Country Report on Human Rights Practices 2013 - Georgia

EXECUTIVE SUMMARY

The constitution of Georgia provides for an executive branch that reports to the prime minister, a unicameral parliament, and a separate judiciary. The government is accountable to parliament. The president is the head of state and commander-in-chief. The 2012 parliamentary election, which marked the first democratic transfer of power since the country's independence, resulted in unprecedented 12-month cohabitation between the new prime minister and sitting president, who belonged to different political parties. The Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) concluded the October 27 presidential election "was efficiently administered, transparent and took place in an amicable and constructive environment. Fundamental freedoms of expression, movement, and assembly were respected and candidates were able to campaign without restriction. The campaign environment was without major irregularities." While the election results reflected the will of the people, observers raised several concerns, including allegations of political pressure at the local level, inconsistent application of the election code, and limited oversight of campaign finance violations. Security forces reported to civilian authorities. There were reports that security forces committed human rights abuses.

The most important human rights problems reported during the year were:

- The resignation and dismissal of government employees from local government institutions allegedly for their association with the former ruling party, United National Movement (UNM), and the government's insufficient response
- Increased societal violence against members of the lesbian, gay, bisexual, and transgender (LGBT) community and the government's failure to hold perpetrators responsible
- Local government interference with religious minorities' rights to assemble and freely worship, and the government's generally insufficient response

Other problems reported during the year included police abuse of detainees and substandard, although improving, prison conditions. There were also allegations of politically motivated harassment. Following the October 2012 elections, UNM members reported arbitrary harassment, job loss, and arrests – including of the UNM's general secretary, a former minister of internal affairs, defense minister, and prime minister – due to their political affiliation or activities. In addition, violent societal protests at some UNM presidential campaign events impeded the political opposition's freedom of assembly. External and internal influence on the judiciary remained a problem, although there were some positive steps.

Evidence emerged that during the Saakashvili administration, officials from the Ministries of Internal Affairs and Defense engaged in illegal video recordings of the private lives of citizens and opposition public officials.

Although the media environment improved, there were reports of government pressure on the media, especially Georgia's Public Broadcaster. Many internally displaced persons (IDPs) continued to live in substandard or squalid conditions. Domestic violence and trafficking in persons remained problems. The government adopted a new labor code, but there was no labor inspectorate to enforce applicable laws properly. Problems persisted with workers' fundamental freedom of association, interference with collection of dues, and the failure to honor previously agreed collective bargaining agreements.

The government took steps to promote accountability. As of December the government had charged 50 former senior Saakashvili administration officials –including the UNM's general secretary, a former minister of internal affairs, defense minister, and prime minister – with crimes including obstruction of justice, misappropriation of government funds and money laundering, blackmail, privacy intrusion, and abuse of power. Of these officials six were in pretrial detention, 14 were released on bail, authorities did not prosecute 10, four were convicted, four were acquitted, one was released without restrictive measures, seven others were wanted and at large, and two were pending trials. Former President Saakashvili pardoned three officials after conviction and one received amnesty. The government also fired and arrested its first deputy minister of internal affairs, charging him with releasing a secretly obtained videotape of a journalist's private life made by the previous administration in an attempt to discredit him. After the court released him on bail, he briefly left and then returned to the country.

De facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside the control of the central government. These authorities continued to be supported by several thousand Russian troops and border guards occupying the areas since the 2008 armed conflict between Russia and Georgia. A cease-fire remained in effect in both Abkhazia and South Ossetia, although incidents of violence occurred in both areas. Russian border guards restricted the movement of the local populations. While there was little official information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions, many allegations of abuse persisted. De facto authorities continued to restrict the rights, primarily of ethnic Georgians, to vote or otherwise participate in the political process, own property, register businesses, and travel. The de facto South Ossetian authorities refused to permit most ethnic Georgians driven out during and after the 2008 war to return to South Ossetia. With the exception of the International Committee of the Red Cross (ICRC), de facto authorities did not allow international organizations regular access to South Ossetia to provide humanitarian assistance. Russian "borderization" of the administrative boundary lines of the occupied territories of Georgia intensified during the year, separating Georgian residents from their communities and undermining their livelihoods. This activity was inconsistent with commitments made by the Russian Federation in the August 12, 2008 six-point cease-fire agreement.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were unconfirmed reports that the government or its agents committed arbitrary or unlawful killings.

During the year the government conducted investigations into several killings allegedly committed by current and former government officials.

Nongovernmental organizations (NGOs) raised concerns about the May 23 death of prisoner Levan Kortava. The Ministry of Corrections and Legal Assistance provided conflicting reports about the cause of death, initially stating the prisoner died from wounds he suffered after falling down stairs in Geguti Prison No. 14, and later saying the prisoner died from wounds received in a fight with other prisoners. The inmate's family insisted prison officials tortured him. In August the Prosecutor's Office charged a number of inmates with homicide and several employees of Geguti Prison No. 14 with criminal negligence in connection with Kortava's death. A group of human rights NGOs released a statement in August condemning the killing. As of late November, defendants' trials were pending.

The Prosecutor's Office charged the former head of the Military Police Department of the Ministry of Defense with sexual assault and torture and three former prison officials with torture in the case of the 2011 death in detention of military officer Sergo Tetradze. Prosecutors alleged that the defendants ordered two prison inmates to torture and sexually assault Tetradze to coerce him to admit to committing espionage. Tetradze died of a heart attack in prison, allegedly during the attack. As of November, the defendants' trials were pending.

In June officials charged Ivane "Vano" Merabishvili, former internal affairs minister and prime minister, with abuse of power while he was internal affairs minister to prevent an independent investigation into the high-profile killing of Sandro Girgvliani in 2006. In 2011 the European Court of Human Rights (ECHR) ruled that senior officials not only failed to conduct an effective investigation into his death but that the various government branches, including the Ministry of Internal Affairs, prosecutors, the judiciary, and the president,

"acted in concert in preventing justice from being done." While one trial was underway, Merabishvili remained in detention awaiting trial for this and three unrelated charges at year's end.

Human Rights Watch reported that, more than five years after the 2008 conflict, the government had not effectively investigated international human rights violations committed during the conflict.

b. Disappearance

Observers did not report any politically motivated disappearances in unoccupied Georgia or connected to the conflict in Abkhazia or South Ossetia during the year. Reliable information from the separatist regions, which were outside government control, remained difficult to obtain. There continued to be reports of abductions along the administrative boundary lines of both occupied regions.

Government and Abkhaz commissions on missing persons reported nearly 2,000 Georgians and Abkhaz remained missing as a result of the 1992-1993 war in Abkhazia. During the year the ICRC chaired a new coordination mechanism between Georgian and Abkhaz participants to clarify the fate of these individuals. South Ossetian de facto authorities reported that 116 persons were still missing from conflicts in 1991 and 2008. The ICRC continued to assist authorities to inform the families of the whereabouts of missing relatives.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While the constitution and law prohibit such practices, there were reports that government officials employed them. NGOs and international observers noted an improvement in prison conditions and fewer allegations of torture since October 2012.

According to the *Situation of Human Rights and Freedoms in Georgia* report for 2012 (released in June), the protection of inmates remained a key problem in 2012, and "their physical and psychological suppression became a routine and systemic phenomenon."

According to the July report by the Council of Europe's Committee for the Prevention of Torture (CPT) on its November 2012 visits to Gldani No. 8 and Kutaisi No. 2 prisons, interviews with inmates indicated many allegations of mistreatment before the September 2012 release of torture-abuse videos, but there were "hardly any" allegations of physical mistreatment by prison staff following the 2012 change in government. The report noted a change for the better, which some interviewed inmates attributed to a change in prison management in the wake of the 2012 torture-abuse videos.

While reports of torture in prison decreased substantially, during the year NGOs and the public defender documented several cases outside the penitentiary system of police officers mistreating detainees, beating them, denying them access to sanitation, or withholding permission to contact a lawyer. The Georgian Young Lawyers' Association (GYLA) reported that periodically individuals, upon admission to police detention facilities, showed signs of physical injuries. NGOs, international observers, and the public defender criticized the government's lack of investigation into alleged instances of police officers' excessive use of force.

According to the Ministry of Internal Affairs, on July 6, Mamuka Mikautadze committed suicide a day after police interrogated him as a witness in connection with the drug-related arrest of his friend. An autopsy indicated Mikautadze's body had external injuries caused by a "hard, blunt object," which GYLA alleged resulted from police brutality in pressuring Mikautadze to testify against his friend. The Ministry of Internal Affairs was investigating Mikautadze's cause of death at year's end.

Following the September 2012 broadcasts depicting torture by officials at Gldani Prison No. 8, the chief prosecutor and Ministry of Justice continued to investigate prisoner abuse in the penitentiary system. The Prosecutor's Office established a special task force to manage approximately 2,000 citizen requests for accountability for such abuse. The Prosecutor's Office stated its investigations uncovered systematic torture and mistreatment of inmates in almost every prison in the country during the Saakashvili administration. In response to the 2012 videos, according to data available in November, the government arrested 46 officials from the penitentiary system, fired 84, and investigated 81. Of the 46 former government officials arrested on charges including torture, inhuman and degrading treatment of inmates, and rape, the courts convicted 29 individuals, released one under a grant of immunity in exchange for his testimony and cooperation with prosecutors and investigators, and convicted one of reduced charges. The investigations or trials of the other 15 former officials were underway at year's end. Additionally, during the year, authorities arrested 32 former officials of the Ministry of Internal Affairs on charges of torture and inhuman and degrading treatment. Of these former officials, the courts convicted two. The investigations or trials of the remainder continued at year's end. The Public Defender's Office stated that investigations into allegations of penitentiary system mistreatment were inadequate and that abuse likely occurred with the consent of former senior officials of those institutions.

Human rights and prison experts advocated institutional reforms designed to address the underlying causes of past systemic abuses and overcrowding, while avoiding recidivism in the penitentiary system.

In June officials released newly discovered videos depicting torture and sexual abuse of detainees in 2011 by law enforcement officials, which were allegedly found in a cache of unregistered arms and explosives in Samegrelo. Authorities arrested nine persons, including former and current civilian and military law enforcement officials, in connection with the torture. The Prosecutor's Office charged eight former police officers, among them two high-ranking officials, and two former officers of the Ministry of Defense in connection with the torture of Davit Dzazua in 2011 in Samegrelo.

In August the court acquitted former minister of internal affairs, of defense, and of corrections, Bachana "Bacho" Akhalaia of charges related to the abuse of soldiers while defense minister. In October the court acquitted Akhalaia on separate charges of abusing soldiers but convicted and sentenced him to nearly four years' imprisonment for ordering the use of excessive force in response to a 2006 prison riot in which seven prisoners were killed. In November former president Saakashvili pardoned Akhalaia in connection with his prison riot conviction and sentence. Akhalaia remained in detention, pending a trial and verdict on separate October charges of his alleged involvement in providing special privileges to prisoners who were convicted in the murder of Sandro Girgvliani (see section 1.a.). Authorities also charged several other high-ranking former government officials, including Akhalaia's brother, David "Data" Akhalaia, in connection with this case. The government charged Data Akhalaia with excessive use of official authority and illegal imprisonment.

According to the Ministry of Justice, authorities initiated six investigations into allegations of torture, three into inhuman treatment, and one into the use of duress to compel evidence during the year.

Some NGOs and the Public Defender's Office continued to assert that some victims failed to report abuse due to fear of retribution. NGOs also continued to claim that, while increasingly assertive in some cases, the judiciary was, at times, unresponsive and indifferent to allegations of mistreatment. Experts observed that judges rarely engaged in meaningful inquiries into the source of injuries to prisoners brought before the court, and even when they did, they merely referred detainee reports of mistreatment to the institutions responsible for the alleged abuse because a flawed legal process does not enable the judge to take independent action if prisoner abuse is suspected.

Individuals detained in South Ossetia who later returned to undisputed Georgian territory reported incidents of mistreatment and abuse in Ossetian detention centers. Mistreatment included infliction of cigarette burns and beatings. Human rights observers estimated that half of the individuals detained by South Ossetian de facto authorities experienced some form of abuse. Due to limited access to Russian-occupied South Ossetia, these reports were difficult to confirm.

Prison and Detention Center Conditions

The Public Defender's Office (PDO), the European Instrument for Democracy and Human Rights (EIDHR), and many NGOs continued to report that conditions in some prison and pretrial detention facilities were poor. The public defender noted that newly constructed facilities met international standards, while some old facilities still in use were inhuman and deteriorating. Such facilities exposed those incarcerated to inadequate health care and insufficient ventilation. The public defender's December report noted that a variety of steps taken to reduce the prison population during the year had decreased overcrowding. Human rights experts continued to urge the government to employ additional alternatives to detention and incarceration to reduce the number of persons sent to detention centers and prison in the first place.

Physical Conditions: As of December 2, according to the Ministry of Corrections and Legal Assistance, the inmate population was 8,931, compared with 19,349 in 2012. The drastic decline in the inmate population was attributable, in part, to the January release from prison of 190 inmates identified as political prisoners and 3,000 additional inmates, shortened sentences for thousands of other inmates, and presidential pardons. The Ministry of Corrections and Legal Assistance reported in November that the Presidential Pardoning Commission pardoned 1,164 prisoners (compared with 2,289 in 2012). Additionally, according to data available in November, President Saakashvili granted amnesty to approximately 17,726 pre-trial detainees and convicted inmates.

Despite the release of thousands of prisoners during the year, the special EU advisor on constitutional and legal reform and human rights in Georgia, Thomas Hammarberg, reported that the country's prisons remained below international minimum-space standards for prisoners in September. Hammarberg also reported a significant decline in the prison mortality rate in September, which he attributed to a release of a number of persons due to their age or serious illness. According to Ministry of Corrections and Legal Assistance's data available in December, 21 prisoners died in the penitentiary system during the year, compared with 67 in 2012. According to the public defender, the average age of deceased prisoners was 44.

Some prison and pretrial detention facilities lacked adequate sanitary facilities. In its 2012 *Situation of Human Rights and Freedoms in Georgia* report, released in June, the Public Defender's Office noted that many prisons

were short of medical facilities, equipment, and medicine. The Public Defender's Office reported in December that health-care issues and adequate medical examinations of prisoners continued to be problematic. According to the Public Defender's Office, conditions in the women's and juvenile prisons were reportedly better than in the others. Prisoners had access to potable water.

The public defender's 2012 report also noted that conditions in temporary detention isolation cells continued to be a problem. These facilities were intended to hold detainees accused of crimes and awaiting a hearing for up to 72 hours and not to provide long-term detention. While the law allows for isolation cells to house individuals convicted of administrative offenses for up to 90 days, neither the public defender nor the Ministry of Justice reported such instances. The public defender noted numerous problems, including inadequate space, ventilation, natural light, heating, sanitation, and access to medical services. In some instances administrative detainees were not provided bedding or access to showers. In December the Public Defender's Office noted concerns about the administration of temporary detention isolation facilities, including inaccurate information about the injuries with which individuals entered the facilities and inaccurate information about the date, time, and circumstances of individuals placed in detention facilities. According to the Internal Affairs Ministry, 1,124 persons served terms of administrative detention in the temporary detention isolation cells during the year, compared with 2,321 in 2012.

Administration: During the year the Ministry of Justice continued to focus on developing alternatives to incarceration for juveniles, including implementing a diversion program for juvenile offenders. A key principle of the program was to allow young offenders to avoid criminal proceedings if they graduated from the program and did not commit further crimes. According to the ministry, 265 juveniles entered the program during the year, three of whom committed new offenses. NGOs criticized the lack of specialists in the juvenile justice system.

Most prisons had Georgian Orthodox Christian chapels but no specific nondenominational areas for worship. Representatives from the Muslim and Jewish communities reported no problems with Muslim or Jewish prisoners worshiping according to their beliefs within penitentiaries.

Authorities generally permitted prisoners to submit complaints without censorship to judicial authorities as well as to the Public Defender's Office, NGOs, international organizations, and lawyers. Prisoners also requested investigations of inhuman conditions. Authorities opened investigations into such allegations but in many cases never officially completed them, filed charges, or took other disciplinary action against officials alleged to have committed abuses.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international organizations and some local and international human rights groups. The Public Defender's Office noted that while the Ministry of Corrections and Legal Assistance and the Ministry of Internal Affairs granted that office's representatives access to prisons and temporary detention facilities, there were allegations that the ministries did not provide surveillance camera recordings in some cases, blaming camera malfunctions. As of the end of 2012, the main Internal Affairs Ministry detention units had working surveillance cameras, while Ministry of Corrections and Legal Assistance prisons did not have such cameras. The ICRC had full access to prisons and detention facilities in undisputed Georgian territory and some access to prison and detention facilities operated by de facto authorities in Russian-occupied areas of Abkhazia and South Ossetia. The CPT also conducted periodic visits to the country.

Prison conditions in the two separatist regions were reported to be chronically substandard, although overcrowding reportedly was not a problem.

Improvements: Following the release of the prison-torture videos in September 2012, the ombudsman created a system permitting civil society monitoring of prisons. In August, however, a group of human rights NGOs released a statement in response to the death of Levan Kortava in Geguti Prison that called for the establishment of more public monitoring of the penitentiary system, in addition to, and independent from, the Public Defender's Office's National Preventive Mechanism.

During the year the Ministry of Corrections and Legal Assistance increased its per capita health expenditure, strengthened daily minimum diet and nutrition requirements for prisoners, increased salaries to recruit more-qualified personnel, and made improvements to prison medical facilities and services. The ministry closed Tbilisi Prison No. 1 and Zugdidi Prison No. 4. Repairs of several other problematic prisons were underway.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but the government's observance of these prohibitions was uneven.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs has primary responsibility for law enforcement and controls the police force. During times of internal disorder, the government may also call on the armed forces. Additionally, the Ministry of

Finance has its own investigative service with police powers in financial investigations. While security forces were generally considered effective, there were some reports that members committed abuses with impunity (see section 1.c.). The public defender documented cases when use of force by police exceeded permissible limits. There were government investigations into reports of police abuses against protesters (see section 2.a.).

In one high-profile case, on May 28, officials charged former internal affairs minister Vano Merabishvili with ordering the deliberate use of excessive force in dispersing a 2011 antigovernment protest.

There were also instances in which some NGOs alleged that security forces failed to respond adequately to societal violence (see section 6).

NGOs and the public defender maintained that the incidence of police abuse was higher than the number of cases investigated by the prosecutor general and that failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. GYLA noted, however, that there were fewer reported incidences of police abuses than in 2012.

According to the Internal Affairs Ministry, its General Inspection Service imposed more disciplinary actions on law enforcement officers during the year than in the previous year. Forms of punishment included reprimands, demotions, and dismissals. There were 1,686 such actions as of December, compared with 841 in 2012. The ministry also reported that 18 officers were arrested for various crimes during the year, compared with 30 in 2012. The crimes included six cases of abuse of authority, one case of fraud, six cases of theft, one case of violation of privacy, one case of illegal entrepreneurial activities, one case of drug possession, one case of excessive use of authority, and one case of physical abuse.

The Prosecutor General's Office manages all criminal investigations into allegations of torture and mistreatment by government officials. Prosecutors must investigate the use of force by police when a detainee sustains injuries during an arrest. The law requires the office to open an investigation when it receives information about a possible violation, even if from an anonymous source. If prosecutors conclude after investigation that charges are not warranted, their decision can be appealed to a higher level within the office. In many cases the Prosecutor General's Office continued investigations indefinitely without issuing any findings. In cases that were completed, the office often concluded the use of force by police was reasonable or there was insufficient evidence to bring criminal charges against individual officers. The Human Rights Protection Unit in the Office of the Prosecutor General issued regular updates on the status of cases, trials, and investigations of human rights violations. The Prosecutor's Office and the Ministry of Internal Affairs' General Inspector investigate all security force killings and evaluate whether they occurred in the line of duty or were otherwise justifiable.

During the year the police academy provided basic training for 279 new police officers, including 87 patrol officers, 52 district officers, and 140 border police. During the year the Ministry of Internal Affairs extended the duration of its basic training courses, including extending the patrol officers training course from 12 weeks to 20 weeks and the Border Police officer's training course from six weeks to 14 weeks. The curriculum included human rights training and covered the legal basis for the use of force, proper crowd control, hate-crime investigation, use of negotiations for managing critical situations with the goal of employing lawful force as a last resort, identification of trafficking cases, and police ethics. The police academy also conducted specialized training on human rights in cooperation with international partners.

Arrest Procedures and Treatment of Detainees

Law enforcement officers must have a warrant to make an arrest except in exceptional cases where there are no less restrictive alternative measures available. According to the criminal procedure code, an arrest warrant can be obtained only where probable cause can be shown that a person committed a crime punishable by imprisonment and that he or she may abscond or fail to appear in court, destroy evidence, or commit a new crime. GYLA reported most arrests were made without a warrant based on "immediate necessity," and courts later substantiated police action in almost all cases. The public defender considered unsubstantiated arrest warrants to be a systemic problem characteristic of most courts. According to the Ministry of Justice, there were no reports during the year of officials holding detainees without judicial review for longer than the 72 hours permitted by law. According to anecdotal reporting, the judiciary began to review these after the fact requests more closely and denied such requests in greater numbers during the year, although most of these instances involved former government officials and did not reflect institutional change.

Upon arrest a detainee must be advised of all legal rights. Any statements made after arrest but before a detainee is advised of his or her rights are inadmissible in court. The arresting officer must immediately take the detainee to the nearest police station, and the detainee must be indicted within 48 hours or released. The arresting officer must make a record of the arrest immediately after bringing the detainee to the police station. The record should indicate the detainee's identity, place and time of arrest, circumstances of arrest, legal basis for the arrest, physical condition of the detainee at the moment of arrest, and the crime police suspect the detainee committed. The record must be signed by the arresting officer and the detainee, with a copy given to the detainee and his or her attorney.

The judiciary's use of bail or other conditions of pretrial release instead of pretrial detention increased during the year. According to the PDO, the use of pretrial detention declined by 18 percent compared with 2012. According to Supreme Court statistics, during the first 10 months of the year, courts detained defendants in 26 percent of criminal cases (44 percent in 2012), granted bail in 67 percent (56 percent in 2012), and used other noncustodial measures in 6.5 percent of criminal cases (0.1 percent in 2012).

GYLA reported in its fourth court-monitoring report that judges "appeared to give more consideration when imposing preventive measures, instead of doing it automatically upon the request of the prosecution." For example, between January and June, the court ordered bail in 28 percent of criminal cases where the prosecution requested imprisonment. GYLA reported the courts granted 100 percent of the prosecution's motions on imprisonment before October 2012. GYLA reported that, in 51 percent of the criminal cases where the prosecution requested bail, the court ordered the defendant to pay less than the prosecution's requested amount.

In the high-profile cases of 50 former government officials who were charged, authorities did not prosecute 10, two were pending trials, and seven were at large and wanted. Of the 31 prosecuted while in the country, courts granted bail in 14 cases; denied bail in six, including that of former internal affairs and prime minister Vano Merabishvili; and released Mayor Giorgi Ugulava of Tbilisi on his own recognizance. GYLA's fourth court-monitoring report (covering January to June) noted this was the first time during its court monitoring since October 2011 that a defendant had been released without preventive measure such as a large bond.

The law permits property bonds and other alternatives to bail. The application of these standards, however, was inconsistent and largely dependent on the nature of the case.

The UNM criticized the arrest and pretrial detention of UNM Secretary General Vano Merabishvili, (see sections 1.a., c., d., f., and 4) before the presidential election as selective prosecution. Court monitors noted the arrest and pretrial detention appeared to meet international standards of due process. In support of pretrial detention, prosecutors cited Merabishvili's ability to influence potential witnesses, possession of large amounts of cash in multiple currencies, previous alleged attempt to cross the border with a passport issued under a different name, and his wife's failure to appear for questioning as well as her absence from the country at the time of his arrest. After lengthy hearings in which the defense asserted counterarguments, judges in three separate cases in Kutaisi and Tbilisi ruled that there were sufficient grounds for pretrial detention under the criminal procedure code.

In December, Merabishvili alleged that penitentiary officials took him from his cell to an unknown location, where Prosecutor General Otar Partskhaladze reportedly threatened to harm his family and degrade his living conditions in detention if he did not testify against former president Mikheil Saakashvili and help prosecutors in their investigation into the 2005 death of former Prime Minister Zurab Zhvania. The Ministry of Corrections and Legal Assistance and Prosecutor General's Office denied the accusations; an investigation by the ministry into the allegations was underway at year's end.

While a detainee has the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel, the government did not always respect these rights. NGOs reported several instances during the year of prolonged interrogation of detainees without a break or rest and without the presence of counsel.

An indigent defendant charged with a crime has the right to counsel appointed at public expense, and all indigent persons appeared to have been represented by legal aid counsel at their detention and/or bail hearings. In response to concerns about the independence of the Legal Aid Service, which is charged with providing legal advice and court representation for the indigent, on December 28, parliament adopted a law making the Legal Aid Service a separate and independent entity no longer under the jurisdiction of the government's executive branch. The law provides for a nine-member board to manage the Legal Aid Service. The Georgian Bar Association will appoint three members to the board, while NGOs and academia will appoint two, and the High Council of Justice, Ministry of Justice, Legal Aid Service Bureau, and Public Defender's Office will each appoint one member.

By law detainees facing possible criminal charges have the right to notify their families of their location within three hours of their arrest, and those charged with administrative offenses have the right to notify family upon request. Detainees frequently reported to the Public Defender's Office that authorities prevented them from contacting family members after detention. The law requires the Prosecutor General's Office to approve requests by detainees in pretrial detention to contact family.

Arbitrary Arrest: The public defender reported cases of arbitrary detention of individuals during the year. NGOs, civil society groups, and opposition party members alleged that politically motivated arbitrary arrest occurred. For example, on June 27, the Ministry of Finance's Investigative Service arrested 23 employees of the Tbilisi City Council while they were driving to work. Authorities handcuffed the detainees, confiscated their cellular phones, and transferred them to the Ministry of Finance's Investigative Service for questioning. Allegedly, authorities informed none of the detainees of the crime they were accused of committing or read them their rights, as required by law. According to the Investigative Service, it later told these employees they were

detained as witnesses, but the employees reported they were questioned only about their personal information and work experience. In apparent violation of the criminal procedure code, which requires witness notification prior to a detention or arrest by police, none of the arrested employees were given subpoenas or asked to report for questioning. Authorities subsequently released the employees, and a judge ruled that any statements they made in the context of these arrests would be inadmissible. Later, prosecutors charged and rearrested several of them according to the criminal procedure code.

De facto officials of the separatist territories and Russian officials continued to detain many individuals in the Russian-occupied areas of Abkhazia and South Ossetia on charges related to their “illegal” crossing of the administrative boundary line. Russian border guards along the administrative boundary line with Abkhazia typically enforced the boundary-crossing rules imposed by de facto authorities by fining and releasing detained individuals. Along the South Ossetian administrative boundary line, Russian border guards frequently handed individuals over to the de facto authorities. Most individuals were released within five days, but some were held considerably longer. Georgian authorities also detained a number of Russian individuals near the administrative boundary on various charges, including illegal entry into the country. (Entering the occupied territories from Russia is against Georgian law.)

There were reports of arbitrary arrests of ethnic Georgians, particularly in Tskhinvali and Gali regions of South Ossetia and Abkhazia. Detainees reported they were not given a reason for their arrest nor were they seen by a prosecutor. Human rights groups alleged de facto authorities arbitrarily detained ethnic Georgians and held them in order to negotiate prisoner exchanges between de facto officials and Georgian authorities.

Pretrial Detention: The law provides safeguards for a speedy trial through strict time limits for detentions, hearings, and trials, and observers found that judges strictly enforced these requirements. Pretrial detention at times was lengthy, and NGOs noted uneven application of the standards to grant bail or require detention.

NGOs and court monitors reported frequent delays in scheduling trials. The total length of pretrial detention from the time of arrest until the final court judgment should not exceed nine months. Criminal cases were delayed or postponed most commonly based on requests from the parties trying to negotiate a plea bargain, or because a witness did not appear as scheduled to give testimony. The Ministry of Corrections and Legal Assistance reported that approximately 15 percent of the penitentiary system’s population consisted of pretrial detainees. Lawyers noted that courts increasingly used ECHR standards to justify their rulings. Nevertheless, prosecutors and judges often did not articulate a reasoned and specific justification for requesting or ordering detention.

Amnesty: President Saakashvili granted amnesty to approximately 18,000 offenders, probationers, and people serving conditional sentences. According to data available in November, the Standing Commission for Early Conditional Release and the Local Council of the Ministry of Corrections and Legal Assistance granted 1,490 inmates early conditional release and community service to 13 inmates. In 2012 authorities gave 1,298 inmates early conditional release.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, external and internal influence on the judiciary remained a problem. NGOs noted that Prime Minister Bidzina Ivanishvili called for all parties to abstain from pressuring the courts. The Prosecutor’s Office largely refrained from public criticism of the judiciary. Following the 2012 elections, prosecutors from the new government generally represented a different political party than the judges, who were appointed during the Saakashvili administration. With this change oversight of the executive branch by the judiciary became stricter, most particularly in cases involving former Saakashvili administration officials, and judges typically applied higher standards to requests from prosecutors to institute wiretaps, search residences, and detain defendants before trial in these cases. The courts also scrutinized prosecutions involving former government officials more closely than ordinary cases.

The public defender and others identified inadequate substantiation of court decisions by judges as a continuing problem. In its fourth court-monitoring report, GYLA noted that the courts it monitored adequately substantiated a higher percentage of their rulings on imprisonment (81 percent) than their rulings on bail (51 percent).

Parliament passed reforms aimed at strengthening judicial independence, particularly in the administrative judiciary bodies. In May parliament reformed the High Council of Justice, the institution charged with the administration of the judiciary, by eliminating high council membership for members of parliament and limiting the number of presidential appointees to one. Instead, parliament elects five members based on nominations from NGOs, law schools, and the Georgian Bar Association, the Conference of Judges, a body composed of all the country’s judges, elects eight members, and the Chairman of the Supreme Court remains an ex officio member and the Chairman of the High Council of Justice.

The Venice Commission criticized the government’s plan of a complete renewal of the composition of the High Council of Justice and call for re-election of all judicial members of the High Council following the 2012 parliamentary elections. The commission acknowledged that re-election of those sitting members, who had

been elected by the Administrative Committee of the Council of Judges, would be appropriate, but it maintained that other judge members of the council should serve out their terms.

In response to this criticism, the government and the Supreme Court compromised on legislative changes. For example, the final reform legislation permits three judge members of the High Council of Justice to retain court administrative positions (deputy chairs of courts and chairs of court chambers). Court chairs are also allowed to become members of the High Council, although a court chair elected to the High Council must resign from his or her position as court chair. The reform fostered the independence of the judiciary by allowing judges to nominate judge members of the High Council and to vote via secret ballot. Whereas previously, all members of the High Council were nominated by the chief justice of the Supreme Court and elected through open rather than secret voting or appointed by the Administrative Committee, observers expected the reform to increase transparency and independence of the judiciary and encourage more active participation of judges in the High Council through democratic elections of their High Council representatives. In June, judges directly elected their representatives to the High Council. According to EU advisor Thomas Hammarberg's September report, local and international observers assessed the election process as free and fair. Under the reform, transparency of the courts also increased, as videotaping of court hearings was permitted and High Council meetings became much more open.

In a significant development, a number of judges formed a new judges' association. For the first time, an alternative voice from the bench provided an outlet for individual judges to voice their opinions – apart from the "official" court opinion – on court-related problems and concerns.

Court observers noted that judges enforced criminal procedure code standards for ensuring in-custody appearances for defendants within 72 hours of arrest. Judges held prosecutors to the code's standards for disclosing case evidence to the defense, and complaints of failure by the prosecution to disclose evidence in a timely or complete manner were limited. Observers, however, noted judges struggled at times with language in the criminal procedure code that allows the defense to request assistance from the court in obtaining court-ordered evidence. Judges also showed some reticence in following up on complaints from defendants regarding alleged actions by police or prosecutors that affected the defendant's access to counsel, ability to call defense witnesses at trial, or ability to fully cross-examine police or prosecution witnesses at trial.

Court observers noted some improvement in courts' adjudication of both high-profile and more typical cases. For example, during GYLA's fourth period of court monitoring, the percentage of rulings upholding unsubstantiated motions for preventive measures, which includes pretrial detention, significantly decreased.

During the year the judiciary conducted a number of trials in which former senior Saakashvili administration officials, including former ministers Vano Merabishvili and Bacho Akhalaia were defendants. Trial observers noted both the prosecution and defense were able to present their positions. Most judges showed marked improvement in their ability to maintain order in their courts and in demanding higher professionalism from court participants, but this was not always the case for judges overseeing trials of former Saakashvili administration officials, especially that of former minister Bacho Akhalaia. For example, in some instances the court did not stop Akhalaia from berating witnesses and prosecutors and interrupting the judge and prosecutors. Legal experts, however, noted concerns about the slow process of the trials involving Merabishvili. Court monitors attributed the slow process of Merabishvili's trials mainly to the prosecutor's motions for the postponement of the pretrial hearing, which the prosecutors changed at least three times according to court monitors. Other high-profile cases exhibited a similar trend. Some legal experts attributed the delays to the prosecution requiring more time to prepare its case.

During December approximately 1,000 prisoners went on a hunger strike in several prisons, including Geguti Prison in western Georgia. According to media reports, the prisoners demanded the creation of a temporary state commission on the miscarriage of justice, which would provide opportunities for the review of certain cases which critics alleged did not conform to due process standards and/or which the former government had prosecuted for politically motivated reasons. The hunger strike continued at year's end.

The Georgian Bar Association (GBA) expressed concerns about the mistreatment of prosecutors. According to the GBA, approximately 10 percent of the country's prosecutors allegedly were fired or forced to resign since October. The GBA reported that 29 prosecutors were fired or forced to resign during former prosecutor general Otar Partskhaladze's brief tenure, and this allegedly continued after his resignation in late December. The GBA alleged that prosecutors were fired for refusing to pursue or drop cases based on the prosecutor general's instruction and for knowledge of details in high profile cases. The Prosecutor General's Office responded to these allegations by justifying two of the dismissals with specific examples of office misconduct and performance issues.

The code of administrative offenses lacks sufficient due process provisions. For example, although the code provides for prison sentences of up to 90 days for violations, it does not require police to inform individuals of their rights or the reason for their arrest, nor does it permit counsel to represent defendants at administrative hearings. Additionally, there is only a limited right of appeal and often-incomplete hearing records on which to base an appeal. Reports from Thomas Hammarberg and the public defender highlighted continuing problems with administrative detention. Trends identified included inadequate time to prepare a defense (sometimes as

little as 10 minutes), failure to admit defense evidence or witness statements, and complete reliance on statements made by police officers.

The Prosecutor's Office and Ministry of Justice are responsible for disciplinary action for violations of the ethics code by prosecutors. During the year authorities subjected six prosecutors from the Chief Prosecutor's Office to disciplinary actions ranging from notice to reprimand. During the year the Chief Prosecutor's Office assumed primary disciplinary and prosecutorial authority over prosecutor misconduct.

Trial Procedures

The law presumes defendants are innocent. During the year jury trials were available in Tbilisi, Kutaisi, and Batumi for all instances of aggravated murder and for defendants who committed crimes while holding public office. The criminal courts did not allow the public or NGO trial monitors to attend jury selection proceedings, claiming insufficient space.

Defendants may waive the right to a jury trial and seek instead a bench trial with a judge. Previous Saakashvili administration officials who went to trial during the year waived their rights to jury trial in favor of a bench trial by a judge, all of whom were appointed during the Saakashvili administration. During the year representatives of the Justice Ministry and the Prosecutor's Office at times revealed evidence and commented publicly on pending cases involving former Saakashvili administration officials, directly undermining the presumption of innocence.

Defendants have a right to a public trial (except where national security, privacy, or protection of a juvenile is involved) and to be present at their trial. Transparency International/Georgia reported that courts failed to publish information in advance on hearings of former Saakashvili administration officials and selected inappropriately small courtrooms for such hearings.

GYLA noted that some defendants had a difficult time understanding judges' explanation of their rights. The Public Defender's Office reported in 2012 that some defendants were at a disadvantage in court hearings as they did not speak the state language and the court did not provide translation. The law allows for trial in the absence of the defendant in certain cases in which the defendant has left the country.

Defense counsel has the right to meet individuals accused of a crime without hindrance, supervision, or undue restriction. Defense attorneys reported that their access to detained or imprisoned clients greatly improved after the October 2012 parliamentary elections, although there were anecdotal reports of isolated problems.

According to statistical data provided by the Supreme Court, authorities charged one defense lawyer during the year with fraud for misappropriation of client funds. Sufficient information was not available to determine whether the government subjected this lawyer to undue pressure. According to the Georgian Bar Association, some lawyers allegedly received threats from officials, with an aim to intimidate or pressure them.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. GYLA court monitors generally found that the defense was passive in typical cases but was often more active than the prosecution in cases against former senior officials. Defendants and their attorneys have access to the prosecution's evidence relevant to their cases at any point during criminal proceedings and may make copies. The prosecution must disclose all evidence to the defendant no later than five days before the pretrial hearing. Court observers reported that the prosecution generally complied with these rules, but there were incidents in which the prosecution failed to turn over exculpatory information.

While a convicted defendant has the right of appeal, appeals under the administrative and criminal codes were difficult to make. Under the criminal procedure code, defendants have one month to file an appeal. In criminal cases courts were allowed up to two weeks to provide court records to defense attorneys, thus reducing the attorneys' time to prepare an appeal. Administrative sentences that entail incarceration must be appealed within 48 hours and within 10 days otherwise. In administrative cases courts provided records three days after the trial, thus forcing attorneys to prepare appeals of cases involving incarceration without the court's written judgment.

In June a change in the law allows defense attorneys to file an appeal on behalf of criminal defendants. The defendant, however, must sign appeals in administrative cases, and attorneys reported difficulty in locating and accessing their clients in the penitentiary or detention system, impairing their ability to submit the appeal on time. Human rights monitors also reported that court decisions in administrative trials were often "perfunctory" and that courts rejected criminal trials appeals without an adequate explanation. Other factors impeding meaningful appellate review included a lack of internal judicial independence such that lower court judges inappropriately sought guidance from superior court judges on their cases, a lack of timely verbatim transcripts of lower court proceedings, inadequate legal justifications for judicial decisions, and public commentary by senior judges about pending litigation.

By law, a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. Nevertheless, there were continued reports that judges failed to exercise proper oversight. GYLA reported that, of the first appearance

trials it monitored from January to June, the judge approved virtually all plea bargains. During the year there were credible reports that when a defendant complained of mistreatment and maintained directly or indirectly she or he had made a guilty plea under duress, the judge took no action to either investigate or reject the plea agreement.

According to GYLA approximately 50 percent of plea agreements made between January and June contained a fine, a decrease from 57 percent during GYLA's monitoring between July and December 2012. Additionally, the amount of the average fine decreased to 36 percent of the average fine during the prior period.

For several years prior to the October 2012 parliamentary elections, human rights experts, such as the UN Working Group on Arbitrary Detention, reported that detainees effectively relinquished their right to fair trial because they felt pressured to enter plea bargains, believing a fair and impartial trial was not possible. Detainees reportedly believed their chance for acquittal was small and they risked a lengthy prison sentence in a penitentiary system known for abusing inmates.

After the 2012 parliamentary elections, thousands of citizens applied to the Prosecutor's Office for redress of what they reported had been coerced plea bargaining. According to the Supreme Court, the use of plea bargaining continued in 90 percent of cases during the year. While noting the benefits of plea bargaining, including increased efficiency and cost savings in the court process, providing relief to overcrowded prisons, and in fighting organized crime and corruption, experts continued to raise significant concerns about the fairness of the system. These concerns focused mainly on the imbalance between the powers of the prosecution and the judiciary, the requirement of a plea bargain for decreased sentences below statutory limits, and the system's lack of transparency in the application and collection of fines. There are no explicit criteria for calculating fines, and NGOs alleged that defendants facing equal charges frequently received very different sentences according to their ability to pay. The amount of fines collected pursuant to plea agreements decreased markedly during the year, but the practice of using fines in lieu of additional prison time to leverage guilty pleas remained.

In April parliament amended the criminal procedure code and criminal code to include concurrent sentencing, as opposed to consecutive sentencing, which had been criticized as a form of excessive punishment.

Throughout the year NGOs raised concerns regarding prosecutorial pressure on defendants to confess. In one high-profile case, the so-called tractor case, in which the government arrested eight persons working for or contracted by the Ministry of Agriculture on charges of corruption, some defendants alleged the Prosecutor's Office attempted to pressure them to implicate the former minister of agriculture. Among other concerns, NGOs criticized the prosecution's lack of evidence in the case and the use of pretrial detention of the defendants allegedly to coerce a confession. After several months of pretrial detention, the court released the defendants on bail, and their trial was pending at year's end.

In recognition of the improper imposition of detention on defendants in nonviolent cases, the prosecutor general announced measures in July that required an analysis of each defendant's case before requesting detention.

Political Prisoners and Detainees

The UNM opposition party and family members of prisoners alleged the government held political prisoners and detainees. Citing specific evidence against these individuals and the prosecution of one of its own deputy ministers, the government refuted these claims. In January parliament passed a political prisoner amnesty law, which released 190 inmates it defined as political prisoners. According to the Venice Commission, the amnesty law failed to comply with "fundamental principles of the rule of law, namely legality, the prohibition of arbitrariness, nondiscrimination, and equality before the law."

The government permitted international and domestic organizations to visit persons claiming to be political prisoners or detainees, and several international organizations did so freely during the year, reporting no problems with access or serious humanitarian concerns.

Civil Judicial Procedures and Remedies

The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns about the professionalism of civil judges and transparency in their adjudication. The constitution and law stipulate that a person, who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including unlawful human rights violations, is entitled to bring a civil action. Individuals have the right to appeal court decisions involving the alleged violation of human rights by the government to the ECHR after domestic avenues of appeal have been exhausted.

Regional Human Rights Court Decisions

During the year the ECHR ruled against the government in two cases involving alleged violations of the European Convention on Human Rights. According to the Ministry of Justice, authorities paid compensation in

both cases. The public defender, however, reported the government failed to execute ECHR judgments fully. According to the Ministry of Justice, during the first six months of the year, citizens lodged 103 applications against the country in the ECHR, compared with 203 during the first six months of 2012.

Property Restitution

There were concerns about the lack of due process and respect for the rule of law in a number of property rights cases. After the October 2012 parliamentary elections, numerous former business owners and individuals claimed officials from the Saakashvili administration illegally deprived them of their property. The public defender confirmed that cases of incorrect asset seizure during the previous administration numbered in the thousands. NGOs also reported several cases in which groups claimed the Saakashvili administration improperly used eminent domain or coercion to seize property at unfairly low prices. Transparency International/Georgia reported that, between 2004 and 2012, in addition to state companies, municipalities, and self-governing cities, private individuals and companies gave valuable land to the state free of charge or for a token price of one lari (60 cents).

In Abkhazia the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving IDPs of their property rights in Abkhazia.

In a 2010 decree South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property held in the Akhalgori region. The decree also declared that all property in Akhalgori belongs to the de facto authorities until a “citizen’s” right to that property is established in accordance with de facto legislation, effectively denying ethnic Georgians, displaced in 2008, of their property rights in the region.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions without court approval or legal necessity and prohibit police from searching a residence or conducting or nonconsensual electronic surveillance or monitoring operations without a warrant, but respect for these prohibitions was problematic.

Following the October 2012 parliamentary elections, authorities announced that the Ministry of Internal Affairs under the Saakashvili administration had an archive of approximately 26,000 audio and video recordings made without court authorization of the meetings and conversations of politicians, journalists, civil society representatives, and citizens. The government arrested 12 officials from the Ministry of Internal Affairs on charges of exceeding official power and illegal surveillance. Some of the recordings, which allegedly dated from 2007, included videos of individuals’ private lives allegedly taken for blackmail purposes. In June the government created a commission composed of representatives from the government and civil society to establish a policy regarding the handling of the tapes. On September 5, the commission supervised the destruction of the private life video recordings, primarily of a sexual nature, held by the government. Government officials learned that those who made the recordings and other individuals might still have copies.

In May the government fired and arrested First Deputy Minister of Internal Affairs Gela Khvedelidze, charging him with releasing a secretly obtained videotape of a journalist’s private sexual life in an attempt to discredit him. According to the prosecution, the Internal Affairs Ministry under the Saakashvili administration recorded the video, which had been in the ministry’s possession prior to its destruction in September. The court ruled in favor of bail and stated that the prosecution had insufficiently justified its recommendation for pretrial detention. The trial was scheduled for January 2014.

On January 14, the Prosecutor’s Office announced that the leadership of the Ministry of Defense’s Military Police under the Saakashvili administration had ordered the illegal surveillance and taping of prominent men having sex with other men, including public officials. The previous government allegedly collected the video footage to blackmail political opponents. Authorities released some of the videos to media outlets, a number of which broadcast the videos without adequately protecting the identity of the individuals in the videos. Identoba, an LGBT rights NGO, noted this “put [the] victims at risk of identification and disclosure of their [sexual] orientation against their will.”

During the year some opposition figures and NGOs expressed concern about government surveillance. They alleged surveillance included monitoring of e-mails and cellular telephones. In May a group of human rights NGOs expressed concern that the Ministry of Internal Affairs allegedly maintained black boxes, which the former government initially installed, in the server infrastructure of major telecommunication companies, allegedly giving the ministry the capability to monitor mobile phone numbers. While the media reported that authorities from the judicial branch claimed that standards for scrutinizing requests from law enforcement agencies for secret surveillance and wiretapping had recently increased, EU Special Advisor Thomas Hammarberg said in May that the law should clearly define the limits of surveillance. Others reported alleged surveillance by members of the Presidential Security Office. The chairman of the Supreme Court raised

concerns about a reported blackmail attempt involving ministry of internal affairs officials who allegedly filmed the private life of city court employees. The ministry stated the matter was under investigation but had announced no results by year's end.

In June the National Preventive Mechanism of the Public Defender's Office and GYLA released a monitoring report on Tbilisi Prison No. 9, where former law enforcement and other government officials were held, including former ministers Bacho Akhalaia and Vano Merabishvili. The report stated that a camera in the facility's showers curtailed inmates' right to privacy.

NGOs continued to report that police conducted searches without first obtaining warrants. NGOs stated that police often obtained warrants after the fact and many citizens were unaware of their right to delay a search of their home by one hour to summon two objective, third-party witnesses to the search. Under the law, if authorities conducted a search or seizure without a warrant because of urgency, they must apply for the warrant within 24 hours of the search, otherwise the evidence collected is considered invalid. Courts, however, engaged in increasingly stricter oversight after the 2012 parliamentary elections in some cases. For example, the court refused to approve a wiretap the police placed on former minister Vano Merabishvili prior to seeking court approval in April. As a result the court excluded evidence collected from this illegal wiretap from one of his pretrial detention hearings, precluding its introduction in other hearings. According to GYLA's April court-monitoring report of the search and seizure hearings it monitored, law enforcement officials applied to the court for a warrant in only 7 percent of searches. In its October report, of 30 search and seizure hearings it monitored, authorities performed one search with a court's warrant; police justified remaining searches based on "urgent necessity," which the court later legalized.

There were numerous reports that relatives of unions and opposition party members were harassed, demoted, dismissed from employment, or arbitrarily arrested (see sections 1.d., 3, and 7). Throughout the year members of NGOs and individuals reported arbitrary harassment, job loss, and arrests they alleged were related to the activities of family members.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and citizens generally are free to exercise these rights. After the 2012 parliamentary elections, while the media environment generally improved, becoming more diverse, there were credible reports that the government at times did not adequately protect freedom of speech. Continuing problems at the Georgian Public Broadcaster (GPB) fueled allegations of government interference in the media.

Freedom of Speech: Individuals were generally free to criticize the government publicly and privately, although a number of observers reported the government did not fully protect this freedom in nonurban areas. For example, in August the International Society for Fair Elections and Democracy (ISFED) reported a violation of free speech. According to ISFED a local politician and her supporters in Kaspi, in the Shida Kartli region, posted threats on a local reporter's Facebook page and made threatening phone calls to her after the reporter published an article alleging instances of political pressure in the local government.

Press Freedoms: Independent media were active and expressed a wide variety of views, but most outlets showed some form of political bias. In his September report, special EU advisor Thomas Hammarberg described the media environment as "comparatively free and pluralistic." According to the OSCE's International Election Observation Mission, despite an improved media environment, "critical analysis and analytical reporting" was lacking in the period preceding the October presidential election.

Television was the most influential medium and the primary source of information on current events for more than 80 percent of the population. According to Transparency International's 2012 report *Georgia's Television Landscape*, the media were politically polarized, and both the government and the opposition sought to keep a number of television stations, as well as key intermediary companies that broadcasters needed to reach their audience, in their sphere of influence. The OSCE's international election observation mission reported, however, that the media were less polarized during the October presidential election than during the 2012 parliamentary elections. The three largest television broadcasters were the GPB and the privately owned Rustavi-2 and Imedi TV, the country's two most popular stations.

In a positive development, in an effort to broaden public access to sources of information and in response to a civil society campaign, parliament amended the Law on Broadcasting to make the previous year's "must carry, must offer" legislation permanent. The regulation requires cable providers to carry television channels with public-value content (for example, channels of the public broadcaster, local channels, or channels with national news and current affairs programs) in their packages, while television stations must offer their signal to service providers without discriminating against selected companies. The prime minister's decision to close his family-

owned television station, asserting his desire to avoid the perception of using the station for partisan purposes, was largely seen as a positive step.

In September the GPB cancelled two talk shows hosted by journalists considered supportive of UNM, stating the change was part of a reorganization of the fall talk show programming. Coming one month before the presidential election, the UNM opposition and several NGOs alleged the change was politically motivated. Following the cancellation, the GPB's board of trustees dismissed the broadcaster's general director, who alleged that his dismissal was "politically motivated" and that the UNM influenced the board, which was appointed by the previous UNM-led government. NGOs criticized the board's decision. Two weeks later two members of the board resigned, leaving the board without a quorum and, by extension, the ability to appoint a new general director. On October 18, a group of Tbilisi-based foreign ambassadors issued a joint statement noting concerns about reports of allegations of pressure on the GPB board members to resign, of pressure on news organizations, and of the presence of police officials in newsrooms. Consideration of nominees for the new nine-member GPB board of trustees continued at year's end.

The head of the Georgia National Communications Commission (GNCC), charged with regulating electronic communication, owned a major advertising agency, which represented a direct conflict of interest because he received income from the advertising company regulated by the agency he headed. In addition, he did not appear at work for several months following the October 2012 parliamentary elections. GNCC operations largely ceased during his absence, as employees claimed they were not authorized to make decisions. In April parliament dropped impeachment proceedings against the GNCC head due to his April 15 resignation. On May 1, parliament established an investigative commission charged with assessing the GNCC. According to the commission's draft decree, presented during its final working session on October 31, the commission concluded, in part, that the GNCC operated without transparency, was politically biased, and violated consumers' rights. On November 1, parliament began impeachment proceedings against the new head of the GNCC (appointed by the president on April 17) on conflict of interest and corruption charges. For the remainder of the year, the GNCC operated without an acting chairman and with one vacancy, as parliament failed to endorse any nominee for the position. On December 24, President Margvelashvili proposed three nominees. Consideration of the nominees continued at year's end.

Although the availability of information on television station ownership and the financial transparency of stations significantly improved following 2011 amendments, media experts noted that problems remained, including a lack of clarity regarding ownership. For example, when the possible sale of Rustavi 2 arose in August, the government placed a lien on the station until the question of its ownership, specifically with regard to past sales involving shell companies and front men, was resolved. In a 2012 report, Transparency International/Georgia reported shell companies owned several major telecommunication companies, including the three largest internet service providers, Caucasus Online, Silknet, and Akhali Kselebi, effectively skirting legislation requiring ownership disclosure.

The GNCC issues broadcast licenses as either a "general license" for news and political programming or a specialized license that strictly limits content, thereby giving the commission substantial control over programming content.

Violence and Harassment: There were a few reports from both urban and rural areas during the year of physical and verbal assaults of journalists by police, confiscation of journalists' cameras by authorities, and intimidation of journalists by government officials due to their reporting. In May, for example, a secretly obtained videotape allegedly showing the private life of a journalist was posted on the internet. While denying he was in the video, the journalist alleged the Ministry of Internal Affairs released the video, allegedly recorded under the previous government, to silence him after he published an article in April alleging corruption of certain senior Georgian Dream government officials, including the deputy minister of interior, whom the government subsequently dismissed (see section 1.f.).

In June 2012 GYLA appealed to the Prosecutor General's Office to complete the investigations of 39 criminal cases in connection with the violation of journalists' rights between May 2008 and September 2012. According to GYLA's Georgian Media Legal Defense Center, the Prosecutor General's Office, and the Ministry of Internal Affairs initiated criminal proceedings in the cases in June.

Media watchdog groups reported few instances of verbal or physical abuse of journalists. The Public Defender's Office investigated three claims of verbal or physical abuse of journalists as of November 1. On August 24, five police officers allegedly removed *Tabula* journalist Giorgi Sikharulidze from his car, verbally insulted him, and erased recorded footage from his mobile phone. *Tabula* alleged the search was illegal and called on the Ministry of Internal Affairs to investigate the incident immediately. At year's end Sikharulidze awaited a hearing to present his case. GYLA called on the Ministry of Internal Affairs to explain its actions and on the General Prosecutor's Office to begin an investigation if necessary. The ministry denied the accusation. On August 23, Vladimir Menabde, the publisher and editor in chief of the regional newspaper *Guriis Moambe*, which was based in Ozurgeti, reported to the Ozurgeti district attorney that he received a death threat from the head of the Georgian Dream Coalition in Ozurgeti, Davit Darchia. According to Menabde he posted a video on the newspaper's website of a secretly recorded conversation between Georgian Dream leaders. Davit Darchia

allegedly demanded that Menabde remove the video from the newspaper's website. The district attorney's decision on the case was pending at year's end.

Censorship and Content Restrictions: Throughout the year NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of influencing editorial and programming decisions through their personal connections with news directors and media executives and by directing advertising using their personal connections with business owners.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by de facto authorities and Russian occupying forces.

Internet Freedom

Outside Abkhazia and South Ossetia, there were no government restrictions on access to the internet or reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. During the year Freedom House rated the country's internet freedom status as "free" for the 12-month period (May 2012 to April) on which it was reporting. According to Freedom House, 46 percent of the population had access to the internet as of April. High prices for services and inadequate infrastructure remained obstacles to access, particularly for individuals in rural areas or with low incomes. There were no indications of censorship or content being blocked by authorities or internet service providers. There were no known cases during the year of activists or reporters being questioned or arrested for their online activities.

Insufficient information was available about internet freedom in Abkhazia and South Ossetia.

Academic Freedom and Cultural Events

There were no government restrictions on cultural events. There were, however, reports of academic appointments and dismissals due to political affiliation, both in the periods preceding and following the October election. For example, in March the National Center for Developing Education Quality suspended the accreditation of the Agricultural University of Georgia, citing concerns about the university's hiring practices, the lack of compulsory literature classes, and the academic status of its students. Members of the political opposition alleged the center's decision was politically motivated, since former president Saakashvili's minister of economy Kakha Bendukidz had invested in the rehabilitation of the university. On March 26, noting the university had addressed its concerns, the center reinstated the university's accreditation, two weeks after suspending it.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law generally provide for freedom of assembly, and authorities routinely granted permits for assemblies. While the government generally respected freedom of assembly, on occasion police arrested or failed to protect participants in peaceful assemblies from counter protesters. Human rights organizations expressed concern about provisions in the law, including the maximum prison term of 90 days for blocking streets "artificially" and "deliberately," either by protesters or using "various types of constructions and/or objects," and the requirement that political parties and other organizations give five days' prior notice to local authorities to assemble on a public thoroughfare, thereby precluding spontaneous demonstrations. Following Constitutional Court rulings in 2011 and 2012, the law no longer permits bans of demonstrations by one person or noncitizens and of rallies within 65 feet of courts, government agencies, and ministries. GYLA reported police arrested 37 participants in a protest recognizing International Labor Day on May 1 in Tbilisi on charges of petty hooliganism and malicious disobedience of lawful orders of a law enforcement officer. According to GYLA the police arrested protesters because they used offensive language and blocked Rustaveli Avenue, a public thoroughfare, without permission. The court fined six protesters 400 lari ($240), nine protesters 100 lari ($60), released 18 protesters with a verbal warning, and dropped charges against four individuals.

In February violent protests broke out on the street in front of the parliamentary library hosting President Saakashvili's annual address to the nation. Protesters shoved several UNM parliamentarians and punched one female UNM parliamentarian in the nose. Police failed to contain demonstrators and protect UNM opposition members from assault as they entered the library for the president's address. Police and the government alleged that UNM participants failed to follow security instructions directing them away from the protesters and instructing them to use a back door that had been designated for that purpose.

Police did not protect the right to peaceful assembly at a May 17 march in downtown Tbilisi in observance of International Day against Homophobia and Transphobia (IDAHO) (see section 6), when thousands of counter demonstrators led by priests from the Georgian Orthodox Church violently attacked peaceful participants, forcing the police to evacuate IDAHO rally participants. The Public Defender's Office and NGOs criticized police strategy for protecting the marchers and failure to allow the rally to proceed without interference. Government

officials defended the police response, noting that no serious injuries resulted from police evacuation of the IDAHO participants, despite the large numbers of counterprotesters. While one journalist suffered injuries, government officials noted that 30 police and participants received minor injuries. At year's end cases against priests who led the attacks against IDAHO rally participants had either been dismissed or were pending with the Prosecutor's Office, leading many civil society commentators to criticize the government for its failure to hold perpetrators responsible.

Freedom of Association

The constitution and law provide for freedom of association, but the government's respect for this right was selective. There were allegations of pressure on political opposition figures and supporters, central and local self-government employees, teachers, and union members, including surveillance and actual or threatened job loss (see sections 3 and 7).

According to the OSCE/ODIHR preliminary statement, throughout the presidential election campaign, there were reports of rival supporters harassing party activists and isolated incidents of government authorities intimidating local officials or party representatives. There were verbal and physical altercations between UNM and Georgian Dream party supporters.

Anti-UNM protesters at UNM presidential primary events in July threw various objects at UNM officials in Zugdidi, Batumi, and elsewhere. Police detained at least 17 persons in connection with the events, charged them with petty hooliganism, and fined all but one 100 lari ($60) each. The OSCE reported approximately 15 additional cases involving filming of activists at rallies, altercations during campaigning, and physical assaults between August and October. ISFED, in its *Second Pre-election Report*, wrote, "Acts of violence have been witnessed during the UNM primaries, perpetrated by former political prisoners and groups of radical opponents of the former ruling party. Despite the aggression the Ministry of Internal Affairs was able to ensure safety for representatives of the UNM participating in the primaries."

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation of citizens, but de facto authorities and Russian occupying forces limited this freedom in Abkhazia and South Ossetia. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law imposes limitations on foreigners moving into and out of Abkhazia and South Ossetia. There were no reports that Georgian authorities unduly restricted any international humanitarian organizations. Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia. Russian and South Ossetian de facto authorities blocked virtually all international organizations, including humanitarian organizations, from regular access to South Ossetia.

De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia restricted the movement of the local population across the administrative boundaries for medical care, pension services, religious services, and education. These restrictions were tightened by increased Russian "borderization" of both administrative boundary lines, which further stymied freedom of movement and created physical barriers separating friends and families and obstructing access to agricultural land, water supplies, and cemeteries, all of which negatively affected the lives and livelihoods of the adjacent population. Russian military forces and de facto militias limited the ability of international observers to travel in Abkhazia to investigate claims of abuses. South Ossetian de facto authorities continued to refuse humanitarian access to most international organizations.

The Gali region of Abkhazia, where many ethnic Georgians lived, remained tense because of limitations on freedom of movement as well as reports of kidnapping, arbitrary arrests, and deaths in custody. There were numerous reports of extortion, looting, and robbery by Russian and Abkhaz de facto forces and criminal gangs, especially during the harvest season, when local farmers regularly faced extortion of a portion of their income.

In May, Abkhaz de facto authorities suspended the issuance of "passports" to residents of the Gali district, citing the need to investigate improper passport issuances to residents who possess Georgian citizenship. Without such "passports," it was difficult for the residents of Gali to cross the administrative boundary line into undisputed Georgia.

Internally Displaced Persons (IDPs)

The UNHCR estimated that 279,778 IDPs from the conflicts in 1992-93 and 2008 were in the country during the year. In addition, as of January, the UNHCR counted 168,184 persons as being in an “IDP-like” situation needing protection and humanitarian assistance. This number included individuals who returned to Abkhazia, South Ossetia, and areas adjacent to the administrative boundary with South Ossetia and Abkhazia as well as those displaced in the 2008 conflict who were subsequently relocated. Various agencies, including the government, the UNHCR, and NGOs, employed different methods in estimating the number of IDPs.

Most IDPs displaced in 2008 received formal IDP status under national legislation. IDP status, however, was not established for some individuals who claimed to have been displaced in the conflict. These individuals, described by officials as “IDP status seekers,” included persons who had never been registered with Georgian authorities, such as: persons who had never been registered at birth or were displaced from regions that before 2008 were not under government control, persons whose departure from South Ossetia could not be established as having been caused by the conflict, and persons who could not prove their former residence in the occupied territories. A July Constitutional Court ruling expanded the definition of IDP status, extending status and the accompanying benefits to persons who remain vulnerable after they have returned to their homes in close proximity to the administrative boundary lines with Abkhazia and South Ossetia. The Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations continued to provide monthly allowances for IDPs, promote their socioeconomic integration, and create conditions for their return in safety and dignity.

During the year the government took steps to rehabilitate, purchase, or build new housing, or offer cash payments in lieu of providing housing to IDPs from the conflicts in the early 1990s and 2008. Many IDP households, primarily those displaced in conflicts in the 1990s, nonetheless continued to live in substandard or squalid buildings and were in areas with insufficient access to services and economic opportunities. The public defender identified access to running water, heating in the winter, and unemployment as continuing problems for IDP households.

Abkhaz de facto authorities continued to prevent repatriation of the approximately 235,000 persons displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and the UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 45,000 of these IDPs, many working as seasonal laborers, returned to the Gali and Ochamchire regions of lower Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia. IDPs living elsewhere in the country were prevented from reclaiming homes in Abkhazia, based on a 2008 “law” that expropriated all “abandoned property” from 1992-93.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

While the law was amended in 2012 to bring the legal framework for asylum closer to international standards, the UNHCR and other monitors reported that flaws remained in the asylum adjudication and refugee status determination system. Authorities approved relatively few asylum applications, and recognition of refugee status appeared to be linked to political concerns, for example, fear of provoking recognition of the occupied territories.

As of November 1, a total of 622 persons had applied for asylum, compared with 600 applications in all of 2012. The vast majority of asylum seekers were from the Middle East (Iraq, Egypt, and Syria). Prior to 2012 the government rejected asylum claims from all but Russian citizens. In 2012 and throughout the year, however, it granted refugee status to a small number of asylum seekers from Iraq, Egypt, and Syria. During the year the government recognized the refugee status of only 5 percent of asylum seekers and granted “humanitarian status” in 16 percent of the cases adjudicated. The vast majority of asylum seekers (67 percent) were Iraqi refugees from Syria who were displaced a second time to Georgia, representing a low recognition rate.

Durable Solutions: The government continued to facilitate the local integration of Chechen refugees through naturalization and cooperation with the UNHCR to provide assistance with durable housing and livelihoods. During the year, however, the government rejected all applications for naturalization by Chechen refugees and did not provide an explanation for the denials. The government made efforts to assist with the local integration of an increasing number of refugees from the Middle East, primarily Iraqis and Syrians, but lacked the capacity to respond fully to the needs of these refugees.

Stateless Persons

The law provides for citizenship at birth if one or both parents are citizens. It also gives citizenship to children of stateless individuals born on the country’s territory. The law provides that an adult may become a citizen if he or she satisfies the following requirements: (a) has permanently resided on the country’s territory during the previous five years; (b) knows the state language; (c) is familiar with its history and laws; and (d) has a job or owns real estate on the country’s territory, conducts business, or owns shares in a Georgian company or

industry. A person seeking naturalization is expected first to give up any previous citizenship. In certain cases, the president can grant citizenship without these requirements.

According to the UNHCR, as of January there were 156 stateless persons in the country, compared with 1,569 in 2012.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the year, although some problems persisted.

Elections and Political Participation

Recent Elections: In their joint October 28 preliminary international election observation mission statement on the October 27 presidential election, the OSCE/ODIHR, OSCE Parliamentary Assembly, Parliamentary Assembly of the Council of Europe, European Parliament, and the NATO Parliamentary Assembly reported that the election largely met international standards and reflected the will of the people, although there were some shortcomings.

Their interim report stated the presidential election was efficiently administered and transparent. Fundamental freedoms of expression, movement, and assembly were respected, candidates were able to campaign without restriction, voters were able to express their choice freely, and vote counting and tabulation procedures were positive. Although the campaign environment was without major irregularities – a significant improvement compared with the 2012 parliamentary elections – shortcomings included inconsistent application of the election code, denial of registration of candidates, allegations of political pressure at the local level, ineffective adjudication of disputes, and delayed responses to campaign finance violations.

Domestic and international observers characterized the pre-election period as competitive, with active citizen participation throughout the campaign and a generally diverse media environment with less media polarization than in the 2012 parliamentary elections. The National Democratic Institute and the OSCE reported far fewer problems with the abuse of administrative resources, harassment of opposition, instances of violence, and problems with police compared with the period prior to the October 2012 parliamentary elections. Transparency International/Georgia reported in December less abuse of administrative resources for electoral purposes from July 1 until November 12. Observers noted, however, that protesters convicted of assaulting parliamentary opposition members outside UNM primaries in Zugdidi, Batumi, and Tbilisi were fined only 100 lari ($60), an amount some believed would not deter future campaign violence.

In response to complaints of pre-election abuses in 2012, parliament passed a law establishing the Interagency Commission for Free and Fair Elections (formerly known as the Interagency Task Force) to address a number of problems associated with the campaign. In August authorities moved oversight of the commission, composed of representatives of several government ministries and including representatives from political parties, from the National Security Council to the Ministry of Justice. Some political parties and NGOs complained that the commission did not address issues raised by the political parties sufficiently quickly. While the Georgian Dream chair recommended dismissing or fining officials implicated in some of the cases brought before the commission, it had not concluded an official investigation by year's end. Furthermore, personal conflict between the chair and the UNM representative to the commission precipitated UNM leaving the commission several weeks before the election. OSCE observers noted that, unlike election commissions and courts, the commission did not have the authority to impose sanctions and ensure the effective adjudication of disputes based on international commitments and best practices.

As in past elections, the presidential poll was administered by the Central Election Commission via 73 election district commissions, 3,655 precinct election commissions, 34 special polling stations in penal institutions, medical facilities, and military bases, and 52 polling stations in diplomatic and consular missions abroad for out-of-country voting. Each commission is composed of 13 members, of which six are "professional" nonpartisan members and seven are appointed by political parties. For the October 27 election, the Georgian Dream Coalition appointed six members (reflecting the six parties comprising the coalition), and the UNM appointed one. Unlike in the past, nonparliamentary parties had no representation on these election commissions and alleged this negatively affected their ability to monitor election preparations or ensure protection of their election rights. The OSCE/ODIHR's preliminary statement reported that, "in precincts where the chairpersons were elected from among the political appointees, the result heavily favored the Georgian Dream Coalition over the United National Movement."

Political Parties: Members of the UNM opposition claimed investigations of opposition members were politically motivated (see section 1.d.). Notably, since the 2012 parliamentary elections, the UNM claimed that

prosecutors questioned 6,156 persons, most of them opposition UNM party activists, regarding crimes such as misuse of government funds and money laundering.

Following the 2012 parliamentary elections, citizens staged protests in cities and regions in which the UNM opposition still maintained control of local governments, calling for the resignations of local UNM opposition officials. These demonstrations allegedly prompted resignations and or defections to other parties as many previously UNM-affiliated politicians declared themselves independent or allied with the Georgian Dream Coalition. Some UNM officials stated they voluntarily changed parties in response to the electoral response.

According to ISFED's third report on monitoring of the postelection processes, beginning in October 2012 and ending on February 28, politicians formed new political factions in 54 municipalities, resulting in the formation of a new majority. According to GYLA, between October 2012 and March 1, 36 city council chairs resigned, more than 30 for personal reasons. From the October 1, 2012 parliamentary elections to April 22, 50 mayors resigned, 48 for personal reasons and two after the local city council impeached them. ISFED, Transparency International/Georgia, and GYLA believed some of the resignations responded to pressure from the Georgian Dream Coalition, either at the regional or national level. According to GYLA, in August the deputy police chief threatened the mayor of Qareli that, if he did not resign from his position voluntarily, there "would be problems for him and his family." The mayor refused, and the city council impeached him, appointing the deputy police chief as his replacement. The State Security Service allegedly brought many local-level politicians in for questioning, often at arbitrary times and without a clear scope of questioning.

There were a number of instances of newly appointed officials dismissing public servants, including city hall and mayoral staff members and school, cultural center, and fire department employees. According to ISFED estimates, there were 1,877 local resignations and dismissals between the October 2012 parliamentary elections and February 28. In many cases dozens of employees submitted resignation letters the same day, which raised doubts about whether they resigned willingly or under pressure. ISFED reported that, in some cases, the dismissed public servants confirmed they resigned under pressure from their supervisors. ISFED reported that only six municipalities of 55 announced a competition to hire new employees. In the remaining municipalities "hiring decisions were mostly based upon party affiliation or familial ties."

Participation of Women and Minorities: There were 16 women in the 150-seat parliament, double the number in the previous parliament. One of the five vice speakers was a woman, as were the chairs of parliament's human rights and procedural committees. There were three women in the 19-member cabinet and three women on the 14-member Supreme Court.

There were three ethnic Armenians, three ethnic Azeris, and one ethnic Ossetian in the new parliament, but no minority members in the cabinet, Supreme Court, or Constitutional Court. Higher-level city managers included ethnic minority leaders.

De facto authorities in Abkhazia continued to restrict the rights of citizens to vote and to participate in the political process through a "citizenship" law that forced ethnic Georgians to give up their citizenship to vote or participate in regional elections. Even those ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them in time to participate due to extensive delays. Ethnic Georgians in South Ossetia were also required to accept a South Ossetian "passport" and "citizenship" to participate in political life.

Abkhazia held de facto "presidential elections" in August 2011, and South Ossetia did likewise in November 2011. Neither contest was considered free and fair due to the large number of IDPs who were prohibited from voting. In South Ossetia public concerns about the integrity of the election results, including a seemingly biased decision by the de facto "supreme court" that disqualified the winner, led to public demonstrations and a political crisis that was settled through Russian mediation and a new election with new candidates.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government implemented the law effectively against low-level corruption. According to survey data, less than 4 percent of the population reported paying a bribe in the previous year to obtain a public service.

Corruption: There were some allegations of high-level corruption. During the year authorities indicted several high-level former or current government officials on corruption-related charges. On May 21, Vano Merabishvili, a former interior minister, prime minister, and UNM secretary general, was arrested on charges of voter bribery. He also was charged with misuse of private property and embezzlement of 158,000 lari ($94,800) in 2009 while minister of internal affairs. Authorities also arrested former health minister Zurab Tchiaberashvili, governor of the Kakheti region, in connection with the voter bribery case, in which the Prosecutor's Office alleged 5.2 million lari ($3.12 million) from public funds was misappropriated towards UNM campaign activities in advance of the 2012 parliamentary elections. According to the Prosecutor's Office, the public funds were spent on a

government program to register unemployed citizens for training and employment programs. Instead of participating in this program, approximately 22,000 citizens allegedly received payment for performing various UNM campaign activities, including participation in campaign rallies and handing out UNM leaflets. Regarding the charges connected to the misuse of private property and embezzlement of public funds, the Prosecutor's Office alleged Merabishvili and his family used a privately owned villa without compensating the owner and renovated it with funds from the Ministry of Internal Affairs.

In February the Ministry of Finance's investigative branch charged Tbilisi Mayor Giorgi "Gigi" Ugulava with fraudulently appropriating a controlling share in the pro-opposition Imedi television station from Georgian-American businessman Joseph Kay in 2008, as well as money laundering. In a separate case, prosecutors charged Ugulava in December with orchestrating an embezzlement scheme to funnel 48.18 million lari ($28.9 million) of public money meant for rehabilitation projects in Tbilisi to UNM pre-election campaigns. Prosecutors alleged that Ugulava and others in the mayor's office instead used the Tbilisi Development Fund to channel funds to UNM activists in the period preceding the 2012 parliamentary elections. In December a court ruled against the prosecution's motion for Ugulava's pretrial detention, and instead ordered bail. The court ruled in favor, however, of the prosecution's motion to suspend Ugulava from office pending a final verdict, citing the need to protect potential witnesses among the municipal staff from pressure. A group of NGOs including GYLA and the Georgian Bar Association called for an inquiry into the court's decision. Trials for both cases were pending at year's end.

According to the media, in April a journalist reported on the alleged corrupt business deals of three government officials: adviser to Prime Minister Bidzina Ivanishvili, Gia Khukhashvili; Deputy Interior Minister Gela Khvedelidze; and Deputy Chief Prosecutor Lasha Natsvlishvili. According to the journalist, the three allegedly used corruption to take control of businesses controlled by the previous government. In May the government fired Khvedelidze and charged him with releasing a secretly obtained videotape of the journalist's private life, allegedly recorded during the previous administration, in an attempt to discredit him (see section 1.f.).

In December, Transparency International/Georgia published a report noting that a lack of regulation and transparency in the movement of officials between the government and the private sector may have resulted in potential conflicts of interest. The report highlighted the problem of influence of private business interests on local government officials and independent regulatory commissions. For example, the report noted the former chairman of the GNCC held business interests in the media sector that may have conflicted with his official duties. Additionally, some companies with connections to government officials received benefits from their relationship, including tax exemptions, exclusive licenses and rights, and preferential legislation. Transparency International/Georgia alleged that during the time former economic development minister Giorgi Arveladze, the former chief of staff to President Saakashvili, was its director and co-owner, Imedi TV station twice benefited from a tax amnesty.

The prevalence of opaque business structures and the dominance of select markets by a few companies during the Saakashvili administration contributed to allegations of elite corruption and crony capitalism by former officials. The Economic Policy Research Center stated that elite corruption was marked by embezzlement of public money by officials and abuse of official powers through government favoritism and internal deals. Transparency International's 2012 study *Competition Policy in Georgia and Georgian Pharmaceutical Market* reported some segments of the country's market were highly concentrated and suggested the existence of cartel agreements or coordinated practices among economic agents. Some problematic markets identified included fuel, food, and pharmaceuticals. Transparency International/Georgia's *Who Owned Georgia 2003-12* reported that some large companies in telecommunications, advertising, oil, construction, and mining had ties to members of the former government, complicated by offshore registration.

During the year the government adopted some measures to combat corruption. In September it required public authorities to disclose more public information on its websites. The Institute for Development of Freedom of Information (IDFI) reported that during the year public institutions "demonstrated more responsibility in terms of releasing public information." The Ministry of Justice Inspector General's Office actively enforced internal ethics and disciplinary rules in the Prosecution Service.

Whistleblower Protection: There is no whistleblower protection law. A plea bargaining mechanism, however, allows prosecutors to give full immunity from prosecution or a significant reduction in a sentence for defendants who assist in solving significant crimes.

Financial Disclosure: The law requires public officials to submit yearly declarations of their own and their family members' financial incomes and property for tax inspection, which are posted online. The Bureau of Declarations received the financial declarations, and the Prosecutor's Office investigated government corruption cases.

Public Access to Information: While the law provides for public access to government meetings and documents, the government sometimes did not provide access. In its September report, IDFI noted a positive trend in responding to requests for public information since the group began its pilot project in 2010. In IDFI's field tests conducted in July 2012-June, government agencies provided complete responses to 51 percent of its requests for public information before the October 2012 parliamentary elections and 81 percent during the postelection

period. Unanswered requests fell from 30 percent to 11 percent. Public institutions violated the 10-day requirement for providing public information in 54 percent of cases of requests before the 2012 parliamentary elections and in 27 percent in the postelection period. In August, GYLA filed a complaint against the President's Office, the Interior Affairs Ministry, and the city of Tbilisi for failing to provide access to public information regarding the purchase of these agencies' vehicles. NGOs noted that a 100-lari ($60) fee for court information was burdensome and limited the ability to access information. Additionally, the freedom of information law restricts third-party access to information on cases involving the government in international courts.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups in most cases operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs enjoyed close cooperation with the government, and officials were cooperative and responsive to their views, while others complained they had insufficient access to government officials and their views were ignored. Some NGOs also reported instances of official harassment.

The major human rights problems that caused tension between the government and NGOs were the investigations of the May 17 IDAHO rally, torture and mistreatment of prisoners, harassment and intimidation of political party activists and supporters, dismissals for alleged political motivations, harassment of human rights defenders and journalists, the conduct of IDP evictions, and lack of accountability for abuses.

UN and Other International Bodies: De facto authorities in Abkhazia allowed some international organizations, including several UN agencies, to operate on a limited basis, but only the ICRC had a specific human rights mandate. De facto authorities in South Ossetia allowed no international organization except the ICRC to operate on a regular basis.

Government Human Rights Bodies: NGOs continued to view the Public Defender's Office, which is mandated to monitor human rights and investigate allegations of abuse, as the most objective of the government's human rights bodies. The public defender's authority does not include the power to initiate prosecution or other legal actions, but he can recommend action, and the government must respond. While the office generally operated without government interference and was considered effective, the public defender reported that the government often responded partially or not at all to inquiries and recommendations. The public defender specifically reported that the Ministry of Internal Affairs did not follow its recommendations, while the Ministry of Health, Labor, and Social Welfare actively followed its recommendations.

The public defender has the right to make nonbinding recommendations to law enforcement agencies to investigate particular human rights cases. The public defender must submit an annual report on the human rights situation for the calendar year but also can make periodic reports, as the office deems necessary. Government offices must respond to all requests for information from the Public Defender's Office within 10 days. The office may not report on torture unless the victim gives clear consent. De facto authorities in the occupied territories did not grant the office access to those territories. The parliamentary Committee on Human Rights and Civil Integration, the Ministry of Internal Affairs' Human Rights Division, and the National Security Council's human rights advisor have mandates to investigate claims of abuse.

The law charges the prosecutor general with protection of human rights and fundamental freedoms. The Human Rights Unit of the Office of Chief Prosecutor monitored overall prosecution and supervision of compliance with national and international human rights standards. The unit reviewed statistical and analytical activities within the prosecution system and was responsible for considering and responding to human rights recommendations of national and international human rights institutions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status. The government did not always enforce these prohibitions effectively.

Women

Rape and Domestic Violence: Rape is illegal, but criminal law does not specifically address spousal rape. Criminal cases of rape generally could be initiated only after a complaint by the victim. A first-time offender may

be imprisoned for up to seven years, while a repeat offender or perpetrator of rapes of multiple victims may receive up to 10 years' imprisonment. If the victim is or becomes pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years. If the victim is a minor in any of these cases, the sentence may be increased up to 20 years. During the year authorities initiated investigations in 57 rape cases, compared with 81 in 2012. Observers believed many instances of rape were unreported due to the social stigma for victims and because police did not always investigate reports of rape.

Domestic and other violence against women remained a problem. NGOs believed cases were underreported. The Office of the High Commissioner for Human Rights (OHCHR)/UN Development Fund (UNDP)-supported NGO Coalition concluded in its September report that domestic violence was "still severe with one national survey identifying 9 percent of the population as subject to physical or sexual violence." According to the Ministry of Internal Affairs' statistics, victims reported 399 domestic violence cases to police during the first 10 months of the year, compared with 316 in 2012. The public defender reported, however, that inadequate police response often led to secondary traumatization of victims. In most of the domestic violence cases addressed to the public defender, police limited their response to issuing verbal warnings and initiating preventive supervision, which provided no actual protection from a recurrent abuse. GYLA reported that prevention of domestic violence worsened during the year because of this approach.

Courts issued restraining orders in all domestic violence cases reported to police during the first 10 months of the year, and courts issued 196 restraining orders. A court must approve a restraining order within 24 hours of a victim's application. Such orders prohibit the abuser from coming within 310 feet of the victim and from using common property, such as a residence or vehicle, for six months. A victim may request an unlimited number of extensions of a restraining order. The first violation of a restraining order results in an administrative fine, but a second offense is punishable under the criminal code. NGOs reported police avoided charging suspects with a second offense due to increased criminal accountability.

NGOs reported that police use of the national referral system for victims slightly improved during the year, although police officers reportedly continued to be reluctant to write restrictive orders when appropriate. During the year Tbilisi police patrol inspectors, regional police officers, and prosecutors received domestic violence-related training.

Local NGOs and the government jointly operated a hotline and shelters for abused women and their minor children, although space in the shelters was limited. There were two government-run and two NGO-run shelters for domestic violence victims. All adhered to the same standardized regulations and generally provided the same services. There were no facilities or support services available for men. There were some complaints that the hotline could not be called toll free from a cellular phone. Shelters included crisis centers that offered domestic violence victims psychological, medical, and legal assistance. The State Fund, an interagency government department that worked with NGOs on gender-based problems, reported it conducted 492 consultations by telephone or in person during the year. The State Fund reported the shelters hosted 44 women and 61 minor children during the year.

Harmful Traditional Practices: Kidnapping women for marriage occurred in remote ethnic minority areas and communities but was very rare. Such kidnappings reportedly often were arranged elopements. Police rarely took action in these cases, although the law criminalizes kidnapping.

Sexual Harassment: Sexual harassment of women in the workplace was a problem. The law does not explicitly prohibit sexual harassment, and authorities rarely investigated complaints.

Reproductive Rights: Couples and individuals have the legal right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, or violence.

Discrimination: The law provides for equality of men and women, but it was not always respected. NGOs stated that discrimination against women in the workplace existed and that instances were underreported. The Gender Equality Law provides for the establishment of a national women's council, enhancement of women's security, equality in the labor market, and strengthening of women's political participation. The law also introduced gender-responsive planning and budgeting on the part of the government. The National Action Plan on Gender Equality outlines plans for the years 2011-13 to ensure that gender equality is a key consideration in fundamental areas of society, including health and social protection, education, economics, security, political participation, and environmental protection. In 2012 the government created an interagency working group to harmonize the country's law with the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence. The Public Defender's Office monitored gender equality cases.

Although some observers noted continuing improvement in women's access to the labor market, women were largely confined to low-paying, low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. According to the OHCHR/UNDP-supported NGO Coalition, while 55 percent of students in higher education institutions are women, in the workplace they earn half the average monthly salaries of men. As a result many women sought employment outside the country.

Gender-based Sex Selection: According to two reports, the gender ratio of children born in the country was 120 boys for every 100 girls. The skewing of the gender ratio was particularly acute for the birth of a woman's second or third child, but neither the public nor the medical society considered sex selection to be a serious problem. Few civil society organizations were aware of the problem of gender-based sex selection or engaged in public education campaigns or other efforts to address the apparent societal bias in favor of male children.

Children

Birth Registration: The law provides for acquisition of citizenship by birth on the country's territory. It applies to children of stateless individuals. According to statistics from the UN Children's Fund (UNICEF), the births of 97 percent of children under age five were registered.

Romani children were usually born at home, and their parents frequently did not register their births with authorities. Since official identification is required to receive medical treatment and other public services, lack of identification and the reluctance of parents to apply for such services could deprive Romani children of access to medical and other services.

Education: The quality of education fluctuated greatly between urban and rural areas and between Tbilisi and the regions. Children of noncitizens often lacked the documentation necessary for school registration, impeding registration in some cases. The quality of education in the occupied regions of Abkhazia and South Ossetia, outside of the government's control, was reportedly poor. In rural areas school facilities were often inadequate and lacked heating, libraries, and blackboards.

Child Abuse: There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. According to the Ministry of Justice, authorities reported one case of rape and two cases of sexual abuse involving violence of children during the first 10 months of the year.

Authorities referred children who had suffered abuse to the relevant community and government services in coordination with stakeholders, including police, schools, and social service agencies. UNICEF reported that referrals increased 50 percent during the year. The Ministry of Internal Affairs reported 33 cases of child abuse during the first six months of the year. UNICEF reported that response by school professionals, police, and social workers to reported cases of violence against children was often inadequate due to cultural inclinations to avoid interference in family affairs.

Forced and Early Marriage: The legal minimum age for marriage for both men and women is 18, although some exceptions were authorized at 16. According to UNICEF data, 14 percent of women between the ages of 20 and 24 were married or cohabitating with a partner before they were 18.

Sexual Exploitation of Children: Commercial sexual exploitation of children and child pornography are punishable by up to three years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation. According to the Ministry of Internal Affairs, the number of exploitation cases was very small.

The law includes an explicit statutory rape provision that classifies sexual intercourse with a juvenile as rape. Other sexual crimes carry increased levels of punishment if the victim is a juvenile. The criminal code prohibits sexual intercourse with juveniles under the age of 16, provided the perpetrator is shown to be aware of the age of the victim. The penalty for violating the law is imposition of a fine and incarceration for up to three years.

Displaced Children: Difficult economic conditions contributed to the problem of street children, although the number was not considered high and decreased yearly. UNICEF estimated that approximately 1,500 children lived and worked in the streets in the country's cities in 2012. According to UNICEF, there was no similar government estimate available during the year. The Public Defender's Office reported a lack of information about street children and noted inadequate resources were devoted to them.

There were unconfirmed reports that police harassed street children. Patrol police routinely transferred street children to 24-hour care centers, which lacked resources for treatment and rehabilitation of the children, many of whom were substance abusers or suffered from mental disorders.

The government continued its efforts to replace large-scale orphanages with smaller foster parenting arrangements. According to UNICEF, the government closed all its large, state-run childcare institutions for children without disabilities. According to UNICEF, during the year approximately 40 percent of previously institutionalized children were reintegrated with biological families, more than 1,000 placed in foster care, and the number of small group homes housing 328 children decreased 7 percent. The government also continued to provide higher education grants for institutionalized and foster care children, including full coverage of tuition and a stipend, and provided emergency assistance to foster families.

The conflicts in Abkhazia and South Ossetia displaced thousands of children. Even before the conflicts, UNICEF reported health services in both regions were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

During the year there was one reported anti-Semitic incident, in which two persons were charged with desecration of property during a Hanukkah celebration in Tbilisi. The Jewish community estimated its population to be approximately 5,000, plus 3,000 to 4,000 nonpracticing members.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

Persons with Disabilities

While the constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other government or private sector services, the government was not effective in enforcing these provisions. Discrimination, including social, educational, and employment discrimination, against persons with disabilities was a problem. Most schools did not provide appropriate educational services because of a lack of qualified instructors. Many families with children with disabilities considered themselves stigmatized and kept their children out of the public mainstream.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. Very few public facilities or buildings were accessible, although the Ministry of Internal Affairs, Ministry of Justice, Ministry of Education, and Office of the Public Defender's buildings complied with the law. Public and private transportation offered no accommodation for persons with disabilities. Sidewalk and street crossing accessibility was poor.

In December 2012 the Public Defender's Office reported that persons with disabilities benefitted from an expansion of social welfare programs. It also noted, however, that social welfare programs did not address the individual needs of persons with disabilities. Additionally, many persons with disabilities, especially those living outside of Tbilisi, lacked information regarding access to available social, medical, and other programs.

In its February *Report on the State of Human Rights in Institutions for Persons with Disabilities*," the Public Defender's Office noted reports of abuse in institutions including violent and degrading treatment, abuse of physical restraints, unhygienic conditions, and inadequate medical care. The report found that inadequate medical care at the Tbilisi Infant Home resulted in the deaths of five of 15 children diagnosed with hydrocephaly housed there between January and June 2013 and refusal to provide palliative care, including pain alleviation. In a December 16 report, *Left Behind: The Exclusion of Children and Adults with Disabilities from Reform and Rights Protection in the Republic of Georgia*, Disability Rights International (DRI) stated that, despite some recent improvements in medical care, institutionalized children with disabilities died due to the denial of life-saving surgery and that those experiencing severe pain were denied pain medication. While some disabled children in state care were deinstitutionalized, DRI also stated that deinstitutionalization over the past few years had not sufficiently benefited institutionalized children with disabilities in unregulated orphanages run by the Georgian Orthodox Church or in some state orphanages.

The October report, *Monitoring of State Programs from the Perspective of Disability Rights*, published by the Center for Disability Rights at the Public Defender's Office, noted that infrastructural and institutional barriers created insurmountable difficulties for persons with disabilities. The report stated that access to medical care was especially problematic because many individuals with disabilities were unable to travel to medical clinics or receive home visits due to lack of infrastructure. The OHCHR/UNDP-supported NGO Coalition noted the government severely underfunded social support for persons with disabilities. Direct financial support for persons with disabilities, for example, had not increased since 2004, despite an overall state budget increase of more than 11 times.

In its October report, *Monitoring of State Programs from the Perspective of Disability Rights*, the Public Defender's Office also evaluated a selection of public schools and multifunctional medical centers. The office found a number of violations and determined the six schools designed to be inclusive could not guarantee the inclusion of students with disabilities. Of the 31 schools surveyed, only eight partly met accessibility standards, with the remaining schools found to be "dangerous, uncomfortable, and difficult to access for persons with disabilities." The majority of the multifunctional medical centers were fully accessible for those with mobility

disabilities, including wheelchairs users, but there were no specific accessibility options for blind or deaf persons.

National/Racial/Ethnic Minorities

During the year there were several instances of discrimination against the Muslim community. The public defender and civil society expressed their concern about intolerance and violence directed against Muslims. In Samtatskaro, for example, local congregants of the Georgian Orthodox Church (GOC) prevented Muslims from holding Friday prayers in their new mosque. Town leadership claimed the majority of the town's citizens did not want a new mosque in the town. The Public Defender's Office recommended the Ministry of Internal Affairs investigate the event. The Kakheti regional police was investigating the incident at year's end.

In September the investigative arm of the Ministry of Finance deployed police officers to remove a mosque's minaret in the village of Chela, the construction of which, the ministry said, had violated importation laws. Inhabitants of the area, which is largely populated by Muslim Georgians originally from the Adjara region, viewed the police action as an assault on the mosque and reacted with violent protests. The ministry claimed materials used in the minaret had been obtained in Turkey and violated customs regulations. According to the ministry, it was necessary to remove the mosque to examine the materials, following mosque leaders' failure to respond to a written letter from the government informing them of these violations. Police arrested nine men who had protested against, and confronted authorities during, the minaret's removal. Of the nine arrested, police fined six men 400 lari each (approximately $240), and three faced criminal charges for resisting police at year's end.

Although the government later indicated it would return the minaret to the mosque, the minaret was stored in a field and covered with a tarp following the intervention of the GOC leadership. Following discussions between the government and GOC leadership, two senior Orthodox clerics traveled to Akhaltsikhe to meet with a group of GOC congregants protesting the minaret's reinstallation and to call on them to disperse. Saying the minaret "will not be re-erected," the clerics praised the group, which was blocking the road in an attempt to prevent the minaret's return to Chela.

On November 28, however, approximately three months after its removal, members of the Muslim community reinstalled the minaret after receiving a building permit, approved by the local village council a day earlier. GOC congregants peacefully protested the minaret's reinstallation.

EU Special Advisor Thomas Hammarberg described the reaction of the local authority in these situations in Chela and elsewhere as "inadequate." In his September report, he wrote "the perception of implicit complicity between the aggressors and authorities, including law enforcement, may have contributed to repetition and expansion to other villages of such incidents."

The government included in its factional party leadership several figures who reportedly engaged in xenophobic, racist, and anti-Muslim statements. The Media Development Foundation, a media monitoring NGO, reported that Georgian Dream Coalition member of parliament Giorgi Gachechiladze made discriminatory comments against foreign nationals on a talk show in May.

In June a government interagency commission issued a report on the implementation of the National Concept and Action Plan on Tolerance and Civil Integration (2009-14). The report noted positive trends, such as the active participation of the minority regions in the October 2012 parliamentary elections; the implementation of infrastructure rehabilitation and economic projections in the minority regions; and the government's focus on Georgian-language instruction projects.

The OHCHR/UNDP-supported NGO Coalition noted in its September report that ethnic minority representation in the government remained limited and far lower than its representation in the country. The public defender's *Monitoring Results of Implementation of the National Concept and Action Plan on Tolerance and Civil Integration*, which covered the period from 2010 to February 2012, reported few minorities involved in the executive branch of government, political parties, and civil society.

Georgian-language skills continued to be the main impediment to integration for the country's ethnic minorities; however, political, civic, economic, and cultural obstacles to integration also remained. Some minorities claimed that the law requiring all government officials to speak Georgian excluded them from participating in government. The law requires that ethnic minority students learn Georgian as a second language. The public defender's 2012 *Situation of Human Rights and Freedom* report noted that a significant part of the ethnic minority population lacked proficiency in the state language, hindering their civil integration. In part the report attributed the problem to inadequate Georgian-language instruction at preschool educational centers in minority regions. The report also noted an insufficient number of Georgian-speaking government administrators in minority regions. Additionally, some government materials distributed to the public were available only in Georgian. While the Ministry of Reintegration asserted it translated all major legislative acts into Armenian, Azeri, and Russian, a civil society watchdog group reported that, aside from the constitution and the National

Concept on Tolerance and Civil Integration, the government translated only abstracts of a limited number of laws into minority languages.

Ethnic Armenians, Azeris, Abkhaz, South Ossetians, and Russians usually communicated in their native languages or in Russian in the areas where they were the dominant ethnic groups. The government continued to provide education in the state language and minority languages in minority regions. Some secondary educational textbooks in Armenian or Azeri did not follow the national curriculum, making it difficult for students in minority-language schools to pass high school graduation exams. The 2012 *Situation of Human Rights and Freedom* report noted that higher educational institutions did not train teachers for minority-language schools.

Many NGOs in minority regions claimed an improvement during the year in the number of opportunities for Georgian-language instruction and in the quality of classes. According to the *2012 Situation of Human Rights and Freedom* report, the Ministry of Education and Science since September 2011 had implemented a program to promote Georgian-language learning at eight preschool centers in ethnic minority regions, providing textbooks and additional educational materials for children. The government also introduced bilingual textbooks in certain public schools in minority regions. Nevertheless, approximately 25 to 30 percent of the text was only in Georgian, and many students and some teachers could not understand some of the content. The Public Defender's Office criticized the government for not adequately funding a multilingual education program. During the 2013-14 academic year, the government was implementing a bilingual program in the minority regions in two stages, beginning at the primary level (grades one through six).

The Public Defender's Office noted that in 2012 there was an increase in the number of ethnic minorities from Samtskhe-Javakheti and Kvemo Kartli enrolled in Georgian universities. Ethnic minority students could take the general skills exam for college entrance in their respective minority language. According to the 2012 *Situation of Human Rights and Freedom* report, 200 ethnic Armenian and 390 ethnic Azerbaijanis enrolled in Georgian universities. Nevertheless, the public defender commented the government did not implement the 2009 law requiring that the college entrance general skills examination be made available in Ossetian, hindering those ethnic Ossetian students without Georgian-language proficiency from entering Georgian universities.

Some schools reportedly continued to display Georgian Orthodox religious objects, resulting in complaints from several ethnic minority families. Members of the Muslim community reported some educational texts treated historic religious accounts and figures disrespectfully.

The 2012 *Situation of Human Rights and Freedom* report noted limited access to national television news in ethnic minority languages. The GPB produced only

10- to 12-minute daily news programs in five minority languages and was criticized for lack of news coverage in minority regions. Many in minority regions received their news from Armenian, Azerbaijani, and Turkish television stations, which broadcast news regarding Georgia, but without an obligation to provide comprehensive information about Georgia. GPB Public Radio provided daily audio versions of the national news in Abkhaz, Ossetian, Armenian, Russian, and Azerbaijani, but the radio coverage did not extend to large parts of Kvemo Kartli and Samtskhe Javakheti.

Beginning in September 2012, GPB Public Radio stopped its interactive educational program, *Our Georgia*, which focused on the culture, traditions, and history of ethnic minorities. Circulation of minority language print media (for example, the Azerbaijani newspaper *Gurjistan* and the Armenian newspaper *Vrastan*) was limited. Local government officials in Samtskhe-Javakheti voiced concern that the lack of significant Georgian news programs in minority languages alienated many members of national minority communities.

The law permits the repatriation of Muslim Meskhetians, a national minority group that Stalin deported in 1944. Approximately 5,840 Meskhetians filed for repatriation by the beginning of 2010. Approximately 160 returned unofficially over the previous four years, settling in Akhaltsikhe and Abastumani. At year's end 1,053 applications had been approved, although no repatriations occurred due to the long and complicated process. The Public Defender's Office criticized the review process, noting that authorities denied 90 percent of applicants because of an inability to provide documents proving the government deported their ancestors in 1944 and that many applicants were unable to afford translation of their Russian-language documents into either Georgian or English, as required. NGO Toleranti, which advocates on behalf of Muslim Meskhetians, believed the low number of applications was due to legal and financial difficulties in obtaining necessary documents. Toleranti also cited other barriers, including insufficient time for submitting the applications before the deadline in 2010, the government's perceptions of potential insecurity in the wake of the 2008 Georgian-Russian war, and potential animosity from the locals in Samstkhe-Javakheti. At year's end, approximately 25 Muslim Meskhetians families in the Samtskhe-Javakheti region and 11 families in Gori in the Shida Kartli region resided in the country without legal documents. According to Toleranti, these individuals lacked access to education, medical assistance, property registration, and employment opportunities due to their lack of legal documentation.

The European Center for Minority Issues (ECMI) reported that Roma appeared to suffer from widespread societal prejudice and marginalization and that the government needed to do more to integrate Roma. The ECMI estimated the Romani population at 1,500, with no more than 300 in any one location. The most recent

census, conducted in 2002, reported the number of Roma at 472. Roma lived principally in the Tbilisi, Kutaisi, Kobuleti, Kakheti, and Sukhumi regions. The ECMI reported the Romani community suffered from extreme poverty, unemployment, lack of education and health care, and isolation from larger society.

The 2012 *Situation of Human Rights and Freedom* report noted that, while Roma live in extreme poverty, few received social assistance due to lack of necessary documentation and access to information regarding assistance. In 2012, for the first time, with the assistance of local NGOs, some in the Romani community obtained Georgian identification cards and were able to participate in elections.

Ethnic Georgians living in the Gali district of Abkhazia had no legal access to education in the Georgian language, but instruction in Georgian occurred with limitations. According to the Abkhaz government-in-exile, the de facto government used two types of curricula in the Gali district, which was divided into separate zones. In the Tkvarcheli and Ochamchire zones, Russian was the only instructional language and, since the 2008 war, the de facto government had prohibited Georgian language instruction. Graduation certificates for all Gali schools indicated Russian as the native language of students. Georgian teachers who did not speak Russian had to memorize lessons in Russian or instructed students in Georgian, but Abkhaz de facto authorities, who also did not provide funding for teachers of Georgian, often harassed them. Local communities had either to pay for teachers, arrange for teachers to cross from undisputed Georgian territory to teach, or send their children from Abkhazia for Georgian-language lessons. An increasingly strict boundary regime imposed by Russian border guards made the latter two alternatives more difficult. De facto authorities did not issue Abkhaz passports to Georgian school graduates, based on a belief that they would not pursue higher education in Sukhumi but would go to Georgia proper instead. During the year 160 students from the Gali district were enrolled in Georgian universities. To take Georgian university entrance exams, graduates had to take dangerous illegal paths.

The government took several steps to integrate ethnic minority communities through Georgian-language instruction, education, and participation in several programs seeking to promote civic, cultural, and economic integration of minorities. Access to higher education improved, as did transportation infrastructure to high-minority-population areas, and several government agencies actively participated in civic integration programs. The Zurab Zhvania School of Public Administration in Kutaisi provided courses specifically for students from minority areas and facilitated integration of future public servants from minority areas into Georgian society. Beginning in 2011, however, the school operated at a limited capacity, focusing solely on Georgian language instruction for public school teachers.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There is no single antidiscrimination law, but the constitution provides for fundamental equality before the law, and a variety of laws or regulations contain antidiscrimination provisions. The criminal code makes racial, religious, sexual orientation, and other bias motives of an offender an aggravating factor for all crimes. According to Identoba, a local gender and LGBT rights organization, the state did not enforce the legislation.

Social prejudices against LGBT persons were strong, and the Georgian Orthodox Church strongly condemned same-sex sexual activity. LGBT organizations reported that most LGBT persons concealed their sexual orientation for fear of harassment. Few LGBT organizations worked openly because of the extensive societal stigma against LGBT persons. For example, according to the Women's Fund in Georgia, a women's rights NGO, after one of its representatives appeared on a television show to discuss its programs regarding domestic violence and women's sexual rights, a conservative newspaper published an article criticizing the group. Neighbors of its office and its property owner's family threatened members of the NGO, leading the NGO to change locations.

In its September report, Identoba wrote that public violence was the most serious problem facing the LGBT community. For example, Identoba reported that a man known to have had sexual relationships with men was killed in his apartment in western Georgia. According to persons who later visited the crime scene, "homosexual" had been spray painted in the victim's apartment. Police investigated and prosecuted the crime as a robbery rather than a hate crime. Victims of discrimination and violence were reluctant to report incidents to police due to fear of disclosing their sexual orientation to family members and homophobic reactions by police. The Women's Initiatives Support Group reported the LGBT community had low trust in police.

There were reports that LGBT persons were unable to find employment or lost their jobs based on their sexual orientation. Identoba also reported several instances of discrimination against the members of the LGBT community seeking medical care. For example, a gay/transgender man sought medical attention at a hospital in Tbilisi after being beaten. Hospital staff allegedly mocked him for dressing like a woman, and the man left the hospital without receiving treatment.

On May 17, a counterprotest by priests and members of the Georgian Orthodox Church violently disrupted a rally in downtown Tbilisi in observance of IDAHO, causing injuries to approximately 30 participants and police

officers, with 14 persons hospitalized. Counterdemonstrators broke through police cordons and attacked the demonstrators. They held signs saying, “Stop Homosexual Propaganda in Georgia,” and chanted, “Kill them! Tear them to pieces! Don’t let them leave alive!” A large police presence was unable to prevent the counterprotesters from disrupting the planned event. Police provided buses to the IDAHO rally to evacuate participants to the city’s outskirts for protection, which the counterprotesters attacked and chased. Identoba reported that two of its representatives sought refuge from the counterprotesters in a local supermarket and managed to escape with the help of a police escort, which was also attacked. Prime Minister Bidzina Ivanishvili condemned the violence, noting a number of police officers had been injured in the violence. Some civil society groups criticized the police for being underprepared.

On July 17, parliament’s Human Rights Committee adopted a resolution on the May 17 IDAHO rally condemning the violence and praising police efforts. The resolution did not address the joint statement of the Georgian Orthodox Church and eight other religious denominations on May 15 that called for IDAHO participants to refrain from “demonstrating and propagating their sexual orientation in public places, since such activities are unacceptable for the public morality.” The resolution did not address the patriarchy’s May 16 statement that the Georgian Orthodox Church viewed people with “such inclinations” as “grave sinners,” as the patriarchy had not called for violence.

Following the event LGBT groups reported additional acts of violence targeting the LGBT community and those who looked “gay.” Identoba reported that, on May 18, a group of young men beat two women and insulted them with sexual epithets.

In response to the violent counterdemonstration, the police arrested four persons on May 19, and the courts fined each 100 lari ($60) for petty hooliganism. Despite widespread video and television coverage of the event, only two priests were arrested on criminal charges of violating the right to assembly. The Tbilisi City Court dropped the charges against Antimoz Bichanashvili, an archpriest at Tbilisi’s Holy Trinity Cathedral. The trials of Iotam Basilaia, father superior at the

Iione-Tornike Eristavi Monastery, and three other defendants were underway at year’s end. Civil society groups criticized authorities for being slow to prosecute, despite the existence of evidence against some of the violent protesters.

Other Societal Violence or Discrimination

NGOs reported that social stigma resulted in individuals avoiding testing and treatment for HIV/AIDS. Some health-care providers, particularly dentists, refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers due to fear of losing their jobs. The public defender identified an emerging HIV/AIDS epidemic concentrated in high-risk groups.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The newly enacted labor code and related regulations and statutes generally provide for the right of most workers, including government employees, to form and join independent unions and to strike and bargain collectively. The law also prohibits antiunion discrimination, which the International Labor Organization assessed as meeting its standards. Nevertheless, according to labor representatives, the law places unreasonable restrictions on several rights, including the rights to strike and maternity leave. They also alleged the law does not sufficiently regulate compensation for overtime and night work and that employment contract provisions are heavily biased towards the employer. In addition, labor representatives said the new law fails to protect workers’ health and safety adequately and allows employers to conduct mass dismissals without prior consultation with unions. Certain provisions limit the mechanisms available for workers to the exercise their rights. For example, the law permits a court to suspend the activity of a trade union if the union stimulates social conflict, although the government has not published a definite list of professions considered “essential services.” The new law no longer restricts the right of employees from law enforcement agencies, medical doctors, firemen, personnel of the Prosecutor General’s Office, and the employees of certain ministries (for example, defense) to form and join unions and to strike.

The law permits strikes only in cases of disputes in which a collective agreement is already in place. While strikes are not limited in length, the law limits lockouts to 90 days. A court may determine the legality of a strike, and violators of strike rules can face up to two years in prison.

Although the law prohibits employers from discriminating against union members or union-organizing activities in general terms, it does not explicitly require that workers dismissed for union activity be reinstated. Employers are not obliged to engage in collective bargaining, even if a trade union or a group of employees wishes to do

so. Employers may not, however, conclude collective agreements with nonunionized workers if no union exists in the workplace.

The government failed to enforce effectively laws that prohibit antiunion discrimination and provide for worker's freedom of assembly. There were no effective penalties or remedies for the arbitrarily dismissed employees. Legal disputes regarding labor rights were subjected to lengthy delays. The absence of a labor inspectorate and mediation services in the Ministry of Health, Labor, and Social Affairs resulted in the government not enforcing collective bargaining agreements (as required by law) and the continued absence of government oversight over employers' compliance with labor laws.

The Educators and Scientists Free Trade Union of Georgia (ESFTUG), which is a teachers' union, National Railway Association Worker's Union, Trade Union of Public Servants, Postal Workers Union, and Transit Workers' Union, reported government interference with union activity during the year. The government actively interfered with unions' ability to collect dues and continued the previous government's practice of requiring unions to overcome considerable bureaucratic hurdles to collect members' dues. The previous government, at one point, had not permitted ESFTUG to deduct union members' dues from paychecks, a practice known as the check-off system. This dispute was subsequently resolved and the check-off system restored, but teachers and unions were required to have the permission of school principals to deduct union dues from member's paychecks. As a result ESFTUG went from having approximately 100,000 dues-paying members in 2010 to approximately 5,000 in August 2012, but it rebounded to 30,000 as of August. The union reported that, while it was able to conclude agreements with 800 schools to permit the use of the check-off system, many principals still refused to give permission. No permission is required from principals for teachers to donate money from their salaries to political parties or charities. ESFTUG reported these restrictions on the collection of dues impaired its ability to function. Staff members from the Ministry of Education allegedly continued to encourage teachers and principals to join the yellow union, organized under former minister of education Dmitri Shaskin.

In November the Railroad Employees New Trade Union of Georgia went on strike after the state-owned railroad company refused to comply with labor code provisions that require the employer to pay workers for overtime and to discuss any of the union's collective bargaining demands. The union appealed to the Ministry of Health, Labor, and Social Affairs, asking the government to mediate in the conflict as provided in the new labor amendments. The government refused, stating it had no one who could provide mediation service (no mediation service exists in the ministry). During the 27-hour railroad strike, management officials threatened union leaders with the loss of their jobs and retaliation if they went on strike, and in some cases officers from the Ministry of Internal Affairs allegedly went to railroad employees' homes and warned workers not to participate in the strike. While the union and railroad management ultimately came to an agreement, the government's failure to mediate or prevent state employees from threatening union leaders violated the new amendments to the labor code.

After the parliamentary elections in October 2012, the government and union leaders revived the tripartite process. As part of this effort, the government approved an amendment to the labor code appointing the prime minister as the chair of the Tripartite Commission. At year's end, however, the Tripartite Commission had not met, and the American Federation of Labor and Congress of Industrial Organization (AFL-CIO) reported the commission had not resolved any labor problem. Workers generally exercised their right to strike in accordance with the law. In May for nearly two weeks, approximately 2,400 workers at the Zestafoni Ferro-Alloys plant conducted a strike demanding pay increases and a collective bargaining agreement.

Whereas under the previous law, labor union leaders alleged employers used short-term contracts to avoid hiring workers with bargaining rights, the new labor code specifies that contracts of more than three months must be in writing. The code also states employment will be considered as for "an indefinite term" if two or more successive contracts have been concluded for a total of more than 30 months of total employment.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Country experts reported that a lack of labor inspectors and a labor inspectorate as well as weaknesses in the government's labor code contributed to workers' vulnerability to abuse and forced labor.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

c. Prohibition of Child Labor and Minimum Age for Employment

Child labor was uncommon. In most situations the minimum legal age for employment is 16. In exceptional cases children may work with parental consent at the age of 14. Children under 18 may not engage in unhealthy, underground, or hazardous work, and children between 16 and 18 are subject to reduced working hours and prohibited from working at night. The law permits employment agreements with persons under 14 in sports, arts, cultural, and advertising activities.

No case of child labor was fully prosecuted. During the year the Prosecutor's Office initiated two investigations concerning child employment, although no single government entity is responsible for investigating allegations involving child labor unless there is evidence that a crime was committed. The government does not have an agency responsible for monitoring workplaces for violations of child labor laws.

Although recent data were not available, a 2007 survey estimated that 77.4 percent of working children were employed intermittently on family farms, while 18.4 percent worked in family enterprises. The International Trade Union Confederation reported children living in rural areas were slightly more involved in child labor.

The most visible form of child labor was street begging in Tbilisi. In his 2012 report, the public defender stated that most children living and working on the street lacked legal documents and consequently were excluded from medical care, education, and other government benefits. The report also noted these children faced daily violence.

Many children under the age of 16 worked and performed chores on small, family-owned farms in rural areas. In most cases this work was not abusive or categorized as child labor. In some ethnic minority areas, family farm obligations reportedly interfered with school attendance. Some observers suggested school participation by ethnic minority children was especially low. Some families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there is also a significant ethnic Azeri population) worked on distant pastures for six to nine months a year, meaning their children seldom attended school. Estimates of the number of children affected were not available.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The monthly minimum wage for public sector employees is 115 lari ($69). The minimum wage for private sector employees is 90 lari ($54) per month. The official subsistence income level is 138 lari ($83) for the average consumer and 276 lari ($166) for a family of four.

The law provides for a 40-hour workweek and a weekly 24-hour rest period unless otherwise determined by a labor contract. Shifts must be at least 12 hours apart. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. Overtime is defined as work by an adult employee in excess of the regular 40-hour per workweek based on an agreement between the parties, in excess of 36 hours for minors who are 16 to 18 years old, and in excess of 24 hours for minors who are 14 and 15 years old. The law permits an employer to change the hours of work by 90 minutes without renegotiating the terms of any labor agreement. The law does not explicitly prohibit excessive overtime.

The government does not have a body responsible for workplace monitoring, and there are no government labor inspectors. Authorities did not effectively enforce the law in either the formal or the informal sectors. The Technical and Oversight Inspection Agency had some inspection responsibility, but only for occupations classified as hazardous. The agency had no jurisdiction over labor law violations or workplace disputes and could inspect for safety violations only after accidents occurred or in cases of immediate threat. The AFL-CIO cited the failure to ensure safe conditions for workers as one of the major deficiencies in the implementation of the new labor code.

A significant number of workers were employed in the informal economy. Because of the frequent lack of employment contracts in the informal economy, exploitative conditions occurred. Such conditions were common among those working as street vendors or in unregulated bazaars.

The government does not provide statistics on workplace injuries or deaths. The mining sector was especially dangerous. For example, two miners drowned in August in a mine in Chiatura after a section of the mine flooded. Investigations in the case were underway. Earlier in the year, two other miners died in the same mine after not adhering to proper protocol while handling explosives.