

Securitisation and limitations to freedom of assembly and restricting civic space

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Plan

- How securitization affects the civic space;
- How the legislation can be used to securitize;
- To better understand the application of securitization in the context of freedom of assembly and restricting civic space.

NHRIs and RoL

- An interplay between NHRIs and the democratic state governed by the rule of law;
- Operating in strong democracies vs. weak states;
- 2020s has brought new challenges for NHRIs;
- Predominance of the executive branch.

State capture

- “The abuse of good governance rules (which is also abuse of power) in the process of drafting, adoption and enforcement of the rules (including the judiciary rules) in favour of a small number of captors at the expense of society and business at large” (Stoyanov et al. 2019, 26).

State capture

The capture of control over whole or part of security institutions ensures a 'systemic privilege for the captors' (businesses, government officials, political parties, politicians, mafia, etc.) in four ways:

- a) guaranteeing impunity for their breach of rules;
- b) selective enforcement of rules for the benefit of the captors;
- c) legitimisation of elite and its governance through securitization narratives and practices; and
- d) economic gain for the employees of security institutions and their patrons (Stojanović-Gajić and Pavlović 2021, 106).

Legislation

- One rather effective strategy used by state captors is increasing legal uncertainty, by implementing existing legal provisions in an unpredictable and inconsistent way.
- This is usually followed by the adoption of new legislation and policies that disrupt the rule of law and question human rights standards.
- In such circumstances, NHRIs can serve as rule-of-law beacons and a watchful eye over negative tendencies, including the use of security apparatus for oppression of the citizens and political opposition.

Case study – Georgian law targeting CSOs

- In March 2023, two parallel draft laws were submitted to Parliament respectively on “Transparency of Foreign Influence” and on the “Registration of Foreign Agents”. Following the mass protests organised in response to the legislative process, these two draft laws were withdrawn from the Georgian parliament.
- In April 2024, the leader of the ruling Georgian Dream party announced the reintroduction of the Law on Transparency of Foreign Influence into the Parliament. The content of the law had remained unchanged but the term “agents of foreign influence” had been replaced by the term “organisation pursuing the interests of a foreign power”.
- The draft Law was formally registered on 8 April 2024.
- On 11 April 2024, the Public Defender of Georgia published a statement on the draft Law, expressing “full readiness to hold additional consultations with the authors of the draft law in order to bring the initiatives into compliance with human rights standards”.
- The draft Law was endorsed by the Legal Issues Committee of the Parliament of Georgia on 15 April 2024 and adopted on the first reading in the Parliament on 17 April 2024.
- On 1 May 2024, the Public Defender of Georgia called on the Ministry of Internal Affairs of Georgia not to interfere with the citizens’ freedom of assembly and expression unnecessarily.
- On 1 May 2024, the draft Law was adopted on the second reading in the Parliament. The Law was adopted on the third reading on 14 May 2024.
- The discussions in Parliament and the adoption of the draft Law have been accompanied by mass protests and the draft Law has been strongly criticised by the Georgian opposition parties and civil society organisations.
- The law was condemned by the United Nations High Commissioner for Human Rights, European Union, the Council of Europe and OSCE. Both the Venice Commission and ODIHR issued negative opinions of the draft law.
- Despite the pressures, the bill came into law.

A group exercise

- Mark the articles of the draft law in which you identify the securitization-relevant provisions, and note them on the flipchart.
- Think about the potential entry points and different NHRI's powers and functions you could use to counter the securitization of legislation (at different stages of the legislative cycle).

Thank you!

