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of the Global Fund

Concerns over Georgia's proposed Foreign Agent Law: Implications for civil society and public health

Georgia's Transparency of Foreign Influence Bill, passed by Parliament, sparks concern for civil society and public health. While aiming to protect national interests and electoral integrity, critics fear it mirrors Russia's law and could stigmatize and restrict non-governmental organization (NGO) and media. Georgia's President Salome Zourabichvili's veto, citing constitutional and European norm violations, highlights its divisiveness. Civil society, like the Prevention Task Force (PTF), warns of harm to HIV prevention efforts and potential human rights violations. International bodies, including the Global Fund, stress the need to preserve civil society's role in public health. The law raises doubts about Georgia's international commitments and threatens democratic progress and essential health services.

With the Parliament of the Republic of Georgia passing the controversial Transparency of Foreign Influence Bill aimed at enhancing transparency regarding foreign influence, it is crucial to scrutinize its provisions through the lens of proportionality and respect for human rights. The principle of proportionality dictates that regulatory measures must be carefully standardized to achieve their objectives without disproportionately encroaching on individual rights. While the state has the authority to regulate, it must do so within the bounds of proportionality to preserve the delicate balance between transparency and constitutional freedoms.

The bill, which was approved in its third and final reading on May 14, 2024, with 84 votes in favor and 30 against, mandates any NGO, nonprofit, or media organization receiving more than 20% of its funding from

international sources to register as “pursuing the interests of a foreign power” and submit financial statements. Non-compliance would result in fines. While the aim of ensuring transparency is commendable, it should be pursued without encroaching upon fundamental freedoms.

Maka Gogia, Program Director at the Georgian Harm Reduction Network, notes a pressing need among parliamentarians to mitigate external influence by closely monitoring the funding of local organizations ahead of the October 26 Parliamentary elections in Georgia. They consider the law essential for this purpose, aiming to safeguard the integrity of Georgia’s political processes and prevent undue external interference, particularly during elections. The timing of the elections intensifies the urgency for such measures, as political actors are especially vigilant against threats to the integrity and sovereignty of the electoral process.

Stigmatizing language in legislation and its echoes of historical discrimination

The use of stigmatizing language in the Bill, reminiscent of historical contexts fraught with discrimination, raises concerns about its potential to foster discrimination and marginalization. Drawing parallels with legislation in other jurisdictions underscores the risk of perpetuating stigma and undermining fundamental rights. Notably, the proposed law bears a striking resemblance to Russia’s foreign agent law, which has been used to imprison or intimidate international journalists who have refused to register as foreign agents. Additionally, the arbitrary selection of criteria for categorizing organizations as “the carrier of the interests of a foreign power” lacks clarity and specificity, opening the door to arbitrary implementation and unjust labeling. In Georgia, depicting people who promote foreign interests has negative connotations, echoing past associations with spying. This negative portrayal stems from the Soviet era where those accused of spying were seen as serving foreign agendas. This history has made the term “Organization carrying out the interests of a foreign power” sound very negative.

The disproportionate impact of Georgia’s proposed Bill on HIV prevention and civil society

HIV prevention initiatives in Georgia heavily rely on foreign funding to sustain their vital work due to limited domestic resources. For instance, the Global Fund has allocated \$17,896,337 to Georgia for the 2023-2025 period to bolster the country’s response to HIV and TB epidemics. These investments prioritize maintaining and expanding disease prevention, diagnostics, and access to care and treatment interventions, with a special focus on enhancing services for those living with HIV, TB patients, and key populations. The grant also underscores the importance of safeguarding human rights, reducing stigma, and includes significant components aimed at strengthening healthcare systems and pandemic preparedness.

The PTF of Georgia, which unites civil society organizations (CSOs), community members, and development partners working in the fields of HIV, Tuberculosis, viral hepatitis, and sexually transmitted infections (STIs), has expressed grave concerns regarding the “Foreign Agent Law.” The law mandates that NGOs receiving more than 20% of their funding from international sources, such as the Global Fund,

register as foreign power influencers. This requirement stigmatizes civil society and those involved in health programs, painting them as working against national interests even before the law's adoption. This measure, according to PTF, will hinder efforts to support populations most vulnerable to epidemics, similar to the negative impact seen after similar legislation was enacted in Russia in 2012.

According to PTF, the law will enable the government to increase control over NGOs by obligating them to register as foreign influencers. This could lead to the blocking of donor funds essential for democratic development if deemed contrary to government interests. Also, the government would have the authority to discredit and remove any NGO from the civil platform that it disagrees with, undermining the independence and efficacy of civil society. Moreover, the legislation would grant the government access to personal data, potentially forcing media to disclose their sources, thus hampering journalistic investigations, and enabling more opaque government activities.

The PTF foresees that, similar to Russia, NGOs in Georgia might cease their activities, leading to a significant reduction in vital services such as HIV prevention. Those continuing operations could face increased harassment and repression.

Another worrying proposal is the Anti-LGBT Propaganda constitutional bill, which aims to “protect minors and ban pseudo-liberal propaganda.” According to PTF, this bill threatens to restrict freedoms of assembly and expression, censoring media related to queer rights and health issues. Although the parliamentary majority lacks the two-thirds majority required for constitutional amendments, the PTF fears this bill might be used to scapegoat queer individuals in the lead-up to the upcoming parliamentary elections.

Violation of international obligations

The law not only falls short of upholding essential principles of fairness, transparency, and proportionality but also directly contradicts the international commitments of the Republic of Georgia as outlined in several key international treaties and conventions.

Violation of the European Convention on Human Rights

Articles [10](#) (freedom of expression), [11](#) (freedom of association), and [14](#) (freedom from discrimination) of the European Convention on Human Rights serve as foundational pillars safeguarding fundamental rights and freedoms. However, the arbitrary classification of organizations as “carriers of the interests of a foreign power” without due process or clear criteria violates the principles enshrined in these sections. By stifling freedom of expression and association and perpetuating discrimination through stigmatizing categorizations, the law contradicts the obligations of the Republic of Georgia under the European Convention.

Violation of the International Covenant on Economic, Social, and Cultural Rights

[Article 12 of the International Covenant on Economic, Social, and Cultural Rights](#) acknowledges the right of everyone to enjoy the highest attainable standard of physical and mental health. Yet, the disproportionate impact of the law on organizations operating in underfunded sectors, such as public health, especially HIV prevention among key populations, directly undermines this right. By hindering civil society organizations' ability to provide evidence-based health interventions, the law violates Georgia's obligations under the Covenant.

Violation of the International Covenant on Civil and Political Rights

Articles 19 (freedom of expression), 22 (freedom of association), and 26 (freedom from discrimination) of [the International Covenant on Civil and Political Rights](#) emphasize the importance of protecting individual liberties and ensuring equality before the law. Nevertheless, the arbitrary selection of criteria and the use of stigmatizing language within the law encroach upon these rights and principles. By subjecting organizations to arbitrary classifications and potential discrimination, the law violates Georgia's obligations under the Covenant.

Global Fund acknowledges concerns over Georgia's Foreign Agent Law

Through a letter, the Global Fund Secretariat acknowledges the concerns raised by the PTF about Georgia's the Transparency of Foreign Influence law. The organization is closely watching the situation to assess its impact on HIV and TB programs in Georgia. The Global Fund values the vital role of civil society organizations in providing essential services and shares the Task Force's worries about the bill's effects.

The Global Fund promises to stay in close contact with Georgia's National Center for Disease Control and Public Health (NCDC) and other partners to tackle the challenges from the new legislation. They are committed to ongoing dialogue with civil society and the government to ensure services continue, especially as Georgia prepares its funding request for the next Grant Cycle.

Additionally, the Global Fund is ready to provide technical assistance to handle uncertainties and reduce risks to program continuity. The organization reaffirmed its dedication to working with all stakeholders to maintain progress in Georgia's fight against HIV and TB.

Georgian president vetoes controversial bill, citing constitutional and European norms

Georgia's president, who had previously expressed dissatisfaction with the controversial bill, vetoed it on May 18, emphasizing its divisive nature within the country. She urged the government not to override her decision on a law she described as having a "Russian spirit and essence." Despite the governing Georgian Dream party having enough votes to override her veto, Zourabichvili remained resolute. "Today, I vetoed a law reminiscent of Russian legislation," she stated. "This law contradicts our constitution and European norms, thus hindering our path to European integration."

According to the Georgian constitution, a president has two weeks to either sign and enact a law or send it back to parliament with reasoned objections, known as "justified remarks." If parliament fails to vote on the president's proposals, the bill could effectively be terminated. The constitution does not specify a timeframe for MPs to hold a vote. In the event that parliament rejects the president's changes and secures 76 out of 150 possible votes, the original bill can be passed, returning it to the president within three days for signature and enactment within five days. The ruling Georgian Dream party currently holds 90 seats.

Conclusion

The PTF of Georgia underscores that adopting the Russian-style Foreign Agent Law would severely damage civil society and impede public health efforts. Additionally, the law raises significant concerns about its proportionality and adherence to human rights standards. They appeal for international support to prevent these regressive steps and protect the essential services and democratic progress achieved over decades.

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