthcare, sport as well as science and culture;
- (f) Implementation of projects of community and intercommunity importance in the fields of communication, transport, energy, land use, city construction, energy, and water supply;
- (g) Protection of the property, health, and private life of citizens;
- (h) Prevention and/or mitigation/reduction of the possible effects of emergencies.

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<sup>15</sup> Ibid

However, the application of the eminent domain law often contradicts the principle lists by the law itself, both in the case of urban development and the development of the mining and the energy sector. For instance, thousands of families have been displaced in the past decade and 30 neighborhoods in Yerevan were slated to be renovated under the eminent domain law. While such a legislation must be reserved for public work projects like schools and roads, it is increasingly being invoked to pave the way for commercial projects run by private investors<sup>16</sup>. According to the NGO Victims of the State's Needs that helps evictees win suitable compensation in court, in several cases, “a redistribution of property is being carried out under the guise of state needs”<sup>17</sup>. According to a number of research studies, the renovation of Yerevan caused the loss of buildings that represented the historical and cultural heritage of the country besides abusing the property rights of the residents. Therefore, the concept of the eminent domain must be discussed, because the destruction of culturally significant buildings does not represent state interest.

In 2014, without any consultation, the Armenian government declared 28,854.65 square meters of land from 43 communities in Kotayk, Gegharkunik, Vayots Dzor and Syunik Regions as eminent domain to carry out the project of the construction of the Iran-Armenia electricity transmission aerial line. It should be noted that according to research regarding the transmission lines, the people “who find themselves hosting an unwanted transmission line or other infrastructure on their property are locked into a permanent relationship with a hostile partner sharing the rights to their land”<sup>18</sup>. It should be stressed that “like in lots of the other countries, the eminent domain law in Armenia doesn’t provide safeguards to address these problems.” However, the eminent domain law and its justification is often prepared without prior public participation, denying the people’s right to be part of the decision-making process and encouraging conflicts.

In the case of the Amulsar mining project funded by the EBRD and IFC, agricultural lands near the village Gandevaz were declared eminent domain and given to the company. The Ministry of Justice of Armenia too declared that this step contradicted Article 60 (5) of Armenia’s Constitution, because eminent domain can be declared for public or state needs alone, and these needs should be conditioned by public interest<sup>19</sup>. Therefore, the question that arises is “What is the public interest in this private gold mining project? Poisoned soil, air, and water? Damaged health? End of agriculture? Poverty?”<sup>20</sup>

## Labor rights in Armenia

Armenia Labor resources constitute 1,907,100 people, where 1,237,100 people are economically active, and 204,200 people are unemployed<sup>21</sup>. According to the human rights group, Helsinki Citizens Assembly, people usually work without employment contracts. They are paid on a daily basis, and even if they are offered a contract, it is a mere formality. Labor legislation does not provide sufficient protection to laborers, and most common violations include the existence of illegal and unregistered employees, unspecified wage rate in the labor contract, conclusion of fixed-term labor contract with no grounds, setting probation period for

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<sup>16</sup> As Yerevan Gets Face-Lift, Many Armenians Lose Their Homes, February 25, 2010, Radio Free Europe, [https://www.rferl.org/a/As\\_Yerevan\\_Gets\\_FaceLift\\_Many\\_Armenians\\_Lose\\_Their\\_Homes/1968306.html](https://www.rferl.org/a/As_Yerevan_Gets_FaceLift_Many_Armenians_Lose_Their_Homes/1968306.html)

<sup>17</sup> "ECOALARM" - New Tool To Receive Eco-Verdict EcoLur, <https://www.ecolur.org/en/news/electionspoliticsecology/ecoalarm-new-tool-to-receive-ecoverdict/10417/>

<sup>18</sup> Pipelines vs Property rights, the Property and Environment Research Center, 2017, <https://www.perc.org/2017/11/07/pipelines-v-property-rights/>

<sup>19</sup> A letter of anger and hope, Armenian Environmental Front, 2016, <http://www.armecofront.net/en/news/a-letter-of-anger-and-hope/>

<sup>20</sup> Ibid.

<sup>21</sup> Labour Market indicators, Statistical Committee of the Republic of Armenia, 2017, [http://www.armstat.am/file/article/sv\\_11\\_17r\\_141\\_.pdf](http://www.armstat.am/file/article/sv_11_17r_141_.pdf).

everyone without any exclusion, and the assignment of overtime work in non-working hours with no extra payment.

According to the Helsinki Citizens' Assembly, socio-economic human rights are often neglected in reports by international organizations for human rights. "In this sphere, the situation is more than catastrophic. Socially vulnerable people are practically deprived of elementary medical assistance. Employment rights are not adhered to. The employment relations between employers and employees are often characterized as slavery. Employees don't often have any agreement and work without fixed working hours, holidays and days off. In this sphere governmental control is very weak, if not to say, is absent. Also, there are no practically independent and aggressive trade unions"<sup>22</sup>.

The attitude of the government in terms of the protection of socio-economic rights can be considered irresponsible. In March 2018, Teghout CJSC, which develops Teghout copper and molybdenum mine, stated that it has terminated employment contracts with 1032 out of the 1190 employees and stopped mining works at the Teghout mine unless it carries out the examination of the state of the tailing dump. The government has not responded to this statement in any way. However, in 2007, the government reached decision N 1279, under which 81.483 ha of agricultural land areas-community-owned or privately owned-were recognized as eminent domain, alienated from the owners at symbolic prices (20–30 cents for 1 sq. m.) and handed to Teghout Company for their mining infrastructure. The status of eminent domain presupposes both, the economic and the social development of the given territory and availability of working places. That is, the government should have responded to the statement of the company and ensured that Teghout Company meets the provisions of the governmental resolution. On the contrary, the government stated that the latter is not the guarantor of Teghout CJSC with regard to the emerged problems. Currently, CSOs have applied to the MPs of the National Assembly to ensure that the government takes responsibility for the resolutions it has adopted and disclose the conditions of the arrangements with Teghout Company and take measures to protect the economic, social, and environmental rights of the residents<sup>23</sup>.

Issues regarding the occupational health and safety have also emerged. The Labor Code of the Republic of Armenia (Labor Code) 2004 is the primary legislation on occupational safety and health. Chapter 23 of the Labor Code is dedicated to occupational safety, health, and working conditions. The Ministry of Labor and Social Issues (MLSI) with the State Labor Inspectorate enforce regulations through employer consultation and regular inspections. Depending on the specific industry, a regulatory framework for occupational health and safety (OHS) is either reliant on outdated or non-existent Soviet regulations. Public awareness of health and safety issues is low, and the knowledge of the actual extent of hazards and risks is local and decentralized<sup>24</sup>. There is no systemic approach to OHS issues. Insufficient attention of employers toward OHS and the training of workers in safety rules and perfunctory conduct of briefings is associated with a high rate of injuries, mortality, and occupational diseases.

Over the past decade, approximately 50% of all workplace injuries in Armenia occurred in the Syunik region that is home to merely 5% of Armenia's total population and labor force. However, Syunik's economy is overwhelmingly dependent on mining, since 90% of overall output in the mining sector comes from Syunik,

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<sup>22</sup> Human rights in Armenia, 28.01.2016, Iragir, <http://www.lragir.am/index/rus/0/right/view/46591>.

<sup>23</sup> Teghout Mine Problems Should Be On MPs Agenda, <http://ecolur.org/en/news/mining/teghout-mine-problems-should-be-on-mps-agenda/9958/>.

<sup>24</sup> Creating a Comprehensive Occupational Safety and Health Regulation for Armenia: Priorities and International Practice, USAID, [http://pdf.usaid.gov/pdf\\_docs/Pnadp497.pdf](http://pdf.usaid.gov/pdf_docs/Pnadp497.pdf).

and 85% of all output in Syunik comes from mining. Thus, it can be concluded that mining is the riskiest industry in Armenia<sup>25</sup>.

In 2016, there were 58 workplace-related accidents due to violations of occupational health and safety standards, six of which ended in fatalities. Most of these accidents (65%) occurred within the mining industry, with 50% of the cases taking place in the Syunik province. Some of the workers injured in these accidents have become unable to work; three of them have been afflicted with various degrees of disability. Employers have paid a total of AMD 106 million as compensation for the damages suffered as a result of violations of safety standards-temporary disability allowance, compensation for lost earnings, and medical and other expenses, according to an NSS statement<sup>26</sup>.

A number of similar accidents have been reported, including the accident in Shahymian, Japan in March 2018, where two workers were injured as well as the accident wherein one worker died in the underground mine of the mining and enrichment plant of Kapan town<sup>27</sup>. The victims were diagnosed with exogenous poisoning<sup>28</sup>.

## Country-specific recommendations

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The violation of socio-economic and environmental rights directly impacts the life of the Armenian population. Therefore, it is important to ensure that the government of Armenia acknowledges that the protection of these rights must become an essential part of economic development and decision-making processes.

It is important to establish the mechanisms to determine the potential violation of the rights under the economic development agenda. This should be done through the development and institutionalization of different methods that would enable people, including marginalized and discriminated groups, to freely participate in proposed development initiatives, ensuring the benefits of development. It may include different types of Human Rights and Environmental Impact Assessments as well as implement mechanisms to ensure its implementation.

State institutions and local governmental structures should ensure that the economic development agenda does not override the protection of the citizens' rights to freedom of expression and assembly or economic, social, and cultural rights. Therefore, in order to achieve this end, the government should ensure transparent and participatory decision-making processes. Each case of the application of the eminent domain law should be based on a wide discussion including different groups-CSOs, affected communities, and citizens. Increased transparency and accountability, combined with informed public participation, will positively impact

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<sup>25</sup> Occupational Health and Safety, Vlado Vivoda and Jonathan Fulcher (2017), Series on International Best Practice, Working Paper 6 Mining Legislation Reform Initiative, AUA Center for Responsible Mining  
[http://mlri.crm.aua.am/sites/default/files/WP6\\_Occupational\\_Health\\_and\\_Safety\\_Eng.pdf](http://mlri.crm.aua.am/sites/default/files/WP6_Occupational_Health_and_Safety_Eng.pdf)

<sup>26</sup> Armenia: 6 killed, 52 injured in workplace accidents caused by health & safety violations in 2016, says government, Ecolur, 2017, <https://www.business-humanrights.org/en/armenia-6-killed-52-injured-in-workplace-accidents-caused-by-health-safety-violations-says-govt>

<sup>27</sup> Criminal Case Initiated in Shahumyan Mine Field Based on Accident, March, 2018, <https://www.ecolur.org/en/news/officials/criminal-case-initiated-in-shahumyan-mine-field-based-on-accident/9951/>

<sup>28</sup> *ibid*

anticorruption agendas as well as accelerate the development of sustainable development initiatives while protecting the rights of the people.

## Azerbaijan

In Azerbaijan, the situation for ordinary citizens and the civil society has been worsened drastically in recent years. More and more laws that abuse the freedom of assembly and speech and suppress the political opposition are getting through the parliament. President Ilham Aliyev has consolidated his authoritarian rule after a March 2009 referendum that eliminated presidential term limits. According to Freedom House, in recent years, Azerbaijan has failed to improve its record and the country's status is again 'not free'. Between May and November 2014, Azerbaijan chaired the Council of Europe during which it continued to clamp down on freedom of expression, assembly, and association following the elections in October 2013. In July 2014, the authors of a report on 98 political prisoners, Leila Yunus and Rasul Jafarov, were arrested on criminal and espionage charges. The list has increased with other prominent human rights defenders since then.

The situation has become so harsh that in September 2014, the US president Barack Obama specifically pointed out that "In places like Azerbaijan, laws make it incredibly difficult for NGOs even to operate." In parallel, and almost simultaneously, the European parliament passed a statement describing how the human rights climate had worsened over the last five years in Azerbaijan. Some MEPs even called on the European parliament to apply "targeted sanctions against those responsible for human rights violations" in Azerbaijan. The numerous statements on human rights crackdown were made on behalf of the Commissioner for Neighbourhood S. Fule and the High Representative of the Union for Foreign Affairs and Security Policy, Baroness Ashton. However, in spite of strong criticism on the human rights crackdown, the impact was increasingly hollow as engagement with the Azeri government over energy projects continues. Moreover, as a response to criticism from the US and the EU, Azerbaijan arranged parliamentary hearings on 15 January 2015 to look into a number of civil rights issues in the US including panels on ethnic, racial, and religious discrimination, violations of free thought and freedom of the press, and whether lawmakers were applying double-standards in the ongoing Nagorno-Karabakh conflict. Ilham Aliyev himself tweeted that "attempts to tarnish, sully and belittle Azerbaijan, a country that enjoys great authority in the international arena today, are all in vain.

This was continued with other prominent human rights defenders: the lawyer Intigam Aliyev xxi, who has submitted more than 200 cases to the European Court of Justice, was jailed on charges of tax evasion, engaging in illegal business, and abuse of authority. The well-known RFE/RL investigative journalist Khadija Ismayilova, who has investigated corruption cases associated with the Aliyev clan over the past decade, was charged with driving someone to attempt suicide. Aside from the multiple arrests, since the start of the year, law enforcement agencies have frozen the bank accounts of more than 20 local and foreign non-governmental organisations. Several prominent NGO figures such as the Institute for Reporters' Freedom and Safety director Emin Huseynov, Women's Crisis Center director Matanat Azizova, International Media Support manager Gulnara Akhundova, and Center for National and International Studies president Leyla Aliyeva have also had to leave the country after facing the threat of arrest on criminal charges. In March 2016, some of the named political prisoners were pardoned by President Aliyev, however, that was followed by the new ways of arrests already occurring in August.

Since 2018, Azerbaijan aggressively started promoting the country's implemented sustainable development goals (SDG). The national priorities of the country include: SDG 6, clean water and sanitation; SDG 7, access to energy; SDG 8, decent work and economic growth; SDG 10 reducing inequality; SDG 12 responsible consumption and production; SDG 13, climate action; SDG 14, life below water; SDG 15, life on land; and SDG 17, partnership for sustainable development. The ILO identified Azerbaijan as a focus country in the region with respect to the implementation of the SDG 8 and the 2030 Agenda. It is notable that one of the strategic objectives of Azerbaijan in the framework of SDGs as national priorities is to become the leading trade and logistics hub of Eurasia by developing its transit and transport services through new infrastructure and investment projects. However, no information regarding plans to improve the country's human rights record have been provided.

It is to be noted that, on December 5, 2017, the Council of Europe's (COE) Committee of Ministers triggered formal infringement proceedings against Azerbaijan for the State's repeated refusal to comply with the 2014 judgment in the European Court of Human Rights (ECtHR) case of *Ilgar Mammadov v. Azerbaijan*. As a result, the ECtHR needs to review Azerbaijan's compliance with Article 1 (obligation to ensure the rights and freedoms of the Convention) of the European Convention on Human Rights (ECHR); if the court finds the State in violation of the ECHR, Azerbaijan will be referred back to the Committee of Ministers, and it could lose its voting rights or potentially even its membership in the Council of Europe<sup>29</sup>.

Meanwhile, the EU and US investments and support for the development of energy projects in Azerbaijan continues rapidly. As a result of the cooperation on such energy projects, today the EU is Azerbaijan's main trading partner, accounting for around 48.6% of Azerbaijan's total trade<sup>30</sup>. Furthermore, the 2017 EC progress report on Azerbaijan<sup>31</sup> stressed that "The EU's Strategic Energy Partnership with Azerbaijan to improve energy security and the diversification of energy supplies has been illustrated by the ongoing implementation of the Southern Gas Corridor." Additionally, the problems for ordinary Azeris are increasing.

It is noticeable that new partnership priorities<sup>32</sup> agreed upon by Azerbaijan and the EU on 11th July 2018 does not specifically mention the development of democracy and human rights protection. The document will lay the foundation for a new partnership agreement between Azerbaijan and the EU and is expected to be ready for signing in 2019. The Partnership Priorities document will also serve as the policy framework for EU-Azerbaijan financial cooperation for 2018–2020. Significantly, the European Parliament had already warned Azerbaijan as well as called to the Council, EU Commission, and the EU's foreign policy chief to clarify that it would not ratify a deal with Azerbaijan, a country that does not respect fundamental EU values and rights, unless it improves its human rights record and releases its political prisoners and prisoners of conscience<sup>33</sup>.

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<sup>29</sup> Council of Europe exercises historic infringement proceedings against Azerbaijan, December 2017, <http://www.ijrcenter.org/2017/12/19/council-of-europe-exercises-historic-infringement-proceedings-against-azerbaijan/>

<sup>30</sup> Trade picture, Azerbaijan, European Commission, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/azerbaijan/>

<sup>31</sup> Report on EU – Azerbaijan relations in the framework of the revised ENP, December 2017, [https://eeas.europa.eu/sites/eeas/files/report\\_on\\_eu-azerbaijan\\_relations\\_in\\_the\\_framework\\_of\\_the\\_revised\\_enp.pdf](https://eeas.europa.eu/sites/eeas/files/report_on_eu-azerbaijan_relations_in_the_framework_of_the_revised_enp.pdf)

<sup>32</sup> Partnership Priorities between the EU and Azerbaijan reinforce the bilateral agenda, 11/07/2018.

[https://eeas.europa.eu/headquarters/headquarters-homepage/48244/partnership-priorities-between-eu-and-azerbaijan-reinforce-bilateral-agenda\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/48244/partnership-priorities-between-eu-and-azerbaijan-reinforce-bilateral-agenda_en)

## The Constitutional Guarantees of Rights of Azerbaijan citizens

The Constitution of the Republic of Azerbaijan, adopted in 1995, agreed to respect and protect human rights and freedoms as a duty. A legal framework has been established for separate areas to ensure the rights and freedoms set out in the constitution, both regarding political as well as socio-economic rights, based on the Universal Declaration of Human Rights in the "Constitution Act on the Independence of the Republic of Azerbaijan" adopted on October 18, 1991, on the International Covenant on Economic, Social, and Cultural Rights (IC ESCR), and the International Covenant on Civil and Political Rights adopted on May 12, 1992. In 1992, the Republic of Azerbaijan joined the International Labor Organization and joining its 57th convention adopted the principles and norms set out there. It also becomes the party of the European Convention on the Protection of Fundamental Rights and Freedoms in 2001.

In general, the Republic of Azerbaijan has joined most of the UN, OSCE and Council of Europe instruments on human rights and freedoms. By joining international conventions and agreements, Azerbaijan has adapted its legislation to the standards required by these documents and the acts mentioned above have become an integral part of the legislative system of the Republic of Azerbaijan. In practice, there are lots of the problems with the exercising of the above mentioned rights.

### The labor rights and social security

Azerbaijan ratified all fundamental ILO conventions. The country also ratified all governance conventions and 46 technical conventions (from 177). Therefore, in theory, the main criteria suggests that citizens of Azerbaijan have rights to decent work and wages, avoid discrimination between women and men, work in secure and safe working conditions, have equal opportunities for career advancement, advantage of vacation, right to form trade unions, and participate in their work and etc.

According to Article 38 of the Constitution of the Republic of Azerbaijan, in conformity with the articles of the Universal Declaration of Human Rights and Articles 9 to 12 of the Covenant on Economic, Social and Cultural Rights, the state is obliged to ensure dignified living and social protection. Social protection and social security expenditures constitute 13.3% of the state budget.

The country encounters increasing unemployment rates despite the official statistics that claim that only 5% of the workforce is unemployed with 9% of unemployment within youth that represents 29% of the population. However, experts believe that unemployment may be higher as the government's figures and indicators for unemployment do not meet international standards. Recipients of state-distributed land parcels and their families are automatically registered by the government as being employed. According to official figures, there are 800,000 people with state-distributed lands. These people and their able-bodied families are no longer considered unemployed<sup>34</sup>.

The unemployment increased during 2014–2017 when the country was hit by falling oil prices, the cuts visible both in oil as well as in the construction sectors. In addition, the country's minimum wage was AZN 130.00 (\$ 76.0) in 2018 which does not correspond to the minimum living wage which is 173.0 AZN (\$ 102.0), and the situation got even more distorted when, due to the devaluation of national currency since 2014, high

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<sup>34</sup> Azerbaijan's unrecognised army of unemployed, 5.09.2017, <http://oc-media.org/azerbaijans-unrecognised-army-of-unemployed/>

inflation hit the country. In 2016, annual year-end inflation was 15.6% that declined by 7.9% in 2017. The high inflation rate recorded for food items (9.4% y-o-y) was due to a high external demands for agricultural products. The high inflation rate adversely affected household incomes and reduced real purchasing power. In 2017, the increase in the minimal cost of living and nominal average wages by 11.6% and 6%, respectively, was not sufficient to compensate for higher prices. As a result, according to the World Bank's estimations, poverty likely increased in 2017 and was probably worsened by the 50% cut in the coverage of the country's most important social assistance program<sup>35</sup>.

There were almost 309 amendments of the Labor Code (EA) Azerbaijan since its adoption in 1999. However, these amendments did not guarantee labor rights and/or improved labor safety. Critics often point out that around 60% of the MPs in the Azeri Parliament are usually employers. Therefore, it should not be surprising that the Labor Code does not ensure employees' rights protection. With the amendments to the Labor Code, the legislation now allows one to hire workers for fixed-term contracts even when the job's nature is permanent. This provides the employer with the power to dismiss the unwanted worker easily and without any justifications.

According to experts, as the government does not rely on domestic taxation but rather on the oil economy, it has weak incentives for the tax system that would be beneficial for employees. Despite the fact that registration of the employment contracts now can be done via e-services, as it was introduced by the Ministry of Labor and Social Protection of Population in 2015, the problem still exists, and around 1.5 million people are considered to be employed without labor contracts. This indicates means that the same number of people work without involvement in social insurance which is essential for retirement.

The most common violations in Azerbaijan include the conclusion of fixed-term contracts for one to three months, deprivation of annual leave days granted by the law, overtime without extra payment, and failure to transfer social insurance taxes. Another area of concern is the implementation of the Occupational Health and Safety standards especially in oil Industry and construction sector.

Trade unions play almost no role in the protection of employees' rights. Despite the attempts to establish independent trade unions in accordance with the law, in practice it is impossible due to the influence of the so-called governmental Confederation of Trade Unions of Azerbaijan and trade unions along with employers in state organisations. Except for some foreign companies, trade unions exist almost in all enterprises. All the employees are automatically counted members of trade unions and those who refuse to join are always under pressure. For the maintenance of trade unions, 1–2% of mandatory membership fees is levied on the salary of the employees. The private employers and international companies operating in Azerbaijan also prevent the creation of trade unions, threatening employees with dismissals. According to some assessments including ITUC (International Trade Union Confederation)<sup>36</sup>, Azeri nationals employed by foreign companies, notably oil companies, often face discrimination. In many cases, they are hired on short-term contracts for as little as three months and then dismissed.

Moreover, in 2017, Azerbaijan changed the retirement age<sup>37</sup> and eliminated the concept of “basic part of pension”. Changes in the legislation in the pension sphere provide for a complete transition to the principle of

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<sup>35</sup> Country Snapshot Azerbaijan, World Bank, April, 2018  
<http://pubdocs.worldbank.org/en/313721524209608491/Azerbaijan-Snapshot-Spring2018.pdf>

<sup>36</sup> Discrimination, ITUC, <https://www.ituc-csi.org/discrimination>

<sup>37</sup> women from 60 to 63, men from 63 to 65 year

insurance which, according to governmental claims, will enable citizens to receive the full amount of the funds paid during the entire work activity. However, in reality, the government shifts responsibility from the state to the shoulders of the future pensioners. Since 2017, pensions have been issued only to those pensioners who reached the age limit and have enough pension capital that has been accumulated through social insurance payments over the years<sup>38</sup>.

## Economic Development and Property Rights

According to Article 13 of the Constitution of the Republic of Azerbaijan, property in the Azerbaijan Republic is inviolable and protected by the state. However, the state does not represent the real guarantor of the property rights, especially when with regard to infrastructure and energy projects as well as during the so-called state interest projects.

Perhaps the most severe violation of property rights occurred during the construction of the BTC pipeline and Southern Gas Corridor project and the construction of the highways when the properties of thousands of people were illegally seized, without adequate compensation and so on. It should be mentioned, that deprivation of the property owners often took place in the projects supported by international organisations such as the World Bank, EBRD, ADB, as well as state organisations. During construction of the Oguz-Gabala-Baku water pipeline (2007–2011) financed by the State Oil Fund of the Republic of Azerbaijan, the rights of 4,000 landowners affected by the pipeline were violated. Most of the property owners affected are still unable to receive compensation for their losses or damage.

However the largest scale of violation of property rights reached its peak in 2008 in Baku when Azerbaijan started to use the oil revenues for pet projects such as the renovation of the Baku city centre. Between 2008 and 2012, as a result of an urban renewal campaign in Baku, thousands of homeowners were evicted from their houses in many parts of the city to construct parks, business centres, and elite residential areas. These evictions became more problematic in 2012 when Baku was starting to prepare for the Eurovision Song contest, and later for the preparation of the first European Olympic Games of 2015. Thousands of people remain without proper compensation and have lost their properties. As a norm, according to testimony, during the demolition process, “workers typically remove furniture, household goods, and other personal property, placing items on the street or in some cases taking them to a warehouse for owners to recover later. Property owners complained that many of their belongings were damaged, destroyed, or lost during the evictions. Some homeowners were unable to recover personal property that remained in the building as it was demolished.” Further, “Dozens of homeowners filed complaints with the courts, but the authorities’ repeated failure to appear for hearings has caused these proceedings to be delayed for months at a time. In several cases, authorities have demolished homes.” According to the Institute of Peace and Democracy xxix, 60,000 people were deprived of their property during the period of 2008–2012, and around 80,000 people were expecting the same fate to befall them from 201. In spring 2014, there were a number of citizens’ demonstrations held by people forced out of their houses without adequate compensation.

There are hundreds of ongoing disputes in Azerbaijan courts against violation of property rights. More than 200 cases on property rights are in the European Court.

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<sup>38</sup> <http://www.kavkaz-uzel.eu/articles/321110/>

## Environmental Rights

According to Republic of Azerbaijan's constitution article, "Everyone has the right to live in a healthy environment. Everyone has the right to collect information about the environmental situation and to reimburse the damage caused to his health and property in connection with the environmental offense."

Azerbaijan faces serious environmental challenges including industrial pollution of the Absheron peninsula, persistent poor water quality in the Kura-Araks basin as well as the increased degradation of arable lands and pastures and pollution in the Caspian Sea<sup>39</sup>. Despite the fact that environmental legislation that addresses most aspects of environmental management exists in Azerbaijan, there has been uneven progress on the legislative and regulatory front with advances in some areas and stagnation in others. For instance, significant progress has been made in waste the management and energy sectors.

The extractive sector is most polluting sector in the country, however, in accordance with the estimation of the experts, administrative and criminal charges are not filed against companies operating in the area and the state is satisfied with the material compensation that is paid. According to official sources, the oil companies operating in the country pay significant fines due to the violation of environmental legislation.

Different monitoring and evaluations both by state authorities as well as independent experts reveal that oil and gas production has tremendous impact on the country's environment and Azeri citizens' health due to the high level of land pollution through oil, disposal of contaminants to the surface and ground water including the Caspian Sea and air emission including volatile organic compounds and gas flaring, the oil spills during the numerous accidents, and pollution from expired technical equipment. Due to weak pollution control mechanisms and prevention systems, the Azerbaijan government violates numerous international agreements signed.

All these may have significant health impacts on affected populations. The comparative analysis carried by OWPRO in five regions of Azerbaijan<sup>40</sup> provides a possibility for this conclusion. There is a significant difference between the health of the population in three regions where oil projects are undertaken (Salyan, Neftchala and Shirvan) and the two regions where they are not undertaken (Agjabadi and Ujar).

The study also shows that Particullar Matters (PM10 and PM2.5) as well as sulfur dioxide and nitrogen oxide emissions in atmosphere in the Salyan region is 268 times more than the Agjabadi region. The amount of contaminants released into the atmosphere in the Neftchala district is twice more than Ujar, and in Shirvan it is 108 times more than in Ujar. The comparison of the statical data shows that in 2016, there were 4–6 times less incidens of respiratory and cardiovascular diseases in the regions without oil and gas production.

## Public Participation

The environmental legislation in Azerbaijan requires participation of public and civil society organisations in environmental decision-making<sup>41</sup>. However, the restrictions on freedom of the speech as well as the draconian laws on civil society coupled with poverty and low public awareness of environmental impacts

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<sup>39</sup> Azerbaijan Country Environment Note, 2014, ADB, <https://www.adb.org/sites/default/files/linked-documents/cps-aze-2014-2018-sd-04.pdf>

<sup>40</sup> <http://nhmt-az.org/frontend/pages/human-rights-inner.php?id=145> h

<sup>41</sup> Article 73 of the Law of the Republic of Azerbaijan "On Environmental Protection"

prevent public participation practices even when the mere formalities are met by project developers. In situations where communities are not given proper information and consultation, public participation cannot be practiced.

The governmental officials, especially at the local level, have almost no knowledge on the Aarhus Convention and the commitments taken by Azerbaijan under this convention, and therefore they don't consider its requirements for implementation. The Aarhus Centres created by the government all around the country for informational, educational, and consultational activities does not fulfill its function. This should not be surprising in this situation in which when communities and their representatives speak up and raise their concerns, they are met with threats and intimidation. As a result, the big companies use the momentum and lack of legal and rights information to pursue their interests in "land grabbing" and expansion of the environmentally dangerous enterprises – livestock factories.

## State of Civil Society and Human Rights Defenders

In 2009, President Aliyev consolidated his authoritarian rule as a result of the March 2009 referendum which eliminated presidential term limits. Seen by major political powers not as a "dictator" but rather as "the leader of a country with an emerging democracy that has a long way to go to become a healthy democracy"<sup>xv</sup>, makes the situation much worse.

The vote down of the report on the political prisoners in Azerbaijan at the Parliamentary Assembly of the Council of Europe (January 2013) was considered to be a victory of 'caviar diplomacy' by Azerbaijani human rights groups and has opened opportunities for the Azerbaijani authorities to further crack down on and arrest political activists including the presidential candidate as well as introduce restrictive laws with respect to freedom of expression, association, and assembly. According to the Freedom House, over the last few years, Azerbaijan has failed to improve its record and the country's status has again been declared "not free" <sup>xvi</sup>. According to a recent report by the Committee to Protect Journalists (CPJ), Azerbaijan ranks among the ten most censored countries in the world, trailing behind nations such as Eritrea and North Korea <sup>xvii</sup>.

On October 18, 2014, the Law of the Republic of Azerbaijan on Amendments to the Law on Grant defines that NGOs and their staff violating this law may be charged with criminal cases including imprisonment. The law restricts receiving grants and supports the development of the network of so-called GONGOs all around Azerbaijan. The government attempts to prevent civil society development through so-called public control committees that are established under the Ministry of Labor and Social Protection of Population, the Ministry of Justice, the Ministry of Health, the Ministry of Education, the State Committee for Family, Women, and Children Affairs, the Ministry of Youth and Sport, local executive authorities, and others. These committees consist of the members of progovernmental NGOs created by the ministries and the MPs.

Furthermore, independent civil society groups cannot hold events in the regions without permission from the Presidential Administration. Only with the permission of the PA, only persons from local executive authorities may attend trainings and events. Independent NGO leaders are not allowed to participate in programs of public TV and radio stations.

In order to respond to the concerns to the EU and the US, the government established the Human Rights Working Group, however, it only exists on paper. The lack of independent media makes the civil society

leaders and human rights defenders' position unknown in public and coupled with restriction of funding possibilities, decreases their ability to monitor and scrutinise the activities of the government.

## Country Specific recommendations

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In order to support Azerbaijan's development, it is important to ensure that international organisations and the EU and the US, that play a major role in the Azerbaijan economic development, work with the Azerbaijan government in the following manner:

By consistently underlining the importance of the rights of freedom of expression, assembly, and association for participatory, sustainable, and accountable development as a precondition of further cooperation

Without strong, independent CSO and Media organisations that would monitor and spread awareness about the problems that ordinary citizens experience during the so-called developmental process, it's almost impossible to implement the socio-economic and environmental rights that are guaranteed by the Constitution of Azerbaijan and International Law.

The civil society and independent media organisations in Azerbaijan should be foremost priority for multilateral and bilateral development aid based on the background of work with the Azeri government to ensure the realisation of human rights that are critical for development and have implications for the development's effectiveness.

During the implementation of the projects and programs, the international organisations including international financial institutions as well as donor governments should,

systematically analyse the situation with respect to freedom of expression, assembly, and association, and the realisation of other human rights which are critical for development and the implications for development effectiveness and project/program outcomes.

emphasise to Azeri governments the adverse impact the proposals that hamper protection of these rights would have on development effectiveness and the investments in the country.

## Georgia

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Georgia signed an Association Agreement with EU in 2014 and committed to harmonizing its legislation to EU acquis. However, Georgia's democratic development in 2017–2018 could be considered as being significantly backwards in comparison with previous years. The undergoing reforms for number of years including judiciary, decentralisation, freedom of media and so on have been stalled. The informal governance by former prime minister Ivanishvili and the consolidation of power by the ruling party had been strengthened, and overall, the situation by the end of 2017 and beginning of 2018 had started to deteriorate. The constitutional reform handled by the ruling party failed to seek and achieve broad public and political consensus between various political parties and civil society groups, and discussion polarized the political debate in the country. The concerns related to media freedom include the pressure on and interference in

editorial policies of independent media organizations due to the number of attacks to the businesses that owned the media<sup>42</sup>.

The civil society actors and international organizations as well as the US state department, freedom house, human rights watch etc. start raising the concerns regarding the speed and directions of the reforms. However, this was without appropriate responses from the government. The shortfalls of Georgian democracy have the potential to negatively affect the overall development of the country as well as the EU integration path.

Georgia's strong growth during the past decade has not delivered commensurate declines in unemployment and poverty. Infrastructure gaps, agricultural stagnation, and an entrenched skill mismatch in the labor market have dampened the impact of growth on poverty reduction. The overall economic growth in 2016–2017 was positive (GDP growth, 5%), led by the trade, construction, and transport sectors in an improved external environment. Georgia's foreign trade turnover increased by 13.8% in 2017 y/y, reaching USD 10.7 billion<sup>43</sup>. Trade turnover with the EU-member states stood at USD 2.84 billion in 2017<sup>44</sup>, a 2% increase compared to 2016. The major export products lie in the field of agriculture<sup>45</sup>.

However, the UNICEF 2017 Population Well-being Research Report shows that despite the 5% GDP growth in 2017, poverty figures have increased in Georgia over the last two years. For example, the share of the population that is below the poverty level has increased, while the highest growth of poverty was registered among children. The share of the population living in general poverty has increased from 18.4% to 21.7%<sup>46</sup>, while the number of children living in general poverty has increased from 21.7% to 27.6%. The relative poverty figures<sup>47</sup> have also shown a tendency of growth, where the number of children who live below the relative poverty line has increased from 26.8% to 31.6%. The poverty has increased despite increased domestic household income due to the significant increase in consumer prices (food, healthcare, transport) and the depreciation of the national currency. The research also indicates that inflation affected low-income families more than high-income families<sup>48</sup>.

The failure to translate economic growth into rural poverty reduction rests partly in the nature of Georgia's growth, which has been based on financial services, information technology, mining and construction. Agriculture remains important in Georgia, where 50% of the population works in agriculture and contributes to about 25% of exports, although the share of agriculture in total GDP has declined significantly (from 12% in 2006 to 9.4% in 2014)<sup>49</sup>. The Gini coefficient by total consumption expenditures, according to GeoStat, increased by 1% in comparison with 2017 and reach 45, the highest in the region<sup>50</sup>.

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<sup>42</sup> Iberia TV Journalists Speak about Threat of Shutting Down TV Channel, <http://georgiatoday.ge/news/12268/Iberia-TV-Journalists-Speak-about-Threat-of-Shutting-Down-TV-Channel>

<sup>43</sup> National Statistics office of Georgia [http://www.geostat.ge/index.php?action=page&p\\_id=134&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=134&lang=eng)

<sup>44</sup> National Statistics office of Georgia [http://www.geostat.ge/cms/site\\_images/\\_files/english/bop/2018/Export%20\\_Country\\_Group%201995-2018\\_eng.xlsx](http://www.geostat.ge/cms/site_images/_files/english/bop/2018/Export%20_Country_Group%201995-2018_eng.xlsx)

<sup>45</sup> National Statistics office of Georgia [http://www.geostat.ge/cms/site\\_images/\\_files/english/bop/2018/Export-Products-2000-2018\\_eng.xlsx](http://www.geostat.ge/cms/site_images/_files/english/bop/2018/Export-Products-2000-2018_eng.xlsx)

<sup>46</sup> when a person's daily consumption is less than USD 2.5 per day, which is GEL 165.5 per month for an adult

<sup>47</sup> (relative poverty shows what part of the population consumes less than 60% of the median [average] consumption of the population which is GEL 177 per month for an adult)

<sup>48</sup> UNICEF Annual Report 2014, Georgia, Available at- [https://www.unicef.org/about/annualreport/files/Georgia\\_2017\\_COAR.PDF](https://www.unicef.org/about/annualreport/files/Georgia_2017_COAR.PDF)

<sup>49</sup> <http://pubdocs.worldbank.org/en/741601460152922821/Georgia-Snapshot-eng.pdf>

<sup>50</sup> National Statistics office of Georgia [http://www.geostat.ge/cms/site\\_images/\\_files/english/calendar/households/2017/Gini%20Coefficients\\_2017.xls](http://www.geostat.ge/cms/site_images/_files/english/calendar/households/2017/Gini%20Coefficients_2017.xls)

## Socio-economic and environmental rights under the Constitution of Georgia

On March 23, 2018, the Parliament of Georgia approved a new set of amendments to the constitution, which has been in force from August 24, 1995. The constitution establishes a democratic social order, economic freedom, and a rule-of-law based social state in order to secure together with other issues of universally-recognized human rights and freedoms. It should be mentioned that Georgia in general is characterized by frequent changes of the constitutional law, and in 2010, there were also a set of amendments that has had quite some impact on human rights, especially on the definitions of environmental and other socio-economic rights.

The constitutional changes from 2018 clearly acknowledge Georgia as social state, where the “State shall take care for promoting principles of social justice, social equality and social solidarity within the society,” for “equal socio-economic development over the whole territory of the country,” “for ensuring healthcare and social protection, subsistence minimum and decent housing for citizens,” “promote employment of citizens,” as well as take “care for development of education, science, culture and sports, and protection of cultural heritage<sup>51</sup>.”

### Right to Environmental protection

There is a new article in the constitution, “which combines provisions under the umbrella principle of social State. This novelty serves to reinforce constitutional legal importance of the principle of a social State. Even though constitutional law doctrine does not consider this principle to have normative function but rather presents itself as a general policy objective of a State, its inclusion in the Constitution carries important connotation determining the State’s conceptual approach to social responsibility before individuals<sup>52</sup>”.

Article 37 was reformulated according to the Constitutional Committee to strengthen the environmental rights of citizens of Georgia. According to the Constitution “Everyone shall have the right to live in a healthy environment and to use the natural and cultural environment. Everyone shall be obliged to protect the natural and cultural environment.” The statement also stress that the government should ensure sustainable development, through “taking into account the interests of current and future generations, the State shall guarantee environmental protection and rational use of nature in order to ensure a safe environment for human health and maintain sustainable development of the country in line with the ecological and economic interests of society.” It also gives rights to “Everyone” to “have the right to complete, objective, and timely information about environmental conditions.” In Itself, the upgrade of rights sound positive, however, it’s not clear how some of those statements can be translated to norms. For example, what is the legal definition of “Everyone shall be obliged to protect the natural and cultural environment?”

The constitution does not define the right to public participation in the decision-making process regarding environmental matters, which represents the obligations taken by the country under the UN EC Convention on access to information, public participation, and access to justice on environmental matters (Aarhus Convention) since 1998. However, the access to information and public participation in environmental decision making remains problematic due to the non-existence of formal procedures, both in case of

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<sup>51</sup> The Constitution of Georgia, Chapter 1, article 5, <https://matsne.gov.ge/en/document/view/30346?publication=35>

<sup>52</sup> Venice Commission Comments on constitutional amendments, Georgia, 2017  
[/www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2017\)027-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)027-e)

respective projects as well as in terms of policy formulation. Ineffective public participation during decision making regarding the projects and policy work have a significant impact on environment.

Over the past decade in Georgia, in all areas where the public had the opportunity to participate in the decision making of development projects, these opportunities were cancelled altogether or altered in a way that the effective public participation became impossible and was downgraded to a complete formality. The energy sector also belongs to such an area. For the last decade, public participation in the decision-making process regarding development projects, including energy projects, was almost non-existent and a mere formality. The Environmental Impact Assessment was not required for the extraction industry (gas, oil, coal) as well as projects developed by the state entities. In addition, the EIA studies themselves are a mere formality as the government approves projects even with inadequate EIA just to ensure the attraction of investments<sup>53</sup>. As a result, even in the case of the construction of small hydro plants, the projects were creating huge problems in terms of losing biodiversity in the river basins and causing shortage of drinking and irrigation water in downstream communities<sup>54</sup>.

In accordance with the requirements of the Association Agreement on June 1, 2017, the Environmental Assessment Code was adopted. The code established new rules for the assessment of likely impacts of the planned projects (activities) and for issuing an Environmental Decision (type of permitting document which grants a developer the right to implement the project) by the concerned authority (the Ministry of Environmental Protection and Agriculture). The code also establishes the obligations of the ministry to ensure public participation in decision making. Adoption of these rules should certainly be welcomed, as during the last decade, before the adoption of the code, the public had no opportunity to take part in the decision-making process of the environmental authority. However, at the same time, it is important to note that the Environmental Assessment Code concerns only the assessment of the environmental impacts of planned projects (with significant environmental impacts) and the participation of the public in the process of making decisions by the Ministry of Environmental Protection and Agriculture. The code does not apply to decisions on energy projects by the sectoral authority—the authority responsible for energy sector.<sup>55</sup>

## Property rights and Expropriation

The Constitution of Georgia (Article 19) recognizes and guarantees the right to own and inherit property. But at the same time, it allows the possibility to restrict this right in cases of public interest prescribed by law. The third paragraph of the article formulates and recognizes that Expropriation of Property is admissible for “urgent public needs,” based on a court decision or, in the case of “urgent necessity,” under the organic law provided that preliminary, full, and fair compensation is made. Two laws in Georgia on “Rules of Expropriation of Property for Pressing Social Needs” adopted in 1999 and the second Organic Law of Georgia on Rules for Expropriation of Property in the Public Interest under Exigent Circumstances, adopted in 1997, define the eminent domain rules in Georgia.

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<sup>53</sup> Challenges of approximation of Georgian Environmental Impact Assessment (EIA) system to relevant EU requirements, 2016, Green Alternative, <http://greenalt.org/news/challenges-of-approximation-of-georgian-environmental-impact-assessment-eia-system-to-relevant-eu-requirements/>

<sup>54</sup> Off Balance, 2013, CEE Bankwatch Network, [http://greenalt.org/wp-content/uploads/2013/04/Georgian\\_energy\\_sector\\_web.pdf](http://greenalt.org/wp-content/uploads/2013/04/Georgian_energy_sector_web.pdf)

<sup>55</sup> Public participation in the decision-making on energy projects, 2018, Green Alternative, [http://greenalt.org/wp-content/uploads/2018/07/public\\_participation\\_energy\\_projects\\_policy\\_brief\\_ENG\\_2018.pdf](http://greenalt.org/wp-content/uploads/2018/07/public_participation_energy_projects_policy_brief_ENG_2018.pdf)

Reviewing the case of property rights restriction and expropriation in Georgia shows that the majority of cases are connected with infrastructural projects. It appears that the party interested in acquiring the rights to the expropriation and the agency that decides whether there is “a public need” are the same organizations. The Commission that is supposed to independently advise the minister of economy and sustainable development of the public need is, as usual, staff of a different ministry that often represents interesting parties. Even more interesting is that the Commission itself never discuss the need and purpose of the expropriation, rather than the compensation, issues.

The development of the infrastructural sector in Georgia, which implies building and reconstruction of roads, railroads, port infrastructure, airports, cargo terminals, and logistics centers as well as energy generation and transmission, gives the indication that the cases inadequate compensation and expropriation of property rights may increase. Most of the projects are deemed by government as “the projects of special national and public importance.” The probability is high that the projects affect privately owned lands or lands of traditional or common use. It’s interesting that in the energy sector, in order to ensure the possibility of expropriation, the developers have special articles in Memorandums of Understandings with the Government where the state directly recognizes the high public necessity of the project without justifying its need. For instance, according to the last amendments in the Khudoni HPP contract<sup>56</sup>, the following wording has appeared (4.12(I)): “State acknowledges that this project is of high public necessity...”. As a result, more than 1400 hectares of lands that include agricultural lands, houses of local people, school and even part of the state road, which was granted to the company for symbolic 1 USD has been justified.

## Access to land rights

Land has been recognized as a primary source of wealth, social status, and power. It is the basis for shelter, food, and economic activities. Access to water and other resources, as well as to basic services such as sanitation and electricity, is often conditioned by access to rights in land<sup>57</sup>. The willingness and ability to make long-term investments in arable land and in housing is directly dependent on the protection that society affords the holders of rights. Thus, any concept of sustainable development relies heavily on both access to property rights in land and the security of those rights. Over the past decades, the demand for land, especially agricultural land, has increased, both globally and at the national level. In Georgia, this trend is manifested in two ways: (1) increased demand for land for agricultural projects; (2) increased pressure on the land caused by non-agricultural activities (construction of roads and railways, pipelines, hydropower stations and other infrastructure projects, mining and other types of manufacture). This pressure is often exercised with the land that is formally or informally (e.g. traditionally) owned or used by local communities. This trend of development, given weak land management systems, unfortunately often results in the violation of tenure rights and conflict with local communities due to the loss or restriction of access to the land and related resources. This ultimately impedes the projects, poses a threat to stability in the local and national level, and puts food security at risk.

In Georgia, access to land is quite a problematic issue. As a result of the number of unsuccessful land titling reforms, the process of registration of land property rights is often complicated and lasts for more than a year. The need for the rights of land owners and those who use land—have legitimate right to it but have not

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<sup>56</sup>Agreement Between Georgian Government and Transelectrica LTD on Khudoni HPP construction, 2015, <http://www.energy.gov.ge/projects/pdf/pages/Shetankhmeba%2009092015%201169%20geo.pdf>

<sup>57</sup> Land Tenure Guidelines, FAO, <http://www.fao.org/docrep/005/Y4308E/y4308e04.htm>

registered property rights in a public registry—to not be violated during the implementation of infrastructural and development projects, is essential. In addition, in some regions of Georgia like Svaneti, the traditional land ownership practices are existent. It is also important that the rights and interests of the local population who use common spaces (pastures, parables, etc.) and depend on it are not infringed.

For example, in the case of the Nenskra hydro-power plant, one of the most important conflicts appeared due to the access of the land rights. The Nenskra dam area is inhabited by Svans, an ethnic group that leads a unique, self-sufficient lifestyle. Svans have kept their traditional ways of life, which is predominantly based on subsistence farming and livestock grazing. Svans fully comply with UN's criteria on "indigenous peoples" and its underlying principle of self-identification, as Svans self-identify themselves as Svans. The Svan language is recognized by UNESCO as being endangered and should be protected. It's important that Svans maintain a traditional justice and governance system.

It's interesting that the Nenskra ESIA recognizes that the Svaneti land tenure system is characterized by the co-existence of a legal system and locally-recognized customary land rights. While the project proponents claim that they will reimburse the land in spite of the absence of formal land ownership-status, the ESIA does not specify how the permanent loss of customary land for people who have no formal land titles or recognizable claims will be handled. On the one hand, the project sponsor will assist traditional landowners in registering their land when it is possible. On the other, some of these lands are listed as property of a state forest fund that is characterized as land with non-recognizable claims. The Land Acquisition and Livelihood Restoration Plan (LALRP) does not provide answers to these questions. It has also not provided a full compensation scheme that would cover the associated facilities and also impact local's land permanently. The LALRP fails to address the impacts of the 220 kV transmission line, the Nakra road upgrading and widening, 35 kV and 110 kV electric service lines, and the locations of the disposal areas and the construction camp at the powerhouse.

## Gender Rights

The Constitution of Georgia recognizes the equality principle and forbids discrimination. It mentions: "Citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging." 2018 amendments of the Constitution make it stronger, adding substantive and clear gender equality wording to formal equality wording, "state shall ensure equal rights and opportunities for men and women. State shall implement special measures to ensure substantive equality between men and women and to eliminate inequality."

Through this, the state of Georgia denounces discrimination against women/girls and enforces policies and legislation on both the domestic and international level to protect them.

In Georgia, energy sector-related impacts on gender are studied only in the case of large infrastructural projects that may cause involuntary resettlement, but only in cases when those projects are funded by International Financial institutions. In all other cases, gender inequality (women's restricted participation, employment opportunities, health impacts and benefits) aren't considered as a problem and it does not matter how significant their impacts may be. The issues of women's misrepresentation and mistreatment during decision-making processes related to the energy infrastructure projects are substantial. As a result, projects are developed in such a way that they do not address and mitigate particular gender impacts (health,

employment, workload, poverty, etc.). The impact of the energy sector on gender in Georgia still does not get enough attention both from the public as well as decision makers' side. Meanwhile, according to the World Commission on dams, "large dam projects typically build on the imbalance in existing gender relations. For affected communities dams have widened gender disparities either by imposing a disproportionate share of social costs on women or through an inequitable allocation of the benefits generated". Some of these wider impacts may include domestic violence and sexually transmitted diseases, and problems during land compensation when planning is poor and gender blind and needs to be addressed by Georgian authorities. However, almost all the Environmental and Social Impact Assessments prepared by companies in Georgia are missing the gender impact analysis. In few of the ESIA's, parts of the gender analysis are presented as a requirement of the donor. However, as there is no legal requirement from the side of the state, the mitigation measures may not be implemented, and there would be no fine from the side of authorities.

## Labor rights

The 2018 Constitution newly formulates the protection of labor rights. It specifically says, "Everyone shall have the right to establish and join public associations, including trade unions." It prohibits forced labor and is obligated to protect "labor rights of the citizens of Georgia abroad on the basis of international agreements governing labor relations", while specifying that "Organic law shall define protection of labor rights, fair compensation for work and safe, healthy working conditions, as well as working conditions for minors and women".

Labor rights protection represents a significant part of the EU-Georgia integration policy, highlighted both in PCA as well as in ENP Action Plans, as well as smoothly transferred in the Visa Liberalisation Action Plan. The New Labour Code has been adopted in 2013, as a precondition of the signature of the Association Agreement. The EU-Georgia Association Agreement and Association Agendas for 2014–2016 and 2017–2020 are also underlined as a priority of the establishment of the Labour Code in line with ILO standards.

The most urgent priority, Agenda 2017–2020, ensures that the Labor Inspection system in the Occupational Health and Safety area has supervision functions and removes restrictions to the powers of inspectors in existing legislation<sup>58</sup>. The absence of effective supervision and enforcement of labor standards and rights is a mounting concern, especially in the light of a series of severe accidents at work in the last few years. From 2011 to 2016, 776 people were injured and 270 died as a result of work-related accidents of these were while conducting their professional duties. In 2017 alone, the death toll reached 41 and 77 were injured. After a tragedy at the Tkibuli Elizbar Mindeli mine, which led to the death of four miners, the Ombudsman made a public statement calling for properly-implemented safety regulations, and an unprecedented statement was issued by the Ambassadorial Working Group.

The Georgian parliament has introduced new amendments for Occupational Health and Safety<sup>59</sup> that will cover only eleven types of preselected hazardous and dangerous sectors<sup>60</sup>. According to the passed amendments, the Labor Inspection Department under Georgia's Ministry of Health and Labor will be able to examine state institutions and private companies for violations of labour rights, without prior notice.

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<sup>58</sup> Page 22, [https://eeas.europa.eu/sites/eeas/files/annex\\_ii\\_-\\_eu-georgia\\_association\\_agenda\\_text.pdf](https://eeas.europa.eu/sites/eeas/files/annex_ii_-_eu-georgia_association_agenda_text.pdf)

<sup>59</sup> EC JOINT STAFF WORKING DOCUMENT, 19.01.2018 Available at -[http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_15654.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_15654.pdf)

<sup>60</sup> Georgia's parliament adopts labour safety law, 8 March, 2018, <http://oc-media.org/georgias-parliament-adopts-labour-safety-law/>

However, in case of violation of safety standards Inspectors can issue the fines from 100 GEL to 50000 GEL only in case of since 2018, while provisions concerning compulsory insurance of employees against accidents will come into force from 1 January 2019. Both Trade Union and CSOs criticized law, as it doesn't cover all labor sectors, as well as does not put incentives for employers to increase the occupational health and safety<sup>61</sup>. Meanwhile already in 2018 the death toll reached 30, where from 10 workers died in at the Tkibuli Elizbar Mindeli mine, during different accidents<sup>62</sup>.

## Conclusion

The Constitution of Georgia defines the guarantees for human rights. However, the lack of proper legislation and unclear definitions in the respective laws leave room for interpretation, resulting in the ignoring of human rights. On the other hand, there is no willingness from the authorities to enforce existing laws and safeguard mechanisms, therefore so-called economic agenda overtakes the protection of human rights.

In order to ensure protection of different socio-economic and environmental rights during the development of new energy and infrastructural projects, it's important that the government ensures public participation of the people in the decision-making process at the earliest possible stage, before any initial decisions are undertaken, as well as ensure the wider involvement of all stakeholder groups in policy development and implementation.

The country needs to ensure the proper implementation of Environmental Impact Assessment and Strategic Impact Assessment laws, as well as the continuation of the reforms in the environmental governance sector in line with the EU-Georgia Association Agreement.

The Georgian expropriation law needs further compliance with international standards that are established by the UN. The law allows general, so-called "open-ended provision" as it leaves room for applying the law to any infrastructure project without proper justification. Therefore, the law needs to establish detailed criteria for the definition of "public needs." It's important for the government to have appropriate policies, procedures, and relevant institutions in the field of involuntary resettlement caused by infrastructure projects, as it will allow the government to protect the rights of the affected population, including their rights to land and other property, adequate housing, and other internationally-recognized human rights.

Therefore, it is important that land owners and those who use land, whether registered in public registers or not, have legitimate access to their rights when implementing infrastructure projects. It is also important that the rights and interests of local populations who use common spaces (community lands: pastures, parables, etc.) and depend on it are not infringed. It is also noteworthy to mention that neither the law, related to forced displacement, nor any official agency responsible for this process exist in Georgia.

It is clear that the Gender Equality Strategy, in terms of addressing inequality regarding the energy sector projects, should be more result oriented and measure changes and improvements to the lives of women and

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<sup>61</sup> Georgian parliamentary committee 'approves higher fines' for labor safety violations 16 FEBRUARY 2018 BY OC MEDIA <http://oc-media.org/georgian-parliamentary-committee-approves-higher-fines-for-labour-safety-violations/>

men resulting from increased access to energy, including the reduction of energy poverty, application of energy efficiency, cleaner technologies, etc.

In terms of the labor rights, the most urgent is the Occupational Health and Safety Provisions and its implementation through supervision of the companies' activities. From another side, the challenge of prohibition of discrimination and equal treatment of workers, "still remains a significant challenge in Georgia both on normative and practical levels, which relates to enjoyment of different rights and is particularly evident in labor relations<sup>63</sup>."

## Case Study: Argitchi SHPP (Armenia)

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### Violation of rights: Right to participation, right to property, right to water, right to healthy environment

The Argitchi SHPP was constructed without relevant permits in 2012, and it has been operating since 2013. The absence of relevant permits violates a number of laws, including the RA Laws "On Environmental Impact Expert Assessment" and "On Lake Sevan"<sup>64</sup>, as the Argitchi River is a part of Lake Sevan's drainage basin<sup>65</sup>. The Lake Sevan Preservation Committee of the National Academy of Science of Armenia issued a negative opinion against all SHPPs, including the Argitchi SHPPs, as they have an adverse effect on biodiversity, endemic and red-listed species, and water quality.

One of the major deficiencies of the project was lack of public consultation with would-be-affected communities and landowners. This negligence led to an escalated conflict between the community and the hydro plant, as land was used without the provision of adequate land compensation to the village residents. The conflict grew in 2013 when the Argitchi water derivation pipes exploded and severely damaged the property of the 30 families in the Verin Getashen village. Ecolur's monitoring project revealed that the pipes were damaged several times as a result of technical accidents, resulting in a probable increase of engineering and geological risks to adjacent areas (such as landslides)<sup>66</sup>.

Despite numerous requests to the government, the company and the local administration, the villagers have not been compensated for damage to this day, regardless of the promises made by local authorities<sup>67</sup>. Meanwhile, it is now impossible to conduct any agricultural activities on a majority of the land, leaving people without their major source of income<sup>68</sup>.

The residents of another affected village, Nerqin Getashen, faced the loss of their harvest because of an absence of irrigation water during summer. "The Argitchi River used to have so much water that people

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<sup>63</sup> Inequality in Labour Relations (Georgian legislation in the context of EU equality directives), June 2018, EMC <https://emc.org.ge/en/products/tanastoroba-shromit-urtiertobebshi>

<sup>64</sup> <http://ecolor.org/en/news/sevan/documents-on-small-hpp-project-on-argitchi-river-expired/4072/>.

<sup>65</sup> The Sevan drainage basin is a complex ecosystem with freshwater reserves over 37 billion cubic meters at the height of 2000 meters above sea level. The residents of littoral communities use the water of the rivers and springs flowing into Lake Sevan for irrigation and drinking purposes due to their purity and high organoleptic properties

<sup>66</sup> <http://ecolor.org/en/news/energy/argitchi-shpp-monitoring-results-photos/8140/>

<sup>67</sup> <http://ecolor.org/en/news/energy/verin-getashen-residents-demanding-compensation-from-shpp-administration/7943/>

<sup>68</sup> <http://ecolor.org/en/news/water/signal-alarm-from-gegharkounik-region-again-argitvhi-shpp-pipes-broke/5273/>.

didn't feel any shortage, but as soon as the SHPP has been constructed, people are killing each other for water”<sup>69</sup>.

The monitoring visit in 2017 clarified that the situation is dire for the locals due to an increased water deficit, absence of adequate compensation for the damages, land acquisition, and degradation of the village's quality of life. Villagers, with support of Ecolur, prepared the initial submission of a formal complaint to KfW's compliance mechanism, DEG<sup>70</sup>.

The problem of SHPPs constructed over rivers flowing into Sevan Lake has become one of the most important issues discussed by the government. In 2015, President Serzh Sargsyan stressed, “The issue must be addressed through talking to people, making an arrangement with them, buying back those stations via the fund and dismantling them”<sup>71</sup>. However, the governmental decision about mechanisms to dismantle SHPPs on the rivers flowing in Sevan Lake has not been adopted yet.

## **Case study: Teghout mine, eminent domain, and European Court of Justice (Armenia)**

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### **Violation of rights: The right to applicant's property regarding the denial of access and lack of compensation, right to healthy environment**

Since 2014, Teghout CJSC (ACC) has exploited the Teghout copper and molybdenum mine in the Lori Region of Armenia. The program undermines 357 forest areas, while 81, 483 ha of agricultural land was expropriated under eminent domain law under the government decision (N1279 1.11.2007). The same decision promised numerous working places and the development of the villages through mining income. The expropriation included both, communities as well as private lands. Land plots were alienated from the owners at symbolic prices (20–30 cents for 1 sq. m.) and handed to Teghout Company for mining infrastructures. As a result of project implementation, the Debed and Shnogh rivers were polluted, and adjacent villages were under the influence of hazardous emissions of open pit mining.

In 2011, a number of residents of Teghout village submitted a complaint to the European Court of Justice (ECJ), claiming that this decision violated Article 1 of Protocol 1 (protection of property). The claimants jointly owned a plot of land of 0.383 hectares in Teghout. An initial appraisal valued the applicants' land at the equivalent of 409 euros (EUR) according to market value. Teghout Company subsequently offered EUR 470, including the additional 15% required by law, but the applicants considered the price to be too low. The company went to court in May 2008 to obtain an order to oblige the applicants to sign an expropriation sale agreement. Further proceedings that included more valuations led to a court order in April 2011, stating a sale price of EUR 575, which was upheld on appeal. One of the applicants' main arguments was that the price they had been offered did not take into account the value of the fruit trees on the land to them.

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<sup>69</sup> <http://ecolur.org/en/news/water/residents-in-nerqin-getashen-left-without-irrigation-water/9333/>

<sup>70</sup> Communication with KfW DEG is ongoing

<sup>71</sup> <http://ecolur.org/en/news/officials/armenian-president-proposes-to-dismantle-shpps-constructed-on-rivers-flowing-into-lake-sevan/7666/>

The decision of ECJ is fascinating. According to the ECJ, the Armenian “domestic law on expropriations was in line with the Convention requirements as it had been possible for the applicants to foresee in general terms how the market value of their property would be assessed. They were then able to challenge that valuation and so were given protection against arbitrariness.”

However, ECJ raised the issue that “the price had been set on the basis of the market value of the land in expropriation area.” It noted that “it was possible that the applicants would have had difficulties in buying another piece of land given the amount they were awarded. In addition, even a market price might not be adequate compensation for expropriation if the property was the main or sole source of income and the sum offered in exchange did not reflect that loss. In that connection, the applicants’ argument that as a family unit they were financially dependent on the land in question had not been considered by the domestic courts. Nor had they looked at whether the compensation would cover the actual loss involved in the applicants being deprived of their means of subsistence, or whether it at least covered the cost of equivalent land in the area.” As a result, the Court held that Armenia was to pay the applicants 10,000 euros (EUR) to cover all the heads of damage as well as EUR 2,000 with respect to costs and expenses.

The ECJ did not find any reason to doubt the authorities’ argument that the expropriation decision was in public interest, as the decision had been for the development of the economy and infrastructure from the exploitation of the copper-molybdenum deposit in reality.

In March 2018, Teghout CJSC, which develops the Teghout copper and molybdenum mine, stated that it terminate the employment contracts with 1032 out of 1190 employees and stopped mining works at the Teghout mine. The government of Armenia did not respond to this statement, despite the fact that the major conditions of resolution 1279.1.2007 were not implemented, including workplace and local development. The status of eminent domain presupposes economic and social development of the given territory at the very least as well as the availability of working places. On the contrary, the government stated that the latter is not the guarantor of Teghout CJSC with regard to the emerged problems. Moreover, during the mine operations, locals frequently raised concerns related to soil and water pollution and its impact on human health addressed to both, the company as well as the State authorities, but in vain.

The Local Shnogh Community Aldermen's council members clearly express their dissatisfaction, “They operated the mine with eminent domain, and now actually they are causing damage to the people—health, work, most of the people are deprived of their land areas and cattle breeding. It turns out, in this case the people haven't been recognized as eminent domain for the state. If we now compare, the benefits they brought to the damage they caused, our losses are irreversible—even it won't make 0.5%. Our concerns are as follows: in fact, the mine isn't operating now, but if we start, how it will start? Are they going to take our opinions into account, whether or not we are against? Actually, people are deprived of everything. There are two ways out: either leave here or go against them”<sup>72</sup> Currently, CSOs are applying to MPs of the National Assembly to ensure that government takes responsibility for the resolution it has adopted, discloses the conditions of the arrangements with Teghout Company.

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<sup>72</sup> <https://ecolur.org/en/news/mining/teghout-mine-problems-should-be-on-mps-agenda/9958/>

## Case Study: Disaster on Guneshli Platform 10 (Azerbaijan)

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### Violation of rights: labor rights, occupational health and safety

The country experiences serious problems regarding the provision of Occupational Health and Safety standards. During 2011–2017, 46 people died or went missing and 60 were injured seriously only in the oil sector.

The largest incident took place in December 2015, when due to fire on the deep sea oil platform N10 on the “Guneshli” oil field led to the death of 31 workers while 32 people were seriously injured. According to the expert opinion, the operator did not take into account the weather situation and continued drilling operations in hurricane and heavy storm that led to these consequences<sup>73</sup>.

On 4th December 2015, wind speed had risen to 38–40 meters per second, and the height of the waves rose from 8 meters to 9–10 meters. At about 17:40, a submarine gas pipe running from the platform broke. There was an explosion of gas escaping from it, and a fire broke out, soon spreading to a number of oil and gas wells that operated from the platform. Due to the strength of the storm, firefighting and rescue vessels were unable to reach the platform. There were 63 workers on the rig; most of them evacuated via the north side of the platform and boarded two lifeboats. Most of the victims, as they tried to escape the fire, were thrown into the water when a lifeboat smashed against the side of the production platform number 10 at the Guneshli oil field in the Caspian sea. One of the lifeboats was blown away by the wind and got wedged between the platform’s supporting legs. This saved the lives of its occupants, who were rescued after the storm subsided.

According to the Oil Workers Rights Protection Organisation (OWRPO), state oil company managers broke safety laws for the sake of keeping production going, and workers did not even have life jackets on during the attempt to evacuate the platform.<sup>74</sup> According to the OWRPO investigation, workers had reported a gas leak from the pipeline a day before the disaster, however, they were told by the managers of the “28 May” oil and gas production department not to stop production despite the fact that doing so might have minimised losses when the accident happened. The practice and legal requirement, which states that during stormy weather, there should be a reduced number of workers and no construction, installation, and dismantling work on platforms should be stopped, was not followed. In addition, there were 15 members of a construction and drilling team (who were not supposed to be there); there were also other non-essential workers including five catering staff on the platform. Many of the workers were not wearing life jackets during the evacuation, and this was confirmed by photographic evidence from the scene and interviews with survivors in hospitals. All these are violations of the Azerbaijan Labor Code, as OWPRO underlines, which states that in storms of force 8 or greater, most types of production work should be stopped, and in storms of force 10 or greater, all work, except flushing and cooling operations, should be stopped. These guidelines were not followed.

It should be stressed that there was no information available for the public from official sources. Moreover, state authorities had been treating oil workers’ families with contempt. Although, under pressure they established a central information point, no psychological support was provided and some families were sent

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<sup>73</sup> Evaluation on fire at stationary deep sea platform No.10 in “Guneshli” field of State Oil Company of Azerbaijan Republic on December 4, 2015, Oil-Workers’ Rights Protection Organization Public Union (OWRPO PU)

<sup>74</sup> Break the silence on Azerbaijan oil workers’ deaths, 4 August 2016, open democracy net. <https://bit.ly/2OHMb6T>

away by intolerant officials.<sup>75</sup> The investigation report of OWPRO published in February 2016 was rejected by SOCAR<sup>76</sup> in March 2016 without addressing any point of concern raised by the organisation. It should be stressed that neither SOCAR nor the Azerbaijan government provide their own explanation of the disaster and how they planned to improve the safety procedures.

Fortunately, one year later on 26th September 2016, when again fire broke, on the Guneshli 10 platform, fortunately 9 workers were rescued. In 2016, a total of 3 accidents had been observed in the Azneft PU and in the structure of SOCAR, two of them being on the Guneshli oil field platforms. One of the main causes of the accidents is the expiration of offshore facilities in the enterprises of the Azneft PU, and these facilities are not restored periodically.

Another incident occurred on December 27, 2016, when a fire began in the gas pipeline of diameter of 1000 mm of the gas processing plant in the Sangachal Main Facility on the territory of the Sangachal settlement in Garadagh district. The exploding pipeline was the part of the South Caucasus Gas Pipeline system that transport gas from “Shah-Deniz” and “Azeri-Chirag” oil-gas fields<sup>77</sup>.

## **Case Study: Southern Gas Corridor Project impact on Shamkir landowners (Azerbaijan)**

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### **Violation of rights: right for adequate compensation**

Landowners from Shamkir who were affected by the Southern Gas Corridor project, in 2016, started seeking help to restore their rights. The agreement on the compensation they received for their lands was formed in 2014–2015 wherein 1 manat equalled 0.78 USD. However, in 2016, when compensations were paid, the devaluation was not taken into consideration wherein 1 manat equalled 0.56 USD.

They also believe that the project does not adhere to the agreement signed with them. As a result, the landowners lost their lands. The villagers, through the support of CSO, attempted to negotiate the problem both with the project sponsors and the state as well as with the management of international financial institutions that allocated funds to the Southern Gas Corridor but there was no adequate response.

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<sup>75</sup> IBID

<sup>76</sup> Azerbaijan: Workplace health & safety abuses by SOCAR contributed to high number of casualties following Guneshli oil field accident, says NGO report; Business and Human Rights, 2016, <https://bit.ly/2QESBFp>

<sup>77</sup> <https://www.youtube.com/watch?v=Of1Rzcm270E>

## Case Study: Hydropower plants on Chorokhi river (Georgia)

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**Rights violated: involuntary resettlement and non-adequate compensation, access to land, adequate housing, gender rights.**

### Background

In 2008, the Government of Georgia and the Turkish company Adjara Energy 2007 signed an MOU on the construction of hydropower plants (Khelvachauri 1, 2 and Kirnati HPPs) on the Chorokhi River in Adjara Autonomous Republic. The project envisaged the construction of three reinforced concrete dams on the Chorokhi River with a total capacity of 113 megawatts (Kirnati – 35 MW; Khelvachauri I – 42 MW and Khelvachauri II – 36 MW). The total area affected by the project was about 2.5 square kilometers with about 2.25 square kilometers to be flooded. Land plots owned by locals from the villages of Erge, Makho, Mirveti, Adjaristskali, Maradidi and Kirnati (about 190 families) were subject to flooding and 5–7 families were subject to physical resettlement. In the funding of the project, none of the IFIs were involved.

### Involuntary resettlement of project-affected communities

Despite the fact that the project assumed economic and physical resettlement, Adjara Energy 2007 has not developed any resettlement action plan (RAP) (claimed to be prepared in the EIA) that would have substantiated the need of resettlement and outlined particular measures of physical and economic resettlement. Instead, the company determined only the loss caused by involuntary resettlement and compensation values taking into consideration market prices on property and land plots. Such an approach contradicts the requirements of IFI's safeguard policies and the UN International Covenant on Economic, Social and Cultural Rights, which Georgia is a part of since 1994. According to safeguard policies, people have the right to better or similar alternative land and adequate housing, while getting covered the existence of necessary livelihoods (labor, infrastructure and other means).

Another problematic issue revealed in the project was related to the registration of lands owned by the local population. Adjara Energy 2007 refused to grant compensation for all those lands, which were traditionally owned and used by local residents or to which they had formal rights, but not registered in a public registry at the moment. Contrarily, when the local population managed to register their property in a public registry in September 2012, instead of paying compensations, Adjara Energy 2007 filed a lawsuit against the public registry and local community requiring an annulment of the registration.

In addition, the company considered only those people who appear directly within the project site affected and not those who would have limited access to their livelihoods, or, who may incur losses as a result of intensive natural disasters, for example.

Instead of ensuring protection of local population's rights, the Minister of Economy issued an order<sup>78</sup> about the inevitability of expropriation for the road construction for the needs of this project. Therefore, the

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<sup>78</sup> Order #1-1/177 of 5 May 2015 by Minister of Economy and Sustainable Development "on granting the right of expropriation for urgent public need to "Ajarenergy-2007"

expropriation was justified due to the “pressing social needs,” and the company was granted expropriation rights. Four landowners were forcibly deprived of their property.

The abovementioned cases clearly demonstrate how important it is for the government to have appropriate policies, procedures, and relevant institutions in the field of involuntary resettlement caused by infrastructure projects through which it would be possible to protect the rights of affected population, including their rights to land and other property, adequate housing, and other internationally-recognized human rights.

## Gender equality

New Constitution law explicitly defines and ensures equal rights and opportunities for women and men. Article 11 directly states: “State shall ensure equal rights and opportunities for men and women. State shall implement special measures to ensure substantive equality between men and women and to eliminate inequality.” The new equality article shifts the emphasis towards combating structural inequalities and mandating the State to establish and implement special laws, policies and programs to ensure that women enjoy equality of opportunities as well as results.

Gender misbalance (women’s restricted participation, employment opportunities, health impacts, and benefits) is not considered as a problem no matter how significant that impact may be. The issues of women misrepresentation and mistreatment during decision-making processes are substantial, especially in energy-development projects. As a result, projects are developed without addressing and mitigating particular gender impacts (health, employment, workload, poverty, etc.).

The only document addressing gender issues related to the energy sector is the Gender Equality Strategy 2014–2016 (GES)<sup>79</sup>. While it aims to “increase of diversification of energy resources with a view to increase productivity, additional incomes and reduce workload” through activities such as increased access of households to energy resources, promotion of the establishment of women’s role within the sector, etc. However, the assessment indicators to measure how the activities contribute to achievement of the above-mentioned goals raise substantive doubt that the government does not plan to do anything to achieve the goals. This is because the assessment indicators, instead of measuring what impact energy projects would have on the quality of life of women living in Georgia, measures how many villages were gasified, the number of energy projects, meetings, and information covered by the media.

It is clear that GES need to have more result-oriented activities while indicators should focus not only on the number of undertaken activities, but also the need to measure changes and improvements to the lives of women and men resulting from increased access to energy, including the reduction of energy poverty, application of energy efficiency, cleaner technologies, etc.

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<sup>79</sup> [http://genderconference.gov.ge/uploads/uploads/documents/GE\\_NAP\\_2014-2016\\_ENG.pdf](http://genderconference.gov.ge/uploads/uploads/documents/GE_NAP_2014-2016_ENG.pdf)

# Case Study: Gender Impact of Shuakhevi HPP (Georgia)

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## Rights violated: gender rights, public participation

### Project overview

The project aimed to arrange a three-step HPP cascade (Shuakhevi (185 MW), Koromkheti (150 MW) and Khertvisi (65 MW) HPPs) on the River Adjaristskali in Adjara. In 2013, the company obtained a license on Shuakhevi HPP and launched construction. The project was funded by the Asian Development Bank (ADB), International Finance Corporation (IFC), and European Bank for Reconstruction and Development (EBRD). A majority of the local population protested the construction of Shuakhevi HPP for various reasons, including the issues related to the land and water “grabbing,” geological risks posed to local population because of the construction works, employment problems, etc.

### Gender impacts of the project

The Shuakhevi HPP construction represents a case where, apart from the traditional project impacts, a lot of gender-sensitive problems have been revealed, which the project developer failed to adequately respond to.

Women’s participation in decision-making processes represent one of the problematic issues due to the fact that the project developers did not take relevant steps in this direction. Although women and children participated in the project-related rallies, they did not participate in discussions, because, as they claim, it is not acceptable in their communities. Those individuals, who were elected by the population to represent these three villages in negotiations with the company and the Adjarian government, were only men. Moreover, they believed that these consultations yielded no results and were only aimed to drag time.

Increased workload for women as a result of deteriorated livelihoods (dust, noise, limited access to water resources) is another problematic issue. Moreover, in the families where men are employed in an 11 hour shift, the entire burden fell on women. This issue was not studied in the project documents.

Access to electricity and subsequent impacts on women is another issue not studied in the project. While locals have physical access to electricity, the quality is very poor and the supply of electricity depends on weather conditions (power supplies are cut, especially in bad weather—during rain or winds). The developer has not taken the responsibility to supply electricity to locals at preferential tariffs. Thus, locals use firewood for heating and cooking, which is collected mostly by women. Permanent use of firewood increases internal pollution of the house and causes adverse impacts on health, especially on women and girls<sup>80</sup>.

The HPP construction provided job opportunities mostly for men. The company arranged training courses for acquiring necessary construction skills and raising qualifications, and more than a half of the population of these villages participated in the training, but unfortunately, only few of them got jobs. Locals claim that mostly Turkish citizens were employed on the construction works, exceeding the locals employed by the project by almost double. According to villagers, training lasted for 1-1.5 months with emphasis mainly on

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<sup>80</sup> Fuel for life: household energy and health, WHO, <http://www.who.int/airpollution/publications/fuelforlife.pdf?ua=1>

observing safety rules, whereas less attention was paid to obtaining skills in any profession or work activity. Furthermore, during the hiring process, no attention was paid on knowledge acquired during training. It should be noted that a lot of people got jobs only through interviews or the decision of the rural governor (Gamagebeli) or they were selected at the local meeting without undergoing any training courses. The main criterion for selecting the candidate at the meeting was low income of a family.

Women constituted only 5% of those employed in the project; they worked as cooks, waitresses and cleaners in the workers' camp. Moreover, locals claim that despite the fact that more than a half of population of these villages participated in the trainings, unfortunately, only few of them got jobs, causing discontent among the population.

Therefore, the project violates not only requirements of safeguard policies of the international financial institutions, but ILO requirements as well. In addition, there is no evidence that can verify the fact that the project brought sustainable benefits to the affected population and simultaneously strengthened women in Adjara.

The company has announced a certain number of positions for each village. For example, six positions were allocated for the Kinchauri village and only six persons got jobs from the entire village. In addition, the company hired a lot of people for only three months and then dismissed them, citing the need for others to get jobs.