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2009 Human Rights Report: Georgia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
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The constitution of the Georgian republic provides for an executive branch that reports to the president, a unicameral Parliament, and an independent judiciary. The country has a population of approximately 4.6 million. President Mikheil Saakashvili was reelected in January 2008 in an election that international observers found consistent with most Organization of Security and Cooperation in Europe (OSCE) democratic election commitments; however, the OSCE also highlighted significant problems, including widespread allegations of intimidation and pressure, flawed vote-counting and tabulation processes, and shortcomings in the complaints and appeals process. These and other problems continued into the parliamentary elections in May 2008, which international observers concluded were uneven and incomplete in their adherence to international standards. Civilian authorities generally maintained effective control of the security forces.

The main human rights abuses reported during the year included at least one suspected death due to excessive use of force by law enforcement officers, politically motivated kidnappings and assaults, poor prison conditions, abuse of prisoners, including juveniles, arbitrary arrest and detention, politically motivated imprisonment, excessive use of force to disperse demonstrations, pressure that appeared politically motivated on owners of property, lack of due process, government pressure on the judiciary, and senior-level corruption in the government. Respect for media freedom declined, and there were cases of government interference with the rights of assembly and association. While three months of protests by the nonparliamentary opposition were generally held peacefully, there was a clear imbalance in protest-related incidents--crimes against government officials were investigated and solved quickly, while this was not the case for crimes committed against nonparliamentary opposition activists. There were some cases of restrictions on religious freedom and a lack of progress on such religious problems as the determination of ownership of disputed churches and the unequal status of non-Georgian Orthodox religions. Abuse of women and children, trafficking in persons, and societal discrimination and prejudice against persons based on their sexual orientation were also reported.

Significant human rights achievements included the passage of a reformed criminal procedure code providing for fair trial protections and for the introduction in Tbilisi of a limited jury trial system; and passage of an amended election code calling for the first direct election of the Tbilisi mayor.

De facto authorities in the separatist regions of Abkhazia and South Ossetia, supported by several thousand occupying Russian troops, remained outside the control of the central government. In August 2008 Russia officially recognized the independence of both territories. Pursuant to "bilateral" agreements between Russia and the de facto authorities, Russian border guards began controlling the administrative boundaries of the two regions in May and restricted the movement of the local population. A cease-fire remained in effect in both Abkhazia and South Ossetia, although incidents of violence occurred in both areas. Deprivation of life, abduction, and arbitrary arrest and detention continued to be serious problems. Except where otherwise noted, figures and other data do not include the separatist regions of South Ossetia and Abkhazia.

The de facto authorities in Abkhazia continued to restrict the rights, primarily of ethnic Georgians, to vote, to participate in the political process, and to exercise basic rights such as property ownership, business registration, and travel permission. Ethnic Georgians also suffered harassment by Abkhaz and Russian forces, forced conscription in the Abkhaz "army," a lack of funding for basic infrastructure maintenance, and limitations on Georgian-language instruction in the Gali district schools.

In August 2008 the de facto authorities in South Ossetia adopted a policy of refusing to permit ethnic Georgians driven out during and after the conflict return to South Ossetia unless they renounced their Georgian citizenship and took the "citizenship" of the "Republic of South Ossetia"; in practical terms this often meant accepting a Russian passport. With the exception of the International Committee of the Red Cross (ICRC), international organizations were not allowed regular access to assess the condition of the local population or to provide humanitarian assistance.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Georgian government officials and de facto authorities accused one another of committing attacks that resulted in arbitrary and unlawful killings in the separatist regions of South Ossetia and Abkhazia during the year. Georgian and Russian officials also traded such accusations (see section 1.g.).

In May 2008 patrol police officers Vakhtang Abuashvili and Levan Jinikashvili were pursuing a vehicle that was speeding in Tbilisi. The driver of the vehicle, Giorgi Gamtsemlidze, stopped the car, got out, and began to run. Abuashvili shot and killed Gamtsemlidze; Abuashvili stated that he thought that Gamtsemlidze, who was unarmed, had a weapon. Witnesses stated that Abuashvili did not give a proper verbal warning prior to firing his weapon. On January 16, the court convicted Abuashvili and sentenced him to four years in prison for deprivation of life as a result of negligence. The Public Defender's Office stated that the investigation was not handled properly and that Abuashvili should have been prosecuted for intentional murder.

In August 2008 Roin Shavadze, a member of the armed forces, left for work at the Khelvachauri military base. His wife later received a call that he had not arrived at work and was seen being forced into a car. She contacted local police. In the evening, in response to a telephone call, she went to the emergency room where she found her husband dead. His body had numerous injuries and bullet wounds. According to Kobuleti district police inspector Mamuka Tkhiashvili, Shavadze was found dead on the Kobuleti-Kakuti highway. Adjara prosecutor Vasil Roinishvili told Shavadze's widow that he was shot and killed by police while he was fleeing from the scene of a drug-related crime. When Shavadze's widow stated she would press for more details about her husband's case, the prosecutor reportedly threatened her. Some nongovernmental organizations (NGOs) reported that Shavadze's widow was not recognized as a "victim"; only recognized victims or their legal successor can request information and pursue matters through the court system. The Ministry of Justice strongly disagreed with the allegation made by Shavadze's widow against the prosecutor and stated that in the course of the investigation the court had accorded her special protective measures. According to the Ministry of Justice, in August 2008 the criminal case was transferred to the Investigative Division of the Prosecution of Adjara, and at year's end the investigation continued.

In 2006 the Prosecutor General's Office opened an investigation to determine whether law enforcement agents acted in accordance with the law during a prison riot in Tbilisi Prison Number 5 that year. During the riot seven prisoners were killed and 22 injured; two Special Forces Task Force officers were wounded. According to information provided to the Public Defender's Office by the Office of the Prosecutor General, the investigation into the incident continued at year's end. Tbilisi Prison Number 5 was demolished in 2008.

In 2007 authorities submitted a criminal case to the Kutaisi City Court regarding the 2006 death of Varlam Pkhakadze, who was allegedly shot and beaten by police investigating a break-in. The court found officer Ivane Kapatadze guilty of murder and official negligence and sentenced him to five years in prison. The court convicted three other officers who had been at the scene. Davit Minashvili was charged with official negligence, sentenced to three years in prison, and fined 2,000 lari (\$1,180). The other officers involved, Avalo Gabrichidze and Kakha Bunia, were sentenced to two years in prison and fined the same amount. After the Kutaisi Court of Appeal upheld the decision, the counsel for Minashvili and the victim appealed the decision to the Supreme Court. In March 2008 the Supreme Court declined to hear the appeals. While serving his prison sentence in Prison Number 2, Minashvili committed suicide in August 2008. An investigation into the suicide was pending at year's end.

Former police officer Roland Minadze appealed his 2006 conviction in absentia of falsifying and fabricating evidence, exceeding authority, and the illegal release of a suspect, in connection with the fatal beating of Khvicha Kvirikashvili. The Tbilisi City Court of Appeals upheld the decision in September 2008. On May 27, the Supreme Court declined to hear any further appeals.

The criminal case against Akaki Bartaia, Kakhaber Azariashvili, and Giorgi Kurdadze for allegedly fabricating evidence in the 2004 death of Amiran Robakidze continued at year's end. On December 1, parliament voted down a proposal to create a parliamentary commission to investigate the allegations of a police cover-up in this case.

During the year four deaths and 25 injuries from land mines and unexploded ordnance were reported. Many of the incidents involved old explosives from the Soviet era. Limited information about incidents in Abkhazia and South Ossetia made it difficult to confirm reports of incidents in those regions. In some instances when media reports attributed deaths to land mines, observers believed they were more likely due to unexploded ordnance.

b. Disappearance

There were no reports of politically motivated disappearances perpetrated by the government. However, some nonparliamentary opposition parties asserted that a number of their members had been kidnapped and beaten by unknown assailants for their political activity.

On August 1, unidentified assailants attacked well-known karate and wrestling champion Amiran Bitsadze and his friend David Bendeliani. Bitsadze was a member of the nonparliamentary opposition party Democratic Movement-United Georgia (DMUG). The DMUG reported that Bitsadze and Bendeliani were driving in Tbilisi when they came across a minibus blocking the road. They reported that 15 to 18 masked assailants dragged them out of the car and beat them. Bendeliani was left on the street, but Bitsadze was taken away in a car. The DMUG said that Bitsadze was later found on a highway with two bullet-like wounds on his back, a broken leg, and a broken arm. The DMUG claimed that the wounds on Bitsadze's back came from rubber bullets similar to those the government used and that Bendeliani had described the vehicle as similar to those used by police special forces. The DMUG claimed that the motivation for the attack was Bitsadze's affiliation with the party. An investigation by the Ministry of Internal Affairs, the ministry under which all police departments fall, was underway at year's end.

Disappearances and kidnapping occurred during the year in the separatist regions of Abkhazia and South Ossetia, although reliable information from these separatist regions, which remained outside of government control, remained difficult to obtain. In some cases the missing individuals turned out to have been detained by Russian or de facto

authorities (see section 1.d.).

On August 13, the local media reported that several workers from the Enguri hydroelectric power station in the predominately ethnically Georgian Gali District of separatist Abkhazia were abducted by Russian and Abkhaz forces and taken to the capital, Sukhumi. The abductors reportedly told local villagers they arrested the workers for refusing to accept Russian passports.

On August 7, the Ministry of Internal Affairs reported that unidentified individuals took five local shepherds by force from the village of Koshka, in undisputed Georgian territory, across the administrative boundary into separatist South Ossetia. The shepherds were later released unharmed. The shepherds said that they were told that the motive for their abduction was their illegal entry into separatist South Ossetian territory.

Please see section 1.g. for information on disappearances and kidnappings during the August 2008 conflict.

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

The constitution and law prohibit such practices; however, there were reports that government officials continued to employ them with limited accountability.

On May 12, according to the Human Rights Center, law enforcement authorities severely beat Nugzar Otanadze, whom they had detained because he was related to Koba Otanadze, accused of leading a mutiny at the Mukhrovani military base (see section 1.d. and 1.g). The Ministry of Internal Affairs charged Nugzar Otanadze with resisting arrest, and a court placed him in pretrial detention for two months. The Human Rights Center alleged that authorities broke Otanadze's arm and caused him to lose consciousness during the alleged beating. The Public Defender's Office also reported the incident and requested that the Prosecutor's Office initiate a criminal case, which it did. At year's end the investigation continued.

On July 7, representatives of the Public Defender's Office went to Kutaisi Jail and Strict Regime Institution number 2 to investigate an incident involving 12 juveniles that took place the previous day. The representatives reported that at about 2 a.m. on July 6, masked unidentified officers that they characterized as coming from a special unit entered the juveniles' cell area and demanded that the prisoners come outside. The juveniles, who had been housed in three cells, were then taken out into the corridor, forced to put their hands on the wall, and assaulted verbally and physically. The Public Defender's Office reported that the juveniles were beaten with open palms, wet towels, and padlocks. The prisoners said the officers threatened to urinate on their heads or expose them to possible sexual assault if they moved. The Public Defender's Office reported that the juveniles spent about five hours with their hands in this position. Reportedly the officers also made them put on police caps, salute, and say, "We are serving Georgia." The prisoners stated that the officers focused on the inmates of cell number 102; one of them, L.L., lost consciousness and collapsed.

The juveniles also reported being forced to pass through a so-called corridor, where the employees of the institution and the officers beat and spat on them, after which they were transferred to the quarantine block. The Public Defender's Office reported that penitentiary authorities claimed that no one was hurt during the incident. However, representatives of the Public Defender's Office inspected the juveniles and noted that they bore injuries of different types and sizes.

According to the Ministry of Justice, an investigation that begun on July 7 concluded that the juveniles in question destroyed their cells and incited other juveniles to riot for several hours until brought under control by a special task force unit of the Penitentiary Department of the Ministry of Corrections and Legal Assistance. During these events 11 juvenile prisoners reportedly received minor injuries. On July 16, the Prosecutor's Office opened a criminal investigation, which continued at year's end, into the allegation of excessive use of force by prison staff. The juveniles were transferred to Prison Number 5 for Juveniles and Women in Tbilisi.

According to the Public Defender's Office and human rights monitors, the incidence of abuse in police stations remained low, due to continued, unannounced, random monitoring of stations. The office reported that abuse at temporary detention facilities was practically eliminated by the end of 2007, but some cases of physical abuse were reported directly to the police stations. In June 2008 the Public Defender's Office reported that torture had become rare and that there had been efforts to improve laws, discuss complaints publicly, and raise awareness of the problem. (The penalty for torture was increased from five to 15 years in prison in 2008.) Despite the changes, intimidation of suspects remained a problem.

In the first half of the year, according to the Public Defender's Office, there were three possible incidents in which law enforcement officials beat persons in detention awaiting trial.

During protests in the spring, the Public Defender's Office received 32 complaints of police mistreatment from protest activists.

According to the Ministry of Justice, during the year 17 cases were opened into claims of torture, six cases into inhuman or degrading treatment, one case into giving evidence under duress, and one case into premeditated less grave injury to health. Five of the claims of torture were terminated for lack of cause, and one was submitted to the court for criminal proceedings; the accused was convicted. Of the claims of inhuman or degrading treatment, two were submitted to the court for criminal proceedings, and in both cases there was a conviction. Both the case involving evidence obtained under duress and the case of premeditated, but less grave injury to health were terminated for lack of cause. In 2008 there were 39 investigations opened into claims of torture or degrading treatment against Ministry of Internal Affairs personnel. Eight cases were carried over from 2007. Of these, 23 investigations were terminated for lack of cause, two cases went forward to criminal proceedings, and five persons were found guilty. Of the five found guilty, one was given a conditional sentence of five years and fined 10214.80 lari(\$5,920), one was sentenced to 18 years in prison, and three were sentenced to 22

years in prison.

NGOs reported victims often did not report abuse, fearing police retribution against them or their families. NGOs also continued to claim that close ties between the Prosecutor General's Office and police hindered their ability to substantiate police misconduct and alleged that the judiciary's lack of professionalism and independence made it unresponsive to torture allegations. As a result, despite implementation of positive reforms, NGOs claimed law enforcement officials could still resort to torture or mistreatment with limited risk of exposure or punishment. NGOs also believed a lack of adequate training for law enforcement officers, as well as low public awareness of the protections afforded citizens, impeded improvements.

The Public Defender's Office noted that monitoring groups found no instances in which police officers had incorrectly registered a detainee upon arrival at the police station, which previously had been a means for police officers to conceal abuse. All law enforcement officers and representatives of the Prosecutor's Office--except for officers of the Ministry of Internal Affairs police from special units including the Special Operatives Department, the Constitutional Protection Department, and the counterterrorism center--were required to wear identity badges during meetings with detainees and prisoners. Special police units were exempt to protect members' anonymity. NGOs believed this prevented accountability for any abuse by the units.

In 2008 the Public Defender's Office noted 112 detainees who were admitted at pretrial detention facilities with injuries, of whom eight claimed to have been injured by police. Three detainees claimed that they had been pressured by police officers. The Public Defender's Office reported that 132 complaints of police mistreatment of detainees had been filed in 2008. Mistreatment included verbal and physical abuse.

In 2008 five Ministry of Internal Affairs personnel were found guilty of torturing or administering degrading treatment to persons in their charge.

There were reports of indiscriminate military force by the parties to the August 2008 conflict in South Ossetia resulting in civilian injuries (see section 1.g.).

In January 2008 Zugdidi police officers Data Gvinjilia and Davit Nadaraia arrested Gocha Ekhvaia near "Engurkalakkombina" in Zugdidi. Police reported making the arrest, for hooliganism, near the train station. Ekhvaia alleged that police forcibly took him from his home after questioning him on the whereabouts of a missing person, beat him, and drove him around before testing him for drugs. Ekhvaia was placed in isolation for seven days of court-ordered administrative detention; in February 2008 he lost consciousness and was hospitalized. The Zugdidi regional prosecutor's office began an investigation into allegations that police tortured Ekhvaia in February 2008. In May 2008 Ekhvaia told the Zugdidi court that he would be unable to identify his abusers, and the prosecutor's office was unable to identify the officers who committed the offense. The investigation continued at year's end.

During the year law enforcement authorities closed their investigation into alleged police mistreatment of Teimuraz Gorgisheli in July 2008 because they were unable to contact Gorgisheli to continue the investigation.

The Prosecutor General's Office continued to investigate the allegation by former chief of the State Audit Agency, Sulkhan Molashvili, that he was tortured while in pretrial detention in 2004. According to information the public defender obtained from the Ministry of Justice, the investigation was still pending, and there were no suspects or charged individual(s) identified at year's end. According to the Ministry of Justice, Molashvili was unable to identify the offenders. Molashvili was pardoned and released in January 2008.

In 2007 a presidential decree created an Interagency Anti-Torture Council to address torture and mistreatment in prisons and closed facilities. The council consisted of representatives from the Public Defender's Office, the Prosecutor General's Office, the Ministries of Justice, Internal Affairs, Education, Foreign Affairs, Health, and Defense, the Penitentiary Department, domestic NGOs, and three nonvoting international observers. In June 2008 a multifaceted action plan proposed by the council was approved by presidential decree; the plan addressed torture, mistreatment, and medical care. On November 27, 2009, the president amended his decree creating the interagency council to provide for periodic updates to monitor the implementation of the action plan and to allow the council to create working groups for the completion of specific objectives in the action plan.

Under a new National Prevention Mechanism, the Public Defender's Office was the lead on monitoring allegations of torture and mistreatment of detainees. On July 16, parliament amended the law "On the Public Defender" to give the Public Defender's Office greater responsibility for monitoring prisons and closed facilities, including by involving external experts in monitoring. In this role the Public Defender's Office will be the "national prevention mechanism" as required by the country's acceptance of the UN's Optional Protocol to the Convention Against Torture (OPCAT) and is responsible for communicating its reports to the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (SPT). The Public Defender's Office continued to seek an amendment to allow its monitors the authority to use recording tools to document evidence such as detainees with injuries during the monitoring process.

Prison and Detention Center Conditions

Conditions in many prison and pretrial detention facilities generally remained poor and did not meet international standards. The Public Defender's Office, the OSCE, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and many NGOs, including Human Rights Watch (HRW), continued to report that while newly constructed facilities met international standards, old facilities still in use were inhumane and presented life-threatening conditions, including poor facilities, overcrowding, and inadequate health care. Most prison and

pretrial detention facilities lacked adequate sanitary facilities.

According to Ministry of Corrections and Legal Assistance data, 92 convicts died in prison during the year, compared with 94 in 2008, and 98 in 2007. The Public Defender's Office reported that it frequently petitioned prison officials to obtain necessary medical treatment for inmates. Human rights monitors, including the public defender, witnessed sporadic prisoner hunger strikes to protest poor conditions and alleged due process violations.

In 2006 Shalva Ramishvili of independent TV 202 filed an application with the European Court of Human Rights (ECHR) challenging the legality of his arrest and treatment in detention. During his incarceration he was moved from his regular cell to a small disciplinary solitary confinement cell, which he alleged lacked necessary ventilation and sanitary facilities. On January 27, the ECHR ordered the government to pay Ramishvili 6,000 euros (\$8,580) for nonpecuniary damage and 7,347 euros (\$10,540) for costs and expenses. In its judgment the ECHR stated that the "inhumane and degrading conditions in which he was detained in the punishment cell at Tbilisi Prison number 5" constituted a violation of Ramishvili's rights. On August 26, Ramishvili was released after completing his four-year prison term.

Many prisons were severely short of medical facilities, including equipment and medicine. Following the merger of the Ministry of Justice and the General Prosecutor's Office in 2008, the Penitentiary Department was transferred to the Ministry of Correction and Legal Assistance. At that time the unit within the General Inspection of the Ministry of Justice that was responsible for the monitoring of penitentiary establishments was transferred to the General Inspection of the new Ministry of Corrections and Legal Assistance, which also received a new Department of Health Care. The Ministry of Corrections and Legal Assistance created a plan for the development of a new health-care system in penitentiaries intended to integrate civil and penitentiary health-care systems, improve the level of service in penitentiary facilities, raise the needed qualifications of medical staff, develop a computerized system, and comply with international medical standards. On June 25, the Ministry of Corrections and Legal Assistance and the Ministry of Labor, Health, and Social Protection issued a joint decree setting out a strategy for the treatment of inmates infected with hepatitis C.

According to the Ministry of Corrections and Legal Assistance, as of January prison health care was no longer outsourced to a private insurance company because of the inadequate services it provided. In January the Department of Health Care was charged with administering and monitoring all health care in penitentiary establishments. According to the Public Defender's Office, the distribution of doctors within the system was disproportionate and unequal. Apart from the Institution of Medical Care for Prisoners, no psychiatrist was employed in any of the penitentiary institutions. A total of 172 nurses were employed at the penitentiary system, 38 percent of whom worked at the Central Hospital for Prisoners.

According to Ministry of Corrections and Legal Assistance, the overall inmate population at the end of the year was 21,239, compared with 18,528 in 2008. The law defines three categories of penitentiaries: common regime, strict regime, and prison. Inmates were assigned to facilities depending on their crimes, with first-time offenders and persons convicted of less serious crimes assigned to common regime establishments, while recidivists and those who committed more grave crimes were assigned to strict regime establishments or prisons.

The law sets the standard living space per prisoner as 22 square feet in common and strict regime establishments, 27 square feet in prisons, 32 square feet in the women's colony, 37 square feet for juveniles, and 32 square feet in medical facilities. According to the Public Defender's Office, six facilities were overcrowded in the first half of the year. According to the Ministry of Corrections and Legal Assistance, four of their 12 "strict regime" facilities, including a juvenile education institution and inmate medical institutions, were overcrowded during the year. The ministry also reported that four of their eight prisons were overcrowded during the year. International organizations who monitor prison conditions pointed out that the country's space requirements for prisoners did not meet international standards.

The Presidential Administration sought to use early release of certain convicts to reduce the high numbers of the prison population. According to Ministry of Justice figures, 990 prisoners were pardoned during the year (848 were released and 142 had their sentences reduced), compared with 2,804 in 2008.

In April 2008 authorities closed Tbilisi Prison Number 5 and subsequently demolished it; Prison Number 5 had been criticized for poor conditions and abysmal overcrowding.

A working unit of the Ministry of Corrections and Legal Assistance continued to oversee implementation of a code of conduct for penitentiary employees modeled after European practices. According to the Ministry of Corrections and Legal Affairs, there were 263 cases of disciplinary violations by officers in various penitentiaries during the year, 15 of which resulted in dismissal. This compared to 179 cases in 2008 that resulted in the dismissal of 10 officers and lesser punishments for 169. Possible punishment included notice, reprimand, and severe reprimand and warning.

During the year the Ministry of Justice and donor organizations organized and conducted at least 20 seminars and training programs for 1,252 participants, compared with 12 in 2008 with, 738 participants. These programs focused on international human rights standards, juvenile justice, trafficking and domestic violence, and professional training in preparation for implementation of the new criminal procedure code.

Prior to November 2008, local monitoring councils were appointed to work in eight penitentiaries to monitor conditions, develop recommendations, and submit quarterly reports. Council members were selected on the basis of their desire to work, qualifications, and reputation, and were approved by the minister of justice. Some observers questioned the objectivity of the councils, and NGOs noted that more than half the councils existed only on paper and had stopped functioning because members' terms had expired and they had not been replaced. Council members also had difficulty getting passes to enter prisons. The councils ceased functioning when their mandate expired in November 2008. Despite the creation of a new Ministry of Corrections and Legal Assistance and the appointment of a minister to head it on

February 2, monitoring councils had not been reestablished. The new national prevention mechanism established under the Public Defender's Office was intended to replace the councils.

The ICRC had full access to detention facilities throughout the country, including those operated by the de facto authorities in Abkhazia and South Ossetia, to monitor conditions of detention and treatment of all detainees. The ICRC also provided support to health programs in prisons and detention centers.

Prison conditions in the two separatist regions were chronically substandard, although overcrowding reportedly was not a problem. The CPT visited Abkhazia from April 27 to May 4. Its December 23 report on the visit contained several recommendations concerning Dranda prison, the sole establishment for convicted prisoners in Abkhazia. They recommended that measures be taken to prevent prisoner-on-prisoner intimidation, to supply hygiene products and drinking water to prisoners on a regular basis, to remedy the absence of panes in the cell windows, and immediately to bring the electrical power supply network up to standard.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, the government did not consistently observe these prohibitions. During the year the number of alleged cases of arbitrary arrest and detention increased.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs has primary responsibility for law enforcement. During times of internal disorder, the government may call on the Ministry of Internal Affairs or the military. The ministry controls the police, which are divided into functional departments and a separate, independently funded, police protection department that provides security and protection to both infrastructure sites and private businesses.

A new criminal procedure code (CPC) was adopted and signed into law on October 9. Most provisions of the code were scheduled to become effective on October 1, 2010. The new CPC encourages accountability and professionalism in the police force by barring the use of illegally seized evidence and legally seized evidence that stemmed from an initial illegal action by police (see section 1.e.).

A law establishing an investigative service under the Ministry of Finance went into effect on December 1. Previously, the special investigative unit, which functioned as the "financial police," was under the revenue service at the Ministry of Finance and essentially had all of the same roles and responsibilities as this new investigative service. This new service is directly under the finance minister.

There was a low incidence of police corruption at the patrol level. As a result of reforms, the relatively high salaries for police officers provided an incentive to refrain from using their positions to extort money from citizens and from mistreatment or abuse of detainees.

During the nonparliamentary opposition protests between April and July, police reportedly used excessive force against protesters on several occasions (see section 2.b.), and in most cases investigations into such allegations were unresolved at year's end.

Also unresolved at year's end were continued allegations from the Public Defender's Office and NGOs that police planted evidence, engaged in inhumane and degrading treatment, abused official authority, and exceeded the limits of official authority. During the year nonparliamentary opposition activists claimed that they were especially targeted for such action by police officials (see section 1.e.).

According to the Ministry of Internal Affairs, during the year its General Inspection Service imposed disciplinary punishment, including reprimands, demotions, and dismissals, in 566 cases. The ministry also reported that during the year 29 police officers were arrested for committing various crimes, including taking bribes (seven), drugs (five) "swindling" (eight), illegally carrying firearms (five) and abuse of power (four). The General Inspection Service issued two reprimands, five "severe" reprimands, and discharged six officers for physical and verbal assaults.

In 2007 officials from the Ministry of Internal Affairs reportedly arrested Lasha Khorguiani, Gocha Mildiani, and Khvicha Mildiani, planted drugs on them, unlawfully detained them, and tortured Khorguiani. The arrests were allegedly made at the behest of Irakli Kodua, the head of the ministry's Special Operatives Department. Gocha and Khvicha Mildiani were released later that month. Khorguiani was released after two months of detention and a 5,000 lari (2,960 dollar) fine. No charges were brought against ministry officials, and there were no new developments as of year's end.

Authorities arrested or administratively disciplined police officers; according to the Ministry of Internal Affairs, there were 838 such cases during the year. 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. However, NGOs maintained that the incidence of abuse was higher than the number of cases investigated by the prosecutor general and that the failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. Human rights NGOs also asserted that many instances of abuse went unreported by victims due to fear of reprisal or lack of confidence in the judicial system.

The Prosecutor General's Office was in charge of all criminal investigations into allegations of torture and mistreatment. Prosecutors were required to investigate police use of force when a detainee with injuries sustained during arrest was registered. The law required the office to open an investigation when it received information about a possible violation,

even if from an anonymous source. If prosecutors concluded after investigation that charges were not warranted, the decision could be appealed to a higher level within the office. Any person subjected to abuse was able to pursue a civil action against the abuser. In some cases the Prosecutor General's office continued investigations indefinitely without issuing any findings. In most cases that were completed, the office confirmed that the use of force by police was reasonable.

A 2006 police code of ethics obliges police officers to uphold the human rights of all persons and to use force only when strictly necessary for the performance of their duties; the Ministry of Internal Affairs and Prosecutor General's Office are responsible for implementing the code. The General Inspection Service is responsible for investigating suspected duty infractions by police officers, receiving complaints from citizens who call in on the ministry hotline, via the public defender, or from the main unit of the Human Rights and Monitoring Department of the ministry. Infractions may be addressed to the police officer's supervisor, who can also initiate an inquiry. There are seven categories of disciplinary measures: reproach, condemnation, severe condemnation, deprivation of the ministry badge, demotion, demotion by one grade, or dismissal. If there is suspicion that a police officer committed a criminal act, the officer is suspended, and if the allegations are confirmed, the inquiry materials are transferred to the Prosecutor's Office for criminal investigation.

During the year the Police Academy included additional training on human rights in the basic course for patrol police and conducted additional specialized training on human rights in cooperation with international partners such as the Council of Europe. The Police Academy curriculum for 2,047 patrol, regional inspectors, and junior police officers included training on the legal basis for the use of coercive force, tactical training on negotiation skills for managing critical situations with the goal of using coercive force as a last resort, police ethics, and role playing to illustrate these points. The minister of internal affairs required that all officers be retrained periodically in the use of force and human rights, and during the year 854 officers underwent such training.

During the year some members of religious minority groups reported that police officers did not respond satisfactorily when called out to cases of harassment against them (see section 2.c.)

Konstantine Chrelashvili alleged that Ministry of Internal Affairs officials tortured him in order to force a confession in 2004. In 2006 the accused officials, B. Khvhistani, K. Sopromadze, and J. Jankhoteli, were found guilty and sentenced to imprisonment. In 2008 Chrelashvili filed a civil case against the Ministry of Internal Affairs requesting compensation for the victim from those who committed the crime. In 2008 the Tbilisi City Court found in favor of Chrelashvili and awarded him 9,000 lari (\$5,325).

Arrest Procedures and Treatment While in Detention

The new CPC, scheduled to take effect in 2010, includes better-defined rights and due process protections for those arrested and measures intended to increase the speediness of trials, thus potentially reducing time in detention (see section 1.e.). The new CPC provides that the term of the defendant's initial arrest shall not exceed 72 hours, and the arrested person shall be presented with the indictment within 48 hours from the moment of arrest. Upon arrest, the defendant is to be advised of all legal rights, and any postarrest statements made prior to the advisement of rights will be inadmissible and excluded from evidence in the criminal case.

Under the existing CPC, police, investigators, and prosecutors may arrest a person upon suspicion and without a warrant. (The new CPC permits law enforcement officers to arrest a person without a warrant only in exceptional cases.) The law stipulates that detainees must be brought before a magistrate judge within 72 hours. Those not charged within this period must be released. The Prosecutor General's Office is the only body authorized to engage directly with the courts. At year's end there were no reported cases of detainees kept longer than 72 hours without being charged. During the year the Public Defender's Office did not document any case where this time limit was violated.

During the year law enforcement officers reportedly planted drugs or weapons in order to arrest and charge individuals in a number of criminal cases, many of which were considered politically motivated. The following common factors were present in many of these cases: Charges were often only supported by police officer testimony; forensic or ballistic evidence to corroborate police testimony was typically not presented in these cases; and police commonly did not conduct searches with a warrant. While such additional evidence was not legally mandated, its absence, especially given allegations of political motivation, raised concerns among observers (see section 1.e.).

During the year there were also reports that authorities detained individuals solely because they were family members of a criminal suspect despite the lack of evidence of any ties to the alleged crime. The public defender and NGOs reported that in the early hours of May 20, police officers from the Ministry of Internal Affairs' detained at least 11 relatives of Koba Otanadze, accused of being one of the leaders of the Mukhrovani mutiny (see sections 1.g. and 1.c.). The family members included Otanadze's brothers, Jimsher and Nugzar Otanadze, as well as Jimsher's wife, Gulo Zaridze, and Jimsher's son, Giorgi Otanadze. Authorities did not formally register their detention of these individuals, and the public defender could not determine their whereabouts. They were released 21 hours later after the arrest of Koba Otanadze. On May 22, the Ministry of Internal Affairs confirmed the detention of some family members under the status of "suspects" or "witnesses." Charges of resisting arrest were filed against Nugzar Otanadze (see section 1.c.), but no other formal charges had been filed at year's end, either against detained family members or against those responsible for such detentions.

In 2007 the law was amended to lower from 14 to 12 years the minimum age at which children may be held criminally responsible for certain violent crimes, such as first degree murder and rape. HRW and others criticized the change. The criminal code states that as of July 2008 juveniles who commit violent crimes will be punished with fines until the government opens a juvenile correction facility that meets international standards.

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. An indigent defendant has the right to counsel provided at public expense. The ministry in charge of the proceedings appoints the counsel upon the defendant's request. If a defendant requests an attorney after arrest, the investigator or prosecutor who is handling the case is responsible for contacting and engaging the attorney. The law provides for attorneys to be furnished free of charge to all persons charged in criminal cases.

In 2007 former defense minister Irakli Okruashvili gave a televised press conference in which he declared his opposition to the government and accused President Saakashvili of several serious crimes, including ordering him to kill prominent businessman Badri Patarkatsishvili. Police arrested Okruashvili and charged him with corruption later that month. Opposition leaders expressed concern that Okruashvili's arrest was politically motivated, constituted an attempt to intimidate the political opposition, and was part of a series of attacks on human rights by the government. Okruashvili was released on bail in after making a videotaped confession to some of the charges against him and retracted his charges against Saakashvili. Okruashvili left the country that year and, in subsequent interviews from abroad, stated that his confession, retraction, and departure from the country had been forced. In 2007 Okruashvili was arrested in Germany and later returned to France, his original entry point into Europe. In March 2008 Okruashvili was tried in absentia in Tbilisi, found guilty of large-scale extortion, and sentenced to 11 years in prison. In April 2008 he was granted political asylum in France. In September 2008 the French appellate court ruled against Okruashvili's extradition to Georgia. Members of Okruashvili's political party alleged that close associates or family members of associates were arrested because of their party affiliation.

Human rights NGOs claimed the government detained 60 to 100 soldiers after the armed conflict in August 2008. Some attributed the detentions to their failure to report to their units during the war. Others maintained that the detentions were for suspected drug use or some other charge. The press reported that soldiers were arrested for speaking out against the government. Many were released on bail or pardoned. NGOs could not confirm that any of these soldiers remained in detention at year's end. Defense counsel has the right to meet persons accused of a crime without hindrance, supervision, or undue restriction; however, some attorneys alleged that audio and video equipment in police stations, which was intended to record interrogations of suspects by law enforcement or investigators, was used improperly sometimes to monitor privileged attorney-client conversations.

Officers must notify detainees' families of their location within five hours of their arrest and record the circumstances of the notification in the case record. Monitoring boards regularly reviewed these records during their visits to police stations.

Police are also required to inform detainees orally of their rights and to provide them a copy of the arrest and search form, signed by police and detainees, to acknowledge that detainees have been fully informed of their rights. The Public Defender's Office and NGOs reported that police often failed to inform detainees fully of their rights and that, if informed of their rights, detainees often did not understand them.

Under the current code of criminal procedure, preventive measures of restraint include pretrial detention, bail, personal guarantee, placement of a juvenile defendant under supervision; placement of a military serviceman under commander's supervision. The new CPC expands on these to include more alternative options to detention such as the following: the obligation to appear in court at a set time or upon summons; the prohibition to undertake certain activities or pursue a certain profession; the obligation to report to the court, police, or other state agency daily or periodically; supervision of an agency appointed by the court; electronic monitoring; the obligation to be present at a certain place; the prohibition to leave or enter a certain location; the prohibition to meet certain persons without special authorization; and the obligation to surrender passport or other identification document.

Since January 2007 the judiciary has sought to use bail rather than pretrial detention. NGOs noted that, due to economic hardship, some defendants were not able to pay bail even when it was granted and ended up in pretrial detention. According to Ministry of Justice data for the first 11 months of the year, bail was used in 4,727 cases, custodial bail used in 2,031 cases, pretrial detention used in 6,957 cases, release under supervision in 174 cases, and other measures of restrain in 35 cases. A property bond is also permitted.

As a result of multiple surveys, the judiciary established that in all three court levels, the average trial time was 12.6 months. The duration of trials at the court of first instance did not exceed three to five months. The courts strictly adhered to the requirements of the constitution, according to which pretrial detention must not exceed nine months, and initial investigations must be finalized within 72 hours after a person's detention. One cause of delays in scheduling trials has been the failure of prosecutors and defense lawyers to show up for hearings. Both prosecutors and defense lawyers used this tactic if they were not prepared to conduct their case on the day in question. The new CPC includes sanctions that the court can impose for such misconduct by the trial lawyers. This provision was scheduled to go into effect on October 10, 2010. As discussed below, the extensive professional training of judges causing some court vacancies also caused some trial delays.

Once the verdict is rendered, the prison sentence begins immediately regardless of any appeal process underway. There is a maximum three-month appeal process for the appellate court and a maximum of six months for the Cassation Court in the Supreme Court. If all appeals are exhausted, a prisoner can be held for a maximum of 18 months. There are no time constraints once the trial begins for the first instance court to render a verdict.

During the year there were many cases of individuals detained in the separatist regions of Abkhazia and South Ossetia for charges related to their "illegal" crossing of the administrative boundary line. Russian border guards, who began administering the boundary lines in May, carried out many of those detentions by enforcing boundary-crossing rules imposed by de facto authorities but then generally handed custody of the individuals over to the de facto authorities. In most cases the individuals were released within a few hours or days; in some cases the individuals were held considerably

longer. Georgian authorities detained a number of individuals near the administrative boundary lines on various charges, including illegal entry into the country. Such individuals often carried only Russian passports with no evidence of authorization to enter Georgia.

In February Ika Bigvava, a resident of Otobaia in Abkhazia, was detained briefly by Abkhaz de facto forces. Several members of his village reportedly helped him flee across the administrative boundary line out of Abkhazia. According to the EU Monitoring Mission (EUMM) and the UN Observer Mission in Georgia (UNOMIG), on the next day at least 20 and possibly as many as 40 or more villagers, including some children, were detained or blocked from their residences by Abkhaz forces demanding the return of Bigvava or the retraction of allegations he made about his mistreatment while in Abkhaz detention. The detained individuals were released within a day.

In August six individuals were detained in the Akhalgori region of South Ossetia and charged with attempting to smuggle wood. According to the EUMM, the charges were later reduced to "illegally" crossing the boundary line but then changed back to smuggling. Despite efforts by the Council of Europe's commissioner for human rights to negotiate their release, they remained in the custody of the de facto South Ossetian authorities at year's end.

In October, 16 individuals chopping down wood were detained by Russian border guards near the South Ossetian administrative boundary line. Although the Russian officials, South Ossetian de facto authorities, Georgian officials, and the EUMM all agreed that the incident occurred within a short distance of the boundary, the de facto South Ossetian authorities kept the individuals in custody for four days on charges of "illegally" crossing the boundary before releasing them.

Amnesty

Article 77 of the criminal code states that Parliament declares amnesty in regard to a group of individuals recommended by a parliamentary committee; the Amnesty Act can absolve a convict of criminal responsibility, meaning that the defendant is freed of the charges, or the designated sentence could be reduced. The Amnesty Act permits the criminal record of the convict to be expunged. In contrast, article 78 states that a pardon is carried out by the president in regard to a specific individual; the Act of Pardon can absolve a convict of the responsibility to serve out a sentence or the designated penalty could be reduced or modified with a lighter sentence; the Act of Pardon can expunge the criminal record of the convict. There appeared to be inconsistencies regarding the government's interpretation of these provisions for the expunging of a convict's criminal record.

During the year according to Ministry of Corrections and Legal Assistance statistics, there were three tranches of presidential orders pardoning a total of 687 convicts. The law allows the President to unilaterally pardon an inmate, bypassing the parliamentary committee.

On March 12, one of the president's three tranches of pardons halved the prison sentences for the four men found guilty of murdering Sandro Girgvliani in 2006. The four men were among a reported 45 convicts who received a pardon in this tranche. At the time of the crime, the four men, Gia Alania, Avtandil Aptsiauri, Aleksandre Gachava, and Mikheil Bibiluri, were employees of the Ministry of Internal Affairs. They were sentenced to eight and seven-year prison terms in 2006 for inflicting injuries that resulted in Girgvliani's death. Two opposition members of parliament (MPs) resigned from the parliamentary commission on pardons to protest the president's pardon, which bypassed the commission. Since the four had already served almost half of their original sentences, on September 6 they were released along with 384 other convicts, whose imprisonments were replaced with probation terms.

e. Denial of Fair Public Trial

The law provides for an independent judiciary. However, reports persisted that the executive branch continued to exert pressure on judicial authorities. According to the public defender's report for the first half of the year, in criminal cases the courts did not adequately implement the right to a fair trial provided by the European Convention of Human Rights. The report also stated that the majority of ECHR decisions against the country referred to the violation of this right. Many NGOs complained that judicial authorities continued to act as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. NGOs also expressed concern that recent judicial appointees lacked the experience and training to act independently. Much of the public viewed the judiciary as the country's most corrupt institution.

Under the existing CPC, judges may question witnesses, which results in the court directing the investigation. As a result, judges were viewed as assisting the prosecution, a perception that contributed to the low ratings of the judiciary in public trust polls. The CPC scheduled to take effect in 2010 mandates an entirely new role for the judge—that of an objective arbiter and decision maker, who has no role in prosecuting or defending the case.

The high number of judicial vacancies at the trial court level may have contributed to some delays scheduling trials. The High Council graduated a total of 33 new judges during the year. The speed at which the judiciary could add new judges was affected by a new 14-month training program that each judicial candidate was required to pass.

Judges serve 10-year terms, a limited term that some observers viewed as militating against the independence of judges.

The ECHR ruled on October 27 that a 1999 trial of three men was unfair because the Criminal Bench of the Supreme Court, which had tried them, was not a "tribunal established by law," since it included two lay judges who were not legally competent to exercise the functions of a judge. The country abolished the institution of lay judges in 2005. In 2008 the ECHR issued a judgment that found one violation by the country of the right to a fair trial under the European Convention

on Human Rights. The court also found one violation by the country with respect to length of proceedings.

According to Ministry of Justice data for the first 11 months of the year, the government initiated criminal proceedings against 18,048 persons, of whom 15,415 were convicted. Some NGOs and nonparliamentary opposition alleged that in cases involving opposition activists, the courts tended to rule in favor of the government.

Following constitutional amendments in 2006, the High Council of Justice, the body that disciplines judges, operated as an independent institution with a majority of its members from the judiciary. In 2007 parliament passed further changes to the law on common courts, reorganizing the High Council of Justice and removing the minister of justice as a member, the last such executive branch official. Eight judicial members whom the Conference of Judges elected and the chairman of the Supreme Court constitute the majority of the 15-member High Council of Justice. The president appoints an additional two members of the council, and parliament appoints three. The head of the legal committee of parliament, currently a member of the ruling party, is an ex officio member of the High Council of Justice. A July 2008 amendment required that--of the three MPs elected to the Council of Justice--one must be from a faction other than the parliamentary majority. Nikoloz Laliashvili from the Christian Democratic Movement occupied this position during the year.

Following the constitutional amendments, the authority to appoint or dismiss judges was moved from the president to the High Council of Justice, and the chairman of the Supreme Court was made chairman of the council to increase the transparency of the judicial appointment process. During the year NGOs and observers called for increased transparency in the selection, appointment, and disciplinary processes for judges. Despite the use of objective written examinations to create a pool of potential qualified appointees and publication of the names of all potential candidates for public comment, the judicial appointment process was not sufficiently transparent. Oral interviews of appointees were held behind closed doors with no public knowledge of what criteria were used for selection.

During the year the Supreme Court and the High School of Justice unveiled a 14-month intensive training program for prospective new judges. This program was expected to shift towards a more merit-based selection and vetting process and help eliminate unqualified judicial appointees. The new training program included exams and performance measures that provided objective criteria for ranking the performance of the judicial candidates.

In 2007 parliament passed legislation on ex parte communications, prohibiting prosecutors, defendants, investigators, and any interested third parties from contacting judges outside the courtroom during cases to influence their judgments. The legislation, which went into effect in 2007, also repealed Soviet-era laws that punished judges, both criminally and administratively, for making incorrect rulings, provisions that many observers believed the government could use to limit judicial independence. The law requires judges to immediately report in writing any ex parte communication to the chairman of the court, who must review the report within 14 days and can impose a fine up to 2,000 lari (\$1,180) or forward the matter to the secretary of the Council of Justice. The secretary then has one month to review the report and forward it to the appropriate regulatory body, such as the prosecutor general for prosecutors, the Georgian Bar Association for defense attorneys, or the relevant agency heads for investigators for disciplinary action. The High Council of Justice may appeal a decision of the regulatory bodies not to impose a disciplinary sanction according to the general rule for appealing administrative rulings.

According to the judiciary, there were no disciplinary actions taken related to ex parte communications during the year. There were four violations in 2008, three of which did not appear to involve public officials, reported to the High Council of Justice.

In September 2008 a Zestaponi District judge received a telephone call from a person who introduced himself as a minister of justice and asked him to consider ruling in favor of a party on a civil case, who was his friend. The judge reported this communication to the chairman of the court, who forwarded this report to the law enforcement agencies. According to the Ministry of Justice, the caller was identified through an investigation and in October 2008 was fined 2,000 lari (\$1,180).

The Prosecutor's Office is responsible for disciplinary action for violations of the ethics code for prosecutors adopted in 2006. The Office of the Prosecutor General conducts an inquiry into such facts and presents this information to the prosecutor general with a recommendation for disciplinary action. The code was actively implemented during the first half of the year, with 201 prosecutors receiving disciplinary actions ranging from notice to reprimand. Disciplinary violations involved deficient prosecutorial supervision and ethics violations, while criminal violations involved abuse of official power. The Inspection Department of the Office of Chief Prosecutor initiated disciplinary proceedings against 55 prosecutors during the year. Disciplinary punishment was imposed upon 42 prosecutors, five prosecutors were punished for a violation of the code of ethics, while the two others were found disciplinarily liable on the basis of the ruling of the courts. Seven disciplinary proceedings were pending at year's end.

On December 12, officials arrested a prosecutor and accused him of accepting a 2,000 lari (1,180 dollar) bribe to secure a favorable sentence for a defendant. Officials also arrested the defense attorney for his alleged role in the incident. This allegation reflected a manner of bribery wherein the defense attorney secured a retainer or fee to defend his client, while using some portion of his fee to pay the prosecutor for a favorable case resolution. It was unclear from the allegations whether the prosecutor was accused of extorting the money from the defense attorney, or whether the defense attorney approached the prosecutor with the offer of a bribe. This case continued at year's end; the prosecutor faced up to a nine-year prison sentence if convicted.

The new CPC scheduled to go into effect on October 1, 2010, provides for due process and fair trial protections. It was extensively vetted through parliamentary committee hearings and diverse working groups that included NGOs.

The central philosophy of the new CPC is to establish the legal foundations for adversarial court proceedings: hearings and trials that balance the interests of the state with the rights of the accused, with the judge serving as a neutral and detached magistrate tasked with ensuring fair proceedings.

The current CPC allows judges to question witnesses, which results in the court directing the investigation. As a result, judges were viewed as assisting prosecution contributed to the judiciary. The new CPC mandates the entirely new role for the judge of an objective arbiter and decision maker, who has no role in prosecuting or defending the case.

The new CPC also includes presumption in favor of pretrial release instead of pretrial detention for the accused; clearer terms and defendant protections governing the negotiation, conclusion, and court approval of plea agreements; and more progressive bail and other mechanisms to guarantee the defendant's presence at pretrial proceedings and trial, all of which will help to lessen the number of defendants incarcerated pending trial.

The new CPC increases the ability of the prosecution and defense to have equal rights to collect and present evidence. The prosecution is compelled to disclose all evidence to the defendant and must disclose the evidence five days prior to the pretrial hearing.

The new CPC also enhances due process guarantees. These include well-defined detainee and defendant rights to be informed of their rights upon arrest; to receive a speedy, fair, and continuous trial; to be presumed innocent until proven guilty; and to be assured that the judge will refrain from conducting his/her own investigation and will only examine evidence presented by the parties to the case confirming the guilt or innocence of a person. The new CPC protects the privilege against self-incrimination and allows reasonable time and means for defense to examine evidence obtained by the prosecution. A provision for voluntary rather than compelled witness interview during preliminary investigation is not scheduled to enter effect until 2012. Case investigations will be bound by statute of limitations. Covert investigation will be conducted on the prosecutor's determination, other than wiretapping, visual recording, and other types of interception that require a judge's preapproval. Prosecutors can seize evidence in exigent circumstances without court approval (i.e., evidence about to be destroyed, tampered with, etc.), but they must go to the court within 12 hours of the warrantless seizure to explain the underlying urgency to the court's satisfaction.

Under the new CPC, jury trials will be introduced in Tbilisi City Court only for aggravated murder cases starting in October 2010. The judge will select and screen the jury members from a 100-person pool with the participation of the parties, opening statements of parties shall commence the proceedings, direct and cross-examination will follow, the jury is allowed to conduct a preliminary deliberation in the event that they require clarification from the court regarding the law of the case, and final arguments shall be made. Juries have three hours to reach a unanimous verdict; unanimous verdicts shall be required in any case where life imprisonment could result as a possible punishment. If in nonlife imprisonment cases a verdict is returned within six hours, it shall be made by a 9/10 majority of the jurors. If the jury fails to reach a verdict after a total of 12 hours of deliberation, then a mistrial will be declared.

The new CPC provides that the defendant may ask that his/her pretrial (investigative) confession be suppressed and excluded from the main trial without providing a rationale or requiring any showing of prejudice or any wrongdoing by police. If the defendant does not seek to exclude his/her confession, no conviction will stand if it is based solely on the confession of the defendant; there must be a body of additional corroborative evidence in addition to any pretrial admissions by the defendant before a conviction can be maintained. Furthermore, prior convictions shall not be admissible in the trial against the defendant. A new standard requires the prosecution to demonstrate a "high probability" of guilt at the pretrial stage. If the prosecutor cannot meet this burden, the court must dismiss the prosecution's case and release any detained defendant. Courts will instruct juries that guilt must be established using the high standard of beyond a reasonable doubt. Courts will also instruct juries that the defendant is presumed innocent and that the prosecutor alone bears the burden of providing evidence to demonstrate guilt beyond a reasonable doubt.

The new CPC provides added safeguards for ensuring a speedy trial through a new series of strict timeframes: The pretrial hearing must occur within 60 days of the defendant's arrest. If no pretrial hearing has commenced within these initial 60 days, the defendant shall be released. The main trial shall then begin within 14 days of the pretrial hearing. The total time allowed for detention of a defendant is reduced to nine months, within which main trial proceedings must be initiated. Extensions of these timeframes are permitted on the defendant's motion. The prosecution is limited in its ability to seek relief from these speedy trial timeframes. For example, the prosecutor may only move to continue the pretrial hearing once, while the defense has no such restriction if additional time is needed to prepare for trial. Similarly, the nine-month limit on overall detention of the defendant can be extended by the defendant to prepare for trial, while the prosecutor has no such remedy. These provisions are designed to force the prosecution to have cases fully investigated and prepared for trial within a strict and narrow timeframe (74 days). The prosecution's case must be dismissed when these timeframes have not been honored.

Under existing law defendants must confirm in court any statement they gave while in pretrial detention before it can be accepted as evidence. NGOs reported that this provision had little impact, either because detainees feared reprisal if their statement was not ratified in court, or they were not aware of the law.

The law provides penalties of up to five years in prison for witnesses and victims who obstruct justice by giving substantially contradictory testimonies. NGOs contended that the provision made witnesses more vulnerable to prosecutorial pressure because it discouraged them from recanting incriminating statements given to the prosecutor during pretrial investigations. Prosecutors supported the provision on the ground that it discouraged witnesses from changing their testimony due to pressure from the defendant or his or her associates. The law does not punish defendants for perjury. Witnesses are legally obliged to give evidence. Protection from criminal liability for failing to follow this rule applies only if there is risk that witnesses will self-incriminate or do not want to incriminate their close relatives.

Both torture and the extortion of evidence represent criminal offenses under the criminal code. Throughout the year the prosecutor general issued guidelines for prosecutors on torture investigations in order to streamline initiation of the investigations and charging process on torture cases. The guidelines also restricted prosecutors from concluding plea agreements with persons accused of committing such violations.

Under the new CPC persons who have suffered property damage, physical, or moral injuries from crime have the right to file a civil claim under the civil procedure code. The compensation for physical injuries covers the costs of burials, medical treatment, prosthetic devices and medicine, insurance, the compensation of financial aid, and pension. Compensation for moral injuries can be monetary. The general rule of seeking compensation and redress for the injuries received as a result of crime through civil action equally applies to all crimes, including torture, extortion of testimony, and illegal arrest.

The High Council of Justice administered a three-tiered court system composed of regional (city) courts, appellate courts, and the Supreme Court. Regional (city) courts hear routine criminal, civil, and administrative law cases. The Supreme Court acts as the court of final appeal. During the year the High Council established a new system of magistrate courts and integration of regional (city) courts. This is a means to alleviate heavy court caseloads and spread work more evenly amongst the various trial courts.

During the year the monthly salaries of judges at all levels continued to rise, reducing the incentive for corruption. Judicial salaries were 4,400 lari (\$2,600) for Supreme Court judges, 2,500 lari (\$1,480) for appellate-level judges, and 2,300 lari (\$1,360) for lower court judges.

In 2007 the Conference of Judges adopted a code of ethics for judges that defines rules of judicial ethics to strengthen the independence, impartiality, and integrity of the judiciary. The Disciplinary Board of the Common Courts discussed 44 disciplinary cases involving 32 judges during the year, 19 new cases and 25 held over from 2008. Of these, the board recognized violations and imposed disciplinary sanctions on 18 judges, three of which were dismissed. In 2008 the board discussed 22 disciplinary cases against 17 judges. The board recognized violations and imposed disciplinary sanctions on 10 judges. Of these, one case involved an ethics violation.

The Constitutional Court arbitrates disputes between branches of government and rules on individual human rights violation claims; it generally demonstrated judicial independence. The power of constitutional review is vested solely in the Constitutional Court. The court generally interpreted its role in human rights cases narrowly, agreeing to rule only on cases in which human rights were violated as a result of specific articles of law.

Trial Procedures

Defendants have the right to a public trial, except where national security, privacy, or protection of a juvenile is involved. While the criminal procedure code during the year did not provide for a jury trial, other amendments expanded defendants' rights in criminal procedures.

Defendants have the right to be present at their trial and to consult an attorney. In 2007 parliament established a Free Legal Aid system to provide free legal assistance to the indigent. With a total of 178 staff members Legal Aid offices operated in Tbilisi and 11 other cities. The 2009 State budget allocated 2.9 million lari (\$1.71 million) for the Legal Aid Service. Initially established under the Ministry of Justice, the Legal Aid Service was moved to the newly created Ministry of Corrections and Legal Assistance when the Prosecution Service and the Ministry of Justice merged in 2008. As of January the right to receive free legal aid was linked to the database of socially vulnerable persons. Despite such efforts, many defendants in criminal pretrial hearings, where decisions are made on arrest or bail, did not enjoy the benefit of counsel.

To ensure the independence, transparency, and effectiveness of the Legal Aid Service, the authorities established a supervisory body consisting of a Supreme Court judge, a member of the Georgian Bar Association, NGOs, members of Parliament, and the Ministry of Corrections and Legal Assistance during the year. The Legal Aid Service's budget cannot be reduced without approval from its supervisory board. Despite these precautions, legal NGOs noted that inclusion of the Legal Aid Service within the Ministry of Corrections and Legal Assistance would not encourage independence. In addition to an annual state budget, the Legal Aid Service can be funded by donations and grants from outside services. However, according to statistics published by Legal Aid Service in 2008, 97 percent or 2.9 million lari (\$1.71 million) of its budget was state funded.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. By law defendants and their attorneys have access to the prosecution's evidence relevant to their cases at any point during the investigation and may make copies at their own expense. By law defendants are presumed innocent and have the right to appeal.

The law provides that a verbatim record must be prepared and signed by the secretary and the presiding judge of the hearing within five days of the conclusion of the court hearing or trial. Only after court officials have signed the document can it be introduced to the parties. Comments from the parties on the wording of the transcript may be submitted to the court. Court judgment shall be served to the parties within the same number of days in simple cases and in 14 days in complex cases.

Since 2007 persons charged with crimes could be tried in absentia if they are absent to avoid trial. The same law permits persons convicted in absentia to appeal their conviction within one month of their arrest or surrender, which guarantees a new trial. Human rights NGOs criticized in absentia provisions because they apply to all crimes; the government's position

has been in favor of timely commencement of trial and presentation of evidence and witnesses to successfully prosecute criminal behavior and not to reward those who abscond from their prosecution.

Defense counsel and the defendant have the right to participate in pretrial hearings; however, their presence is not mandatory. Failure of defense counsel to appear at a hearing does not constitute grounds for postponement. A judge may also rule on admissibility of appeal of a pretrial preventative measure without an oral hearing.

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. Under the new CPC, prosecutors may enter into plea agreements with the defendant, and the defense may initiate these discussions. Prosecutors are under an obligation to inform the victim of the terms of the plea agreement. The victim can also seek senior prosecutor review of the plea bargain. Plea bargaining increased every year since it was introduced in 2004. According to the Ministry of Justice, during the year plea bargaining was used in 58.9 percent (10,400) of cases, compared with 52 percent (10,608) in 2008.

The majority of plea agreements (which included a proposed sentence) included a financial penalty along with either a prison term or a suspended sentence. With a financial penalty being a consistent factor, even proper and viable plea agreements were often perceived as a way for a defendant to buy his/her way out of prison, albeit at a price set by the prosecutor. Some NGOs reported that the government coerced defendants into accepting plea bargains.

In past years some plea agreements reportedly included a tacit understanding that the person accused would not pursue complaints of abuse or mistreatment from law enforcement officials. During the year the prosecutor general issued guidelines on torture investigations specifically addressing such misuse of plea bargaining.

Under the new CPC, regardless of whether an arrested person is ultimately convicted, the state must fully reimburse from the state budget the damage caused from an illegal or groundless arrest.

In October 2008 parliament passed a constitutional amendment that merged the Office of the Prosecutor General into the Ministry of Justice. The minister of justice heads the merged entity. Human rights activists were concerned that the merger did not allow the Prosecutor's Office sufficient independence from the Ministry of Justice and did not allow for a direct parliamentary vote on the chief prosecutor's nomination. As part of the merger, the criminal justice guidelines were made confidential, potentially making it difficult for lawyers to raise procedural points in criminal cases, as this information, even the general principles, were not shared as public information. Even under the new CPC, part but not all of law enforcement internal guidance is not public.

Political Prisoners and Detainees

Some nonparliamentary opposition parties and NGOs, such as the Paris-based Federation for Human Rights (FIDH), stated that the government held political prisoners and detainees, although estimates of the number varied. Estimates ranged from zero to dozens to even hundreds or, in one case, thousands. The new public defender did not name any political prisoners or detainees in his report for the first half of the year. The parliamentary Human Rights Committee claimed that there were no political prisoners.

In its report for the first half of 2008, the public defender at the time identified five political prisoners: Merab Ratishvili, Joseph Jandieri, Ilia Tsurtsunia, Joni Jikia, and Dimitri Godabrelidze. They were allegedly convicted in connection to their participation in antigovernment rallies in 2007.

According to the Prosecutor's Office, Ratishvili and Jikia were arrested on charges of drug possession. The court found them guilty and sentenced them to nine- and seven-year prison terms, respectively. Tsurtsunia was arrested on charges of resisting a police officer so as to impede the protection of public order, found guilty, and sentenced to three years' imprisonment. Godabrelidze was arrested on charges of alleged illegal activities while working in the Marneuli District Agricultural Department in 2003. According to the Ministry of Justice, Godabrelidze pled guilty to the abuse of an official office and the forgery of official documents. He was sentenced to five years of prison and fined 10,000 lari (\$5,920). Godabrelidze was released in 2008. Jandieri was arrested on charges of drug possession, sentenced to eight years in prison, and then pardoned in 2008. The Prosecutor's Office stated that criminal cases were pursued only when they met relevant evidentiary standards.

In its report on the second half of 2008 released on April 1, the Public Defender's Office described Maia Topuria as a political prisoner. Topuria was associated with former state security minister Igor Giorgadze, who previously had been accused of an assassination attempt on then president Shevardnadze. Fourteen of Giorgadze's associates, including Maia Topuria, were convicted of treason in 2007; these convictions were upheld on appeal in 2008. This case was pending at the ECHR since 2007.

Another high-profile case pending at the ECHR since 2007 involved charges of treason against former state security minister Irakli Batiashvili. The head of an opposition party, Batiashvili was released on presidential clemency in 2008.

In 2007 the opposition compiled a list of 42 persons whom it considered political prisoners and presented the list to the government. Thirty-four persons on the list were released in 2008.

According to observers, since the beginning of the spring opposition protests, a majority of cases alleged to have been politically motivated involved charges of illegal possession of weapons and/or drugs against opposition activists. In the majority of such cases, procedural shortcomings were reported (see section 1.d.).

On August 12, nonparliamentary opposition party representatives gave the minister of internal affairs a list of 48 activists from various opposition parties whom they considered to have been arrested on fabricated charges during the April–July protests. These charges were mainly related to drug and arms possession. The Ministry of Internal Affairs opened an investigation into the allegations and began discussions with the nonparliamentary opposition. Reportedly 10 individuals were released after the initial talks on August 12, nine were released on November 16; on November 23, seven individuals were released as part of a larger presidential pardon. Many of these individuals were released on bail or released after serving short-term sentences. At year's end it was not clear how many of the individuals from the original list of 48 had been released. On August 16, two Republican Party opposition activists on the list were sentenced to prison terms by the Gori City Court. Davit Gudadze was given a four-year sentence for the illegal possession of and carrying of a hand grenade. Tamaz Tlashadze was given a three-year sentence for drug possession.

The government permitted international human rights and domestic organizations to visit persons claiming to be political prisoners or detainees, and some organizations did so during the year.

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 judges and transparency in adjudication. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts is entitled to bring a civil action.

In Abkhazia the de facto parliament in 2006 adopted a decree banning de facto courts from considering any property claims filed by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby effectively depriving internally displaced persons of their property in Abkhazia. According to the decree, any previous judgments or pending procedures related to ethnic Georgians' properties were nullified. De facto courts in Abkhazia reportedly did not make efforts to establish facts or administer justice but acted at the direction of prosecutors and law enforcement. Criminals paid bribes to police, prosecutors, and judges to avoid prosecution.

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

The law prohibits such actions without court approval or legal necessity and also prohibits police from searching a residence or conducting undercover or monitoring operations without a warrant; however, these prohibitions were not always respected.

During the year some opposition activists reported having concerns about surveillance to the point of discontinuing their use of cell phones. Charges brought against some opposition activists after they were subjected to video and/or audio surveillance, in particular the March 23 arrest of nine activists for the illegal purchase of weapons, raised concerns among some NGOs and international observers about this practice. However, in general human rights workers and civil society representatives reported that they felt no government surveillance and felt free to engage in their activities.

NGOs continued to report that police conducted searches, and may also have occasionally monitored private telephone conversations, without first obtaining court orders; police often obtained warrants after the fact. NGOs reported that most citizens were unaware of their right to delay a search of their home by one hour in order to summon two objective third-party witnesses to the search. The government stated that security police and tax authorities entered homes and workplaces without prior legal sanction. NGOs and some opposition members contended that the targeting of certain companies and persons for searches by tax authorities was politically motivated; they viewed subsequent fines as a form of "legal extortion" by the government. This practice was reported by businesses and persons across the political spectrum.

There were concerns about the lack of due process and respect for the rule of law in a number of developments related to property rights.

NGOs reported that, while the government took more concrete steps to aid internally displaced persons (IDPs) during the year, they did so at the expense of property rights. NGOs reported that owners of property squatted on by IDPs from conflict areas were pressured to sell their property at a lower than fair market price to the government in order to quickly resolve longstanding ownership issues.

In 2007, according to HRW, restaurant owners in Tbilisi and a neighboring town complained that officials pressured them into handing over their property by threatening them with criminal charges for allegedly purchasing their property through corrupt business transactions during the Shevardnadze era. The government contended that these were cases of property with expired or ambiguous leases or obtained through fraudulent transactions or bribery linked to corruption. Domestic and international observers expressed concern that the government had not sufficiently respected due process and the rule of law. The public defender mentioned this concern in his December 2008 remarks to parliament. The current public defender did not include any new reports on these incidents in his last report, on the second half of the year.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

On May 5, the senior leadership of a battalion-sized military unit at the Mukhrovani base reportedly initiated a mutinous event against the government. The vast majority of the unit, including 500 members, was not involved and was unaware of the conspiracy and surrendered peacefully the same day. Three of the alleged organizers escaped. On May 21, the three were caught in a firefight with police in a Tbilisi suburb. In the shootout police killed , Gia Kriashvili, and wounded the other two, Levan Amiridze and Koba Otanadze, resulting in their hospitalization. The Ministry of Internal Affairs stated that the three men had put up armed resistance necessitating the use of lethal force. Many NGOs questioned the appropriateness

of the force used in their arrest. NGOs also highlighted concerns about detention. On August 24, the Tbilisi City Court began hearings in the cases of 41 persons accused of participating in the uprising. Most faced a 27-year sentence. Verdicts were pending at year's end.

Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved and were exacerbated during the August 2008 armed conflict between Georgia and Russia.

A report issued on September 30 by the EU-funded Independent International Fact-Finding Mission on the Conflict in Georgia, widely known as the Tagliavini report, made the following conclusions: it was impossible to assign overall responsibility to one side alone; open hostilities began with Georgia's shelling of Tskhinvali; some Russian forces were in South Ossetia prior to Georgia's attack; Georgia's use of force in the first phase of the conflict was unjustifiable; Russia's use of force beyond South Ossetia was unjustifiable; a Georgian intent for genocide in South Ossetia could not be proven; and ethnic cleansing was carried out against Georgians by South Ossetian forces or irregular armed groups.

The Tagliavini report also concluded that all parties to the conflict—Georgian, Russian, Abkhaz, and South Ossetian forces—"committed violations of International Humanitarian Law and Human Rights Law." South Ossetian irregular armed groups and others committed "numerous" such violations. The main violations identified by the report included indiscriminate attacks by Georgian and Russian forces, widespread looting and destruction of ethnic Georgian villages, mistreatment, rape, assault, hostage taking, and arbitrary arrests by South Ossetians, and the failure of Russian forces to prevent or stop such violations in areas under their effective control. HRW highlighted the continued lack of accountability for such violations.

In its 2009 report, the ECHR said that it had received over 3,000 appeals in 2008 related to the hostilities. The court also received an intergovernmental case by Georgia against the Russian Federation.

Incidents of violence occurred in Abkhazia, particularly in the predominantly ethnic Georgian Gali region, and in South Ossetia.

In August 2008 the Russian government recognized Abkhazia and South Ossetia as independent states; in September 2008 the Russian government signed agreements with the de facto authorities that included provisions to allow Russian military presence in the territories. In August 2008 the Georgian prime minister signed a decree formally terminating Russian peacekeeping operations in Georgia. Formerly, agreements permitted Commonwealth of Independent States peacekeeping forces in both Abkhazia and South Ossetia. In August 2008 parliament passed a resolution declaring Abkhazia and South Ossetia to be Russian-occupied territories. By year's end only three countries had joined in Russia's recognition of the territories.

There was little official information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions.

The mandate of UNOMIG was originally extended through February 15, but on June 15, UNOMIG's mandate was terminated after 15 years after Russia vetoed extending its mandate in the Security Council. The Office of the UN High Commissioner for Refugees (UNHCR) maintains a presence in Abkhazia. In 2007 Abkhaz de facto authorities agreed to permit a UN human rights officer's presence and the deployment of three UN civilian police in the Gali Sector headquarters; however, this mandate also expired with UNOMIG's on June 15. Talks for allowing the renewed presence of a UN human rights officer in Abkhazia were underway at year's end.

The mandate of the OSCE's military monitoring mission in South Ossetia was extended through June, but Russia's refusal to join consensus in a new mandate led to the closure of the mission after 17 years of work. Subsequent efforts to negotiate an arrangement for a new OSCE presence in South Ossetia and the rest of Georgia were still unsuccessful by year's end.

The Gali region of Abkhazia, where many ethnic Georgians live, remained tense as a result of limitations on freedom of movement, kidnapping, arbitrary arrest, and deaths in custody. There were numerous reports of looting and robbery by Russian forces, Abkhaz de facto forces, or criminal gangs, including in particular during harvest season, when local farmers were extorted for a portion of their revenue. Systemic problems in the criminal justice system of the de facto authorities, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Abuse by de facto law enforcement authorities included arbitrary arrests and detention as well as routine mistreatment of detainees. De facto law enforcement authorities rarely wore uniforms or carried badges or credentials, allowing them to act with impunity. Russian military forces and de facto militias limited the ability of international observers to travel in Abkhazia to investigate claims of abuses.

After the conflict began in August 2008, South Ossetian separatists reportedly committed killings, engaged in looting, systematically attacked ethnic Georgian villages, and blocked international observers from viewing events first hand. There were numerous reports of abductions by unidentified armed gangs of individuals on both sides of the administrative boundary line. Russian military forces and de facto militias did not permit observers into South Ossetia and occupied areas to investigate claims of abuses.

Killings

On August 6, the government released a report reiterating its version of events leading up to the August 2008 conflict. According to the report, 412 Georgian citizens were killed, including 228 civilians, 170 military personnel, and 14 police officers. Ten Georgian military personnel and 14 police officers remained missing. Although Russian officials initially

asserted that approximately 2,000 civilians had been killed in South Ossetia during the conflict, the Tagliavini report stated that this number was later reduced to 162. A Dutch and two Georgian journalists were also killed.

Attacks, some lethal, possibly associated with the conflicts, continued during the year; Georgian government officials and de facto authorities accused one another of committing these attacks, which occurred in or near South Ossetia and Abkhazia. Georgian and Russian officials also traded such accusations. No suspects or arrests were announced in connection with any of these cases. In January a Georgian police officer was shot and killed in Knolevi, near the South Ossetian administrative boundary line, in what appeared to the EUMM to be a sniper attack. In March an improvised explosive device killed a Georgian police officer in Dvani, near the South Ossetian administrative boundary line; the EUMM again determined the attack was likely deliberate. In April a Georgian resident of the Abkhaz village of Nabakevi, Elguja Beraia, was killed; UNOMIG received reports that Abkhaz forces committed the crime and that Beraia was a former Georgian partisan. In June an improvised explosive device killed the driver of an ambulance in a convoy led by EU military monitors in Eritskali, near the Abkhaz administrative boundary line. The EUMM determined the explosion was likely a deliberate attack. In July a Georgian resident of Akhagori in South Ossetia was killed by an explosion in his car as he drove from Akhagori back to an IDP settlement in Tbilisi-controlled territory. On August 12, two civilians were killed in Gagra in Abkhazia by an improvised explosive device; another device detonated the same day in Sukhumi, injuring no one.

Before the conflict began in August 2008, Georgian government officials and de facto authorities accused one another of committing arbitrary and unlawful killings in the separatist areas of South Ossetia and Abkhazia, including intensified shelling of ethnic Georgian villages in South Ossetia.

HRW reported that, during the August 2008 conflict, Georgian, Russian, and South Ossetian forces committed numerous violations of the law of war in the conflict, causing many civilian deaths and injuries and widespread destruction of civilian property. HRW stated that Georgian and Russian forces used indiscriminate and disproportionate force. They concluded that Georgian forces carried out indiscriminate attacks by their extensive use in civilian areas of multiple-rocket launching systems, which cannot be targeted with sufficient precision to distinguish between civilian and military objects. The rockets, known as Grad, were believed to have been used by Russian forces as well. HRW also reported that the South Ossetian forces conducted a campaign of deliberate and systematic destruction of certain ethnic Georgian villages in South Ossetia. HRW concluded that South Ossetian forces attempted to ethnically cleanse villages and egregiously violated multiple obligations under humanitarian law, for which there must be individual criminal accountability and prosecution for war crimes where appropriate. Amnesty International documented many instances of looting, killings, home burning, and systematic ethnic persecution of Georgians in both territories and found that Russian forces failed to protect civilian populations by refusing to intervene when South Ossetian separatists attacked Georgian villagers. HRW noted that Russian forces failed to ensure, as far as possible, public order and safety in areas under its effective control.

HRW reported that cluster munitions used by Russia and Georgia killed at least 17 civilians and wounded dozens more; most of the casualties appeared to have been caused by Russian weapons. Following the conflict, unexploded submunitions remained scattered in and along South Ossetian roads, especially antiarmor submunitions.

In the months immediately after the conflict, violent attacks continued along the administrative boundaries of Abkhazia and South Ossetia. International monitors were generally unable to identify the perpetrators but in most cases found that the attacks originated from the Abkhazian and the South Ossetian sides of the boundaries. The government announced that 12 members of the Ministry of the Interior were killed in such incidents despite the cease-fire, in some cases by sniper fire, in 2008.

Abductions

During the year tensions on the administrative border of both separatist regions remained high, and reports of abductions along the boundary continued.

On July 22, the media reported that 27 individuals from one bus and one minibus who had crossed the administrative boundary line were detained inside Abkhazia. Reportedly, some were forced to accept Abkhaz "passports" and 11 were designated for conscription.

On February 7, a group of five armed men, whom the OSCE determined to be Ossetians, stopped a car on the main East-West highway just south of Orchosani, outside of South Ossetia, abducted the driver, Malkhaz Beuklishvili, and carried him into South Ossetia. There were reports the kidnappers demanded a ransom of 6273.64 Lari(\$50,000). The EUMM and OSCE negotiated his release the next day.

On February 27, four ethnic Georgians traveling just inside the South Ossetian administrative boundary near Tselisi were seized by six armed men who appeared to them to be Ossetians. Two were released shortly thereafter; they claimed that their kidnappers were Ossetians who had demanded a ransom of 6,000 euros (\$8,175.57) for the release of the other two, Davit Kapanadze and Demur Chighladze. The next day, de facto South Ossetian officials announced that the two had been arrested for "illegally" crossing the boundary and for participating in the August 2008 war; the OSCE noted that a ransom demand is inconsistent with an "official" arrest. The two remained in South Ossetian custody at year's end.

On November 4, four Georgian boys were detained by South Ossetian de facto authorities for alleged violation of the "state border" and possession of hand grenades and other explosive devices. Although convicted and sentenced to one year in prison by the de facto authorities, two of the children were released on December 3 after negotiations led by the Council of Europe, and the other two were eventually released on December 19, along with another Georgian minor who reportedly had been in custody since July.

The 2007 abduction of David Sigua, an ethnic Georgian serving as chair of the election commission chair in Gali district, controlled by the de facto Abkhaz authorities, remained unsolved. The Georgian government denied Abkhaz accusations that it was involved in the disappearance, and an investigation by the government and Abkhaz, together with the UN, was inconclusive. With the closure of UNOMIG, the UN was unable to investigate further. During an August 11 meeting of the Incident Prevention and Response Mechanism in Gali, attended by representatives from Georgia, Russia, and the de facto Abkhazian authority, the Abkhaz representative once again pushed for information on Sigua's disappearance.

Government and Abkhaz commissions on missing persons reported that nearly 2,000 Georgians and Abkhaz remained missing as a result of the 1992-93 war in Abkhazia. The South Ossetia de facto authorities reported 116 persons still missing from conflicts in 1991 and 2004. The ICRC continued its efforts to assist the authorities concerned to fulfill their obligation to inform the families of the missing persons about their whereabouts. Most of the missing persons from the 1992-93 war were believed to have disappeared in the region of Abkhazia. During the year there were no exhumations of persons thought to have been killed during the 1992-93 conflict, according to the ICRC.

During the August 2008 conflict, the ICRC received more than 1,100 tracking requests from families and authorities. At year's end almost 1,000 of these had been closed. After the August conflict, reports of abductions for ransom, particularly of ethnic Georgians in the Gali region of Abkhazia became more common. Although in most cases abductees were quickly returned, some suffered beatings and even death. In December 2008 the body of an elderly woman who had been missing for some days was found in the woods near her house in Nabakevi; local villagers alleged that Abkhaz men had abducted her and demanded ransom.

South Ossetian de facto authorities claimed that several South Ossetians disappeared while in Georgian custody, including in particular A. Y. Khachirov, S. R. Pliyev, and A. D. Khugayev, who were allegedly detained in October 2008. The de facto authorities claimed to have evidence, including eyewitness accounts, that these three were held in Georgian facilities; they sought outside assistance in investigating the cases, and the EUMM and Council of Europe became involved. The cases remained unresolved at year's end.

Child Soldiers

In Abkhazia de facto authorities frequently took teenage boys from their homes for forced conscription in the Abkhaz militia. Some parents claimed that their sons were younger than 18, the minimum age for military service. While the number of ethnic Georgians conscripted into the Abkhaz military was reportedly small, the threat of conscription remained a political tool the de facto authorities used to control the ethnic Georgian population and to prevent young Georgian men from returning to, or staying in, the Gali district.

Other Conflict-related Abuses

Russian border guards began controlling the administrative boundaries of the two regions in May and restricted the free movement of the local population.

In December the Georgian Young Lawyers Association reportedly criticized as illegal the government's holding of five South Ossetian men for four months before releasing them in a prisoner exchange. Georgian authorities reportedly negotiated the prisoner exchange with South Ossetian de facto authorities in July, facilitated the release by the courts of the five South Ossetians, and then learned the de facto authorities had backed out of the exchange. They reportedly then kept the five in custody until a new exchange was negotiated in December, at which time the five were released.

During and after the August 2008 conflict with Russia, HRW reported that South Ossetian regulars deliberately killed nine ethnic Georgian women and raped two. The government also reported that South Ossetian regulars raped multiple citizens. Because of the social stigma connected with rape, few incidents were reported by the victims. Investigation of reported rapes was difficult due to chaotic conditions and lack of police in locations where they reportedly occurred, often behind Russian checkpoints where Georgian officials had no access.

According to the civil.ge Web site, a June 2008 Studio Monitor documentary about a May 2008 attack on the village of Khurcha on the Abkhaz administrative border, reported that contrary to assertions by the government, the attack was carried out by Georgians. An investigation by the UN into the attack found that grenades were fired from the Georgian-controlled side of the cease-fire line. A preliminary report did not identify the perpetrators but noted inconsistencies in the circumstances surrounding the incident, in particular footage indicating that the incident was filmed in such a way as to suggest that events were anticipated rather than simply recorded as they were happening. Four civilians were injured.

During the August 2008 conflict in and around South Ossetia, HRW researchers and others witnessed South Ossetian militias looting and burning ethnic Georgian villages. According to HRW, satellite images strongly indicated that most of the destruction in five Georgian villages around Tskhinvali--Tamarasheni, Kekhvi, Kvemo Achari, Zemo Achari, and Kurt--was caused by intentional burning. The damage was massive and concentrated. In August 2008 HRW researchers spoke with several members of the Ossetian militias who openly admitted that their associates were burning the houses, explaining that the objective was to ensure that displaced ethnic Georgians would not have houses to which to return.

In August 2008 Russian online news agency Regnum quoted Eduard Kokoity, South Ossetia's de facto leader, as saying that the Georgian enclaves of Kekhvi and Tamarasheni were "liquidated" as a result of military operations.

According to HRW, Georgian forces beat and otherwise mistreated at least five of 32 Ossetians detained in August 2008 during the armed conflict.

Other abuses related to the August 2008 conflict, according to HRW, included the arbitrary detention by South Ossetian forces (sometimes together with Russian forces) of at least 159 ethnic Georgians, in which at least one detainee was killed; the torture of at least four Georgian prisoners of war (POWs); the execution of at least three; and the exposure of almost all detainees to inhuman and degrading treatment and detention conditions.

According to official government figures, persons whom Georgia detained during the conflict were held in facilities administered by the Ministry of Defense (Vaziani Military Base), the Ministry of Justice (Prison N8 and Prison Hospital), and the Ministry of Internal Affairs (temporary detention cells). The ICRC was accorded unimpeded access and visited two of five POWs as well as 12 security detainees captured by Georgian authorities during the August 2008 conflict. The ICRC was able to assess their general detention conditions and help them reestablish links with their families in the Russian Federation or South Ossetia.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press; however, there were credible reports that the government restricted freedom of speech and the press.

In general individuals criticized the government publicly and privately without reprisal. However, some individuals told foreign monitors they were reluctant to discuss, or had stopped discussing, sensitive issues by telephone due to concerns about government eavesdropping. Opposition figures and representatives of the government regularly appeared on the same shows, thereby providing a plurality of views, but generally not in a debate format. Transparency International's media report on Georgia concluded, "The three major channels are reluctant to air shows that would provide a platform for factual and informative debates between members of the administration, the ruling United National Movement party and opposition politicians."

Throughout the year NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of exercising influence over editorial and programming decisions through their personal connections with news directors and media executives and of exercising influence over advertising income through their personal connections with business owners. There were also reports of physical abuse of journalists carried out, or incited, by local government officials and opposition politicians.

There were approximately 200 independent newspapers, although most were local and extremely limited in circulation and influence. During the year print media frequently criticized senior government officials. However, some reported facing pressure, intimidation, or violence for doing so. Few editorially independent newspapers were commercially viable. Patrons in politics and business typically subsidized newspapers, which were subject to their influence.

On November 30, Mzia Amaglobeli, the publisher of the Batumi newspaper *Gazeti Batumelebi* issued a statement calling on the international community for protection from the Ministry of Internal Affairs. The publisher reported that on November 25, the local unit of the Ministry of Internal Affairs in Batumi tried to blackmail the head of the newspaper's investigative reporting team into cooperating with it. Amaglobeli stated that, despite previous threats, the newspaper had never previously been under as much psychological pressure and that the publishers were not confident that the case would be investigated lawfully. On December 1, the Ministry of Internal Affairs stated that its internal investigations unit was probing into the incident. The investigation continued at year's end.

In July 2008 the Batumelebi newspaper received an e-mail message threatening to kill the editor in chief, Eter Turadze, and a staffer. *Gazeti Batumelebi* went public with the story and informed the prosecutor's and ombudsman's Offices of the threat. *Gazeti Batumelebi* subsequently received a second threatening e-mail. The Ajara Prosecutor's Office started an investigation shortly after the incident. At year's end an investigation by the Technical Department of the Ministry of Internal Affairs continued.

The public defender reported that on April 6, *Versia* newspaper journalists Ana Khavtasi and Nino Komakhidze were physically assaulted at an opposition protest rally in front of the Public Broadcaster's building. Law enforcement officials issued an order to rally participants to disperse. Ana Khavtasi was taking pictures as the policemen reportedly were beating the demonstrators. Allegedly, the police decided to take her camera away, but both journalists resisted. The police hit Khavtasi in the forehead and pulled Komakhidze's hair. The journalists managed to keep the camera and printed the photographs on the front page of *Versia* the following day. MPs condemned the incident. No investigation followed.

Nana Pazhava, a journalist for the Internet-based *pressa.ge*, alleged that Zugdidi's chief executive, Alexander Kobalia, ordered her detention for verbally abusing him. Pazhava and her colleague Ilia Chachibaia, a correspondent for the Zugdidi newspaper *Asaval-Dasavali*, covered President Saakashvili's December 31 visit to the town. Pazhava claimed sugar was poured in the gas tank of her car but police refused to investigate the case. Both Pazhava and Chachibaia were fined 100 lari (\$59) by the Zugdidi regional court for the offence against Kobalia and released early the next day.

Two independent journalists, Maka Tsiklauri and Irakli Goguadze, from *Presa.ge* claimed the following separate incidents of perceived government pressure related directly to their work between 2007 and 2008:

Goguadze said he was observing parliamentary elections in Iormuganlo (Kakheti) in May 2008 when several local activists physically abused him twice and seized his tape and video camera. An investigation continued at year's end.

Gogvadze said he was shooting a protest rally by displaced persons on Rustaveli Avenue in Tbilisi in August 2008 when several unidentified persons snapped a battery from his video camera and fled. According to the Ministry of Justice, an investigation was launched on March 26, 2009, when information about the case was first received by law enforcement agencies, and was not complete at year's end.

Tsiklauri and Gogvadze alleged that they were shooting video in August 2008 in Tkviavi (Shida Kartli), when they were attacked and Gogvadze's camera and videotapes were seized. According to the Ministry of Justice, Tkviavi was occupied by Russian forces at that time and according to the journalists statements the assailants headed towards Tskhinvali, which is across the administrative boundary line in South Ossetia.

Gogvadze said that several unidentified men tried to force him into a car in December 2008 in Tbilisi after they asked him to show his identification card. However, according to the Ministry of Justice, Gogvadze said in an interview that there was no kidnapping attempt, police officers merely asked for his identification card and his home address, and the officers left after receiving the information.

In 2007 both journalists complained of government pressure over a documentary video they had made about recent developments in the country. The public defender sent a letter describing these incidents to the Ministry of Justice's head of the Chief prosecutor's Legal Department, and investigations continued at year's end.

According to media outlets, on May 16 Gizo Tavadze, the head of the Kutaisi Municipality Culture, Sports, Monument Protection, and Education Department, verbally and physically assaulted Zviad Khujadze, a journalist and editor of the news service of Dzveli Kalaki (Old City), a local radio station in Kutaisi. Reportedly, Tavadze met Khujadze outside the radio station, got him to sit in his car, and drove toward Tskaltubo at high speed. Tavadze stopped the car, forced Khujadze to drop his telephone, and allegedly slapped him on the face. Khujadze reportedly hit Tavadze back. Tavadze then made Khujadze get out of the car and drove back to Kutaisi, leaving Khujadze behind. Khujadze believes Tavadze was upset by criticisms of the municipality's Cultural Department on his radio show. On July 8, Khujadze filed a suit against Tavadze in the Kutaisi District Prosecutor's Office for interference in journalistic activity and illegal deprivation of freedom. On November 27, the Prosecutor's Office ruled there were no grounds on which to find Tavadze guilty.

In February the Public Defender's Office voiced its solidarity with journalists working in Abkhazia and condemned the violence against Inal Khashig, the editor in chief of the Sukhumi newspaper *Chegemskaya Pravda*. Reportedly, Khashig was taken to a local forest by Abkhaz "President" Bagapsh's relatives and threatened with death if he did not stop publishing materials criticizing the Sukhumi administration.

On February 10, two OSCE monitors were detained by five armed South Ossetians outside the administrative boundary near Adzvi; they were released three hours later. On the same day, at the same location, South Ossetian officials detained five journalists who were trying to report on the OSCE detention. The OSCE estimated the reporters had also been outside of South Ossetia.

In a November 20 report, Transparency International Georgia asserted that the country's media was less free and pluralistic than it was before the 2003 Rose Revolution. "While the country enjoys a pluralistic, albeit small print media," the report noted, "Georgia lacks a truly pluralistic television sector." The continued lack of transparency regarding media ownership fueled concerns over who owned and controlled the country's television stations, which served as the main source of information for most of the public. Throughout the year the public defender and others called for changes in the law on broadcasting to increase the transparency of media outlet ownership, including information about the shareholder structure of license holders and their owners. However, the ownership of many media outlets remained unclear at year's end.

The privately owned national stations Rustavi-2 and Imedi, the country's two most popular television stations, and the country's public television station, were all generally considered to have a progovernment editorial policy.

In November 2008 Rustavi-2's founder and former owner, Erosi Kitsmarishvili, alleged that authorities seized the television station from him in 2004. In December 2008 the next Rustavi-2 owner, Kibar Kalvaski, filed a letter of complaint with the Prosecutor's Office and Parliament alleging he was forced to give up his ownership of the station in 2006 under pressure from government officials. No action was taken on the letter.

Transparency International's November 20 report on media stated that according to Georgian National Communication Commission (GNCC) records, Degson Limited, registered in the British Virgin Islands, held 70 percent of the shares of Rustavi 2. No other information was available about the company. The remaining 30 percent of the shares were owned by the Georgian Industrial Group (GIG). According to the report, GIG was founded by businessman and member of the ruling party, Davit Bezhuashvili, the brother of the chief of intelligence services, Gela Bezhuashvili.

From November 2008 to early May, Irakli Chikovani, former general director of the Rustavi 2 TV, owned 30 percent of the television station; offshore firm GeoMedia Group, registered in Marshall Islands, owned 40 percent; and GIG owned the remaining 30 percent. Rustavi-2's founder and former owner Kitsmarishvili alleged in 2007 that President Saakashvili was behind the GeoMedia Group.

On February 25, Joseph Kay announced that he had sold 90 percent of Imedi's television and radio holding company for an undisclosed price to RAAK Georgia Holding S.A. Nothing was known about the individual owners of RAAK. The other 10 percent of the shares were owned by Joseph Kay, a half-cousin of the original owner Badri Patarkatsishvili. Officially Imedi was owned by Georgian Media Production Group, formed of RAAK and Kay's shares. On March 18, Ministry of Defense spokesperson Nana Intskireveli became Imedi's news director. On May 5, it was reported that approximately 50 Imedi employees submitted a joint statement to management stating they did not believe the station's news coverage had

been objective since September 2008, when the station resumed news programs; they cited examples bias, including a ban on interviews of nonparliamentary opposition politicians, a ban on coverage of the problems of displaced persons, and a lack of coverage of attacks on opposition activists. In response, Imedi's management reportedly fired two of the statement's initiators and pressured the other signatories to withdraw their endorsement of it. According to Transparency International Georgia, all other signatories removed their names from the statement and four other employees resigned, citing censorship as the reason. On July 13, Giorgi Arveladze, former economics minister, was appointed general director of Imedi.

Imedi television was taken off the air in December 2007 after the resignations of several key journalists concerned that the government had presented evidence two days earlier showing the owner at that time, presidential candidate Badri Patarkatsishvili, plotting a coup. Imedi--the last independent national television station--remained off the air through the January 2008 presidential election.

After Patarkatsishvili's sudden death in February 2008, Imedi remained off the air until April 2008 and did not broadcast news until August 2008. Ownership of the station remained contested, with Patarkatsishvili's widow filing a notice of arbitration against the government in December 2008. Gogi Jaoshvili, one of the former registered owners of Imedi Television, announced at a December 2008 press conference that he had transferred his Imedi holding shares to Joseph Kay and resigned from the position of chairman of the supervisory board of I-media under psychological pressure exerted against him by law enforcement officers. Jaoshvili left the country several hours after making this public statement.

Georgian Public Broadcasting (GPB) was the country's third most-watched national station, according to Transparency International Georgia. In late April four GPB board members resigned in protest over what they deemed was the station's inadequate coverage of ongoing nonparliamentary opposition protests. On July 20, GPB's general director, Levan Kubaneishvili, resigned; opposition protestors had been calling for Kubaneishvili to step down because of his perceived progovernment bias. On July 31, three board seats were filled by Parliament despite the protest of the nonparliamentary opposition, which called for more time to debate candidates' qualifications. On August 10, the board elected Gia Chanturia as the GPB's new director general following a public call for nominations. Some NGOs expressed concern that, since Chanturia had been the deputy under Kubaneishvili, the public station's progovernment editorial policy would not change. Chanturia promised to increase investigative reports and budgetary transparency at the station, and changes were being implemented at year's end.

On September 22, parliament approved an increase in the number of board members from nine to 15. The rationale was to make the board more inclusive by having seven seats filled with candidates nominated by the opposition, seven from the ruling party, and one civil society representative. Since one seat was vacant at the time, the increase resulted in seven vacancies on the board. During the GPB director selection process in August, a group of media activists, made up of NGOs and professional journalists working on media freedom and development, came together to advocate the transparent and fair election of the new director. This newly formed "Media Club" continued its work and pushed for the depoliticization of the GPB board and the selection of media professionals to fill the vacancies. Three of the five candidates endorsed by the Media Club were chosen by Parliament to fill the vacancies. On December 25, parliament passed an amendment linking the GPB budget to a sum "not less" than equivalent to 0.12 percent of the country's gross domestic product. The amendment gives the GPB a consistent financial guarantee and means it will not need to depend on the goodwill of the government for funding.

The GPB was the scene of nonparliamentary opposition protests following the January 2008 presidential election. Nonparliamentary opposition supporters, including the United Opposition presidential candidate Levan Gachechiladze, assaulted 20 GPB journalists and demanded that the authorities change the GPB director and the board. These changes were made in February 2008 after negotiations between the government and the opposition. The opposition parties chose four of the then nine-member board, including the board chairman, Irakli Tripolski. However, in May 2008 the opposition held a three-hour rally to protest the conduct and results of the parliamentary elections and demanded that the rally be broadcast live. The GPB and other stations featured extensive reports on the rally, but none broadcast it live in its entirety. Opposition-supported board chairman Tripolski resigned when his demand that the entire rally be broadcast was not met; he claimed that the GPB was biased.

According to Transparency International Georgia's November report, all national television channels declined to broadcast investigative reports from two independent studios funded by Western donors. Only Kavkasias and Maestro, which had limited geographic coverage and openly pro-opposition editorial positions, broadcast the productions. Although somenational television directors claimed that that they did not show the reports because they considered the productions to lack objectivity, Rustavi 2, Imedi, and the GPB did not produce their own investigative reports.

On June 15, police assaulted journalists covering a demonstration of the nonparliamentary opposition outside of Tbilisi police headquarters (see section 2.b.). Opposition-leaning Maestro TV and Kavkasias TV both claimed that their crews were attacked during the incident. Zurab Kurtshidze from the European Pressphoto Agency was beaten. Police seized video and photo cameras from a number of journalists and erased their footage and photographs. On June 16, a spokesman for the Ministry of Internal Affairs acknowledged that its forces had attacked journalists and apologized for the incident. The spokesman said that the ministry had concluded an internal investigation into the case and that two employees were severely reprimanded, four employees were reprimanded, and three were suspended from duty pending further investigation. Equipment seized by police was returned to the journalists, including a camera belonging to a Reuters correspondent in Tbilisi.

As noted in Transparency International Georgia's November report, the GNCC was not perceived to be a truly independent regulatory body, in that it made politically motivated decisions. The GNCC denied the allegations, claiming it treats all broadcasting channels the same. The GNCC has prevented the establishment of any new television stations by

delaying the issuance of broadcasting licenses since May 2008, asserting it was conducting research on the broadcasting market. The commission was composed of five members, each serving a six-year term. In December 2008 Parliament adopted amendments to the Law on Broadcasting allowing both the parliamentary minority and majority to nominate members to the GNCC. On March 13, Parliament approved the two new members (one nominated by the ruling party and one by the opposition). Irakli Chikovani, the former director general and controversial co-owner of Rustavi 2, was appointed as the new GNCC chairperson on June 12.

The GNCC exercised some control over programming in that it issued content-based licenses, a "general license," which allows for news and political programming, and a strict "entertainment only" license rather than a general broadcast license to stations. On July 3, the GNCC granted the pro-opposition television station Maestro TV a satellite broadcast license for a 10-year term. Previously, the station was only available through cable in Tbilisi and a few other cities; the new license allowed for national transmission. Maestro had applied for a change of license in November 2007 to allow the broadcast of a political talk show but was not granted such a license until December 2008. At year's end the station was in the process of raising funds to initiate its national satellite services. During the year Maestro's broadcasting was dropped by a few regional cable companies. Although the companies stated that their decisions were based on business considerations, on October 7 Maestro's director general alleged that the owners of these companies were pressured by the government not to show Maestro programming.

On September 2, Vladimir Mamontov, editor in chief of Russia's daily newspaper *Izvestia*, and Maxim Shevchenko, a talk-show host on Russia's Channel One, were denied entry into Georgia. Both were to participate in series of roundtable discussions on Russia-Georgia relations. Georgian authorities cited Shevchenko's and Mamontov's visits to Abkhazia as violating the Law on Occupied Territories, which prohibits unauthorized entry into Abkhazia and South Ossetia from the Russian territories, as the reason behind the refusal to let them into the country. Another Russian journalist traveling with the group was granted entry.

On October 9, the Batumi-based television station Channel 25 lost an appeal challenging a tax levy by local authorities for a period that the station had been under the control of then-Ajaran leader Aslan Abashidze (1994-2004). If the station fails to pay the tax obligation, authorities could auction the station's assets. The station and local opposition activists asserted that the case was politically motivated and constituted an attempt to shut down the sole independent television station in the region in advance of upcoming local elections.

On April 27, a journalist and a cameraman from Rustavi 2 said they were assaulted outside of Parliament while covering the nonparliamentary opposition protests. The cameraman, Levan Kalandia, said that three young persons approached and started to insult journalist Natia Lekishvili, escalating into a brawl. Video footage, broadcast on television, showed a young man punching the cameraman.

The Public Defender's Office reported that on April 28, Prime News agency journalist Teona Managadze was physically assaulted by protesters at an opposition protest rally in front of the parliament building. One of the opposition activists approached a group of journalists who were discussing some incidents that had happened to journalists during the protest rallies. The activist insulted Managadze and twisted her arm. The following day two persons from the General Prosecutor's Office visited the Prime Time bureau to question Managadze, who was out on an assignment. An investigation was pending at year's end.

On May 5, three nonparliamentary opposition members were arrested on charges of hooliganism after allegedly slapping and punching GPB journalist Nika Avaliani. During the spring protests, the nonparliamentary opposition set up what they called a "corridor of shame" and forced GPB employees to pass protesters to enter the station building. It was while he was passing through this "corridor of shame" that the Avaliani incident occurred. The three protesters, Melor Vachnadze, Giorgi Oniani, and Revaz Revazishvili, admitted guilt and were fined 200 lari (\$118). At a May 7 press conference, the three protesters alleged that during their May 5 detention, they were beaten, verbally abused, and threatened with death and rape. The Ministry of Internal Affairs opened an investigation into the allegations on May 25; the investigation continued at year's end.

As the International Research and Exchanges (IREX) Board's 2009 Media Sustainability Index stated, "Mirroring the polarized political scene, news media have essentially split into two opposing camps, leaving little room for neutrality and balance."

According to the OSCE's final report on the January 2008 presidential election, campaign coverage in the news of most monitored television stations, including public television, lacked balance. Between the presidential election and the beginning of the campaign period for the May 2008 parliamentary elections, there was a relatively free media environment. There was new leadership at the public television station at that time and generally balanced reporting of all political parties' activities. During the parliamentary elections, the OSCE noted improvement in the balance of coverage by public television compared to the presidential election, while concluding that the coverage of most other monitored television stations lacked balance.

After the May 2008 parliamentary elections, there was a noticeable weakening in freedom of the media. While media executives cited limited revenues and a weak advertising market, the net effect was to diminish the presentation of alternate views, especially on television, and to substitute entertainment for news and talk shows. Up to the late fall of 2008, there was a marked decline in the diversity of independent media, with the exception of the Tbilisi-based Kavkasia television station. Most alternative voices were greatly diminished, and the remaining media concentrated on reporting the government's activities and positions.

By the start of the year, talk shows had reappeared on all of the country's television channels. The resumption of talk

shows followed a period beginning approximately in June 2008, when most news coverage had been cut back to eliminate all talk shows and analytical programs. NGOs asserted that news programming was cut due to government pressure on the media. Programs cut included *Shvidi Dri*s (*Seven Days*). Mze, a progovernment national channel that had 2 percent of the market, also ceased its news operations on financial grounds in June 2008. Although Mze was generally seen as progovernment, many opposition figures criticized its decision to stop broadcasting news, noting that Mze had broadcast the November 2007 protests live, unlike progovernment Rustavi 2.

In June 2008 Radio Imedi's director was replaced by a former government spokesman. A group of almost 100 journalists issued a statement that labeled this action as pressure on the free media. During the temporary closure of Imedi television in 2008, Radio Imedi had remained the only national media outlet that carried opposition views. While the station continued to allow the opposition access, there was a general decrease in news coverage on Radio Imedi.

In late 2008 Imedi TV launched a twice-weekly talk-show *Dghis Kronika* (Chronicle of the Day). This program was also broadcast live on Radio Imedi. In August *Dghis Kronika* was closed and replaced by a weekly talk show, *Special Reportage*, hosted by the same anchor. In September 2008 Rustavi 2 announced that it would not renew the popular talk show, *Prime Time*, which it suspended in June 2008. Despite suggestions that the program might return to the air, Rustavi-2 had not resumed broadcasting *Prime Time*. However, in February Rustavi-2 launched a new talk show, *Pozitsia* (Position) with Nino Shubladze, a deputy general director of the television broadcaster.

Kavkasia TV experienced two transmission interruptions in September 2008, allegedly due to technical issues. Kavkasia's director suspected the interruption coincided with the station's criticism of the government's actions during the August 2008 conflict with Russia. At the time all other television channels were broadcasting the national Live Chain for Peace in protest over Russia's behavior during the conflict. Kavkasia's director also alleged that in June 2008 financial police exerted pressure on companies buying advertising from the station. As a result, several companies cancelled their contracts with the station, and other companies decided not to extend their contracts after they expired. Kavkasia's director kept the names of the companies confidential.

In August 2008 the outbreak of the conflict between Georgia and Russia became the primary focus of media attention. Russian forces did not allow journalists to enter separatist regions or undisputed Georgian territory located behind Russian checkpoints. After the cease-fire only journalists accredited by Russia were permitted in the separatist region areas. In August 2008 eight civilians and one Dutch journalist were killed as a result of a Russian cluster bomb strike in the center of Gori. During the conflict three other journalists were killed, and 14 were wounded. Other journalists were robbed, kidnapped, or taken hostage. Journalists attributed these attacks to Russian soldiers or irregulars operating under Russian acquiescence.

Authorities limited access to information during this time and did not release some sensitive information until after the war, such as casualty figures and the names of the dead. Government authorities set up a media center in Gori to provide information to journalists, which came under Russian attack.

An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered local daily news, although most were at a very low professional level and largely represented the views of local authorities.

In April 2008 Madona Batiashvili, the chief of the Signaghi Bureau of Radio Hereti, a small independent regional radio station, sent a statement to the Office of the Public Defender in which she alleged pressure from Levan Bezhashvili, the president's representative in the Kakheti region, to prepare positive news reports and to stop reporting on him and his friends. According to the Ministry of Justice, the Office of the Chief Prosecutor did not receive any notice of the case and therefore did not conduct an investigation. According to the Public Defender's Office, they investigated the case and concluded that there was no evidence of threat.

In December 2008 Tamara Okruashvili, a correspondent for *Khalkhis Gazeti*, said that she stopped to take pictures and talk to displaced persons from South Ossetia who were near the Gori Municipal Building. Some of them were complaining about their living conditions. Seeing this, Gori City Council Chairman David Khmiadashvili told Okruashvili that she should leave. Heated remarks ensued, resulting in the chairman striking Okruashvili, knocking her camera out of her hand and breaking it. Okruashvili filed a complaint with police. The following day the chairman apologized to her personally and formally in *Resonansi* newspaper. Khmiadashvili also sent her a new camera. Okruashvili withdrew her complaint.

In 2007 Elisio Janashia, editor of *Tavisupali Sitkhva* (Free Word), claimed the spokesman for the governor of Samegrelo-Upper Svaneti verbally abused and threatened her after she published an article about harassment of a journalist from another newspaper. In the same month, the public defender requested that the Zugdidi Internal Affairs Ministry investigate the allegations. The investigation noted that acts committed by the governor of Samegrelo-Upper Svaneti did not constitute interference into journalistic activities, as the disputed conversation took place after the publication of Janashia's article. In October 2008 the investigation was closed.

Very often journalists worked without contracts, which in effect encouraged them to practice self-censorship. Journalists were hesitant to report something other than the owners' views, as they were afraid of losing their jobs.

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

Internet Freedom

Outside of 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. Insufficient information was available about the situation in the occupied territories. Individuals and groups could engage in the expression of views via the Internet, including by electronic mail. E-mail access rose slightly during the year but remained centered in Tbilisi and major metropolitan areas. Estimates were that no more than 11 percent of the population used e-mail. According to International Telecommunication Union statistics for 2008, approximately 24 percent of the country's inhabitants used the Internet.

Nevertheless, on November 1, the government reportedly began an investigation into a series of Facebook videos that insulted the Patriarch of the Georgian Orthodox Church. Prosecutors detained two individuals and seized computer equipment and videos. The incident prompted a societal discussion about the limits of free speech.

During the August 2008 conflict, Russian cyberattacks defaced or took official Georgian Web sites offline and jammed the mobile telephone network. The government blocked access to Russian cable television news reporting and access to Russian Internet news sites when hostilities began. In October 2008 authorities restored access to Russian Internet news sites.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, the police on occasion reportedly used excessive force to disperse protests. The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Permits for assemblies were routinely granted during the year, and the government allowed protests and protester-constructed barriers to continue blocking the streets during the spring despite the expiration of permits. However, parliament passed a set of amendments to the laws on police, rallies, and administrative offenses on July 17. Despite urging by members of the parliamentary opposition to postpone enforcement of the amended law until European legal experts on the Venice Commission had reviewed it and submitted their recommendations, the amended law went into effect in August. The amended law prohibits blocking streets "artificially" and "deliberately," either by protesters themselves or with "various types of constructions and/or objects. The amended law on police adds nonlethal projectiles to the list of special equipment that can be used by police, including for riot control purposes. The amendment to the code of administrative offences increased the prison term for a number of administrative offences from 30 days to 90 days. In contrast, under the new CPC, the pretrial detention for criminal charges is 60 days.

A number of local NGOs, including Transparency International Georgia, Open Society–Georgia Foundation, and the Georgian Young Lawyer's Association, published a joint statement calling the amendment package a "step back on the path to democracy," noting that it extends the length of administrative detentions without justification, introduces particularly severe sanctions for acts that pose little risk to the public, allows the use of nonlethal weapons that could jeopardize human health and lives, and disproportionately limits freedom of assembly. The government stated that it submitted the amendments to the Council of Europe's advisory body on constitutional and legal issues, the Venice Commission, for review. At year's end the Venice Commission's official response was pending.

During the year authorities permitted demonstrations, and several large protests took place despite the fact that many were held after legal permits had expired. On April 25, the nonparliamentary opposition created a city of mock prison cells on Rustaveli Avenue and Freedom Square that remained in place until mid-July blocking Tbilisi's main thoroughfare. On May 26, tens of thousands of protesters marked the country's Independence Day by gathering at the national stadium and calling for President Saakashvili's resignation. On May 27, hundreds of nonparliamentary opposition protesters blocked the railroad line at the Tbilisi Central Railroad Station for three hours without major incident. However, several clashes between police or nonuniformed assailants and protesters were reported during the year, with no or little accountability. The Ministry of Internal Affairs alleged there were no cases of excessive use of force during the spring protests and that police acted within the law when personally targeted by protesters.

The nonparliamentary opposition held a sustained protest from April 9 to July 24. Throughout this period the opposition parties called for President Saakashvili's resignation, and for the most part, authorities allowed the rallies to take place unimpeded. Protesters blocked major roads and intersections throughout Tbilisi. However, NGOs and the Public Defender's Office reported dozens of cases of attacks on individuals leaving these protests, by unknown assailants wearing masks and carrying blunt instruments. In a May 11 letter to the minister of internal affairs and the justice minister, HRW stated, "In most cases documented by Human Rights Watch, law enforcement agencies took victims' reports but to the best of our knowledge took no other action. In some cases the victims were able to name their assailants or the license plate numbers of the vehicles they used, yet police did not appear to apprehend the attacker or take further investigative steps." The Ministry of Internal Affairs said that in some cases victims declined to share information about alleged incidents when police tried to investigate.

On June 12, a coalition of nonparliamentary opposition parties published a joint statement alleging that the authorities carried out "direct terror and assaults" on opposition supporters and activists during the protests. The statement also said that "up to 200 cases of violence" against nonparliamentary opposition supporters during the protests remained unresolved by the police. The Public Defender's Office and others tracked many of these alleged acts of violence including the beating of protesters by unknown assailants. At year's end the Ministry of Internal Affairs had not made any arrests in

any of these incidents.

On May 6, police detained three young activists, who subsequently asserted that they had been beaten and threatened while in custody. Later that day, while the activists remained detained at Tbilisi police headquarters, several nonparliamentary opposition activists and police officers were injured as a result of a confrontation that took place outside the headquarters. Reportedly, protesters seeking the release of the three activists marched to the iron fence surrounding the headquarters and began shaking it and verbally assaulting police standing on the other side of the fence. Riot police, with shields and batons, were then deployed inside the police headquarters' yard. Police reportedly hit the fence with their batons to get protesters to back away from the perimeter. However, at least one protest leader managed to climb over the fence and ran into the yard. While one protest leader reportedly urged demonstrators to move away from the fence, most did not.

Following the incident, both police and activists were reportedly seen with injuries. A chief doctor at the nearby hospital said at least 17 persons asked for treatment for laceration wounds. It was not clear what caused the injuries. The nonparliamentary opposition claimed that the police used rubber bullets. At first the Ministry of Internal Affairs denied this claim. However, on June 2, the ministry acknowledged firing nonlethal projectiles at the protestors. Public Defender Sozar Subari, who arrived on the scene after the incident started, said he saw police officers throwing stones. Subari also reported that two persons each lost sight in one eye due to a projectile, although there was no later confirmation of this claim. Protesters were seen throwing various items at police officers. The Ministry of Internal Affairs reported that a total of 22 protesters, one journalist from the public broadcasting station, and six police officers were injured. Police figures were based on the number of individuals who sought treatment in the hospital. A Ministry of Internal Affairs investigation into allegations regarding the use of force by police officers concluded that police acted in accordance with the law.

On May 28, several protesters and five police officers were reportedly injured in a clash close to a protest venue in front of the parliament building. The Ministry of Internal Affairs released a statement that an employee of the ministry, who was recording the protest with a camera, was "detained" by protesters and forcibly taken to a nearby apartment entrance. According to the statement, when police officers tried to free the man, the protesters resisted and wounded five police officers, who had to be hospitalized. Two of the officers were stabbed. On May 29, police arrested two persons involved in the incident. The nonparliamentary opposition parties protested the arrests, saying that the officers were not uniformed and that the authorities triggered the assault.

On June 12, guards at parliament scuffled with protesters who were throwing eggs and trying to approach the parliamentary speaker's car. A lawmaker from the parliamentary minority group, Gia Tortladze, and a protester exchanged punches the same day after Tortladze was reportedly verbally insulted. Six protestors were arrested and sentenced for the incidents. Also on June 12, police arrested a man who was protesting outside of the Rustaveli Theater during a foreign embassy reception. The man allegedly physically assaulted the chairman of the Central Election Commission, Levan Tarkhnishvili, and was sentenced to 30 days in prison.

On June 15, police and protesters again clashed outside a Tbilisi police headquarter. The Ministry of Internal Affairs stated that the clash was sparked when police tried to clear the entrance of the police building and the traffic road. The ministry alleged that the protesters resisted arrest and disobeyed police orders. Nonparliamentary opposition activists alleged that the police attacked the protesters. Among those injured was Zurab Abashidze, associated with opposition leader Irakli Alasania. Abashidze was hospitalized with multiple injuries to the head and a broken nose. Journalists were also reportedly attacked by police. The Public Defender's Office stated that its representative, Vakhtang Menabdz, was beaten by police although he was wearing a special uniform with the "Public Defender" designation on it. The Ministry of Internal Affairs stated that 39 protestors were arrested for resisting police orders. Five activists, including pro-opposition youth group leader Dachi Tsaguri, were sentenced to 30 days in prison. The Tbilisi City Court fined the others 400 lari (\$237) and released them. The Public Defender's Office said that investigations into allegations against Ministry of Internal Affairs law enforcement officials continued at year's end.

On June 19, the nonparliamentary opposition accused the government of sending police to raid a protest venue. However, the Ministry of Internal Affairs stated that local residents were attempting to forcibly remove the protest venue, which included "cell" barricades that were blocking the street, and that police intervened to stop a scuffle between local residents and protestors.

On July 21, police arrested seven activists from a pro-opposition youth group who were rallying outside of Parliament. The Ministry of Internal Affairs stated that all of the activists were charged with petty hooliganism, resisting police orders, and blocking the parliament building's entrance. One of the activists was fined 400 lari (\$237); the others received either 12- or 14-day prison sentences for administrative offenses.

According to Civil.ge, police arrested three opposition youth activists on November 23, claiming that they had violated the amended law on rallies and resisted arrest. Later that day, the Tbilisi City Court found the three guilty, despite the reported existence of film footage indicating that they had not violated the law or resisted arrest. On November 24, the Georgian Young Lawyers Association condemned the arrest and the court ruling as a "rough violation" of freedom of assembly. The Public Defender's Office claimed that the three activists did not break any laws, stating that "the constitutionally provided freedom of assembly of Dachi Tsaguria, Jaba Jishkariani, and Irakli Kordzaia has been violated."

In November there were reports that representatives of the ruling party in Tbilisi informed a number of individuals that they had evidence of their participation in the spring opposition demonstrations and that they would suffer consequences for their participation.

In December 2008 then-public defender Subari claimed, as he was delivering his biannual report on human rights, that he

had proof that senior officials, including Interior Minister Vano Merabishvili, deliberately planned to use excessive force against protesters during a rally in November 2007. Subari recommended creation of an ad hoc parliamentary commission to investigate his claims. No such commission was established.

In 2007 the Old Tbilisi District Prosecution Office initiated a preliminary investigation into the injuries sustained by individuals during the November 7 demonstrations. The Office of the Chief Prosecutor's investigation into the incidents reportedly continued at year's end. There was no further information on the status of the investigation at year's end. Then-public defender Subari's March 31 report to parliament covering the latter part of 2008 again noted that the Prosecutor's Office had not brought charges against attackers. The Ministry of Internal Affairs stated that 11 police officers were dismissed because of inappropriate behavior during the demonstration.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right, although there were allegations of government intimidation of some protesters and the government failed to establish responsibility for physical attacks that the nonparliamentary opposition considered politically motivated.

Authorities granted permits for registration of associations without arbitrary restriction or discrimination. However, nonparliamentary opposition leaders reported that their party members were subject to politically motivated kidnappings as well as politically motivated assaults. The nonparliamentary opposition reported that these assaults were conducted by unknown assailants, which they alleged had ties to the government in retribution for the nonparliamentary opposition's spring protest action. There were at least 40 such incidents reported by different nonparliamentary opposition groups.

The Public Defender's report for the first half of the year featured several examples of unlawful police actions against citizens involved in the spring antigovernment protests. Protesters claimed they were subject to physical abuse by unknown individuals due to their political activities. The Public Defender's Office registered 32 such cases. In most of these cases the individuals received physical injuries documented by medical records.

The Ministry of Internal Affairs made no arrests or concluded any investigations into the reported cases. Examples of such cases included the following:

Four members of the Ratom (Why) movement reported to the Public Defender's Office that on April 9, 10 to 15 masked assailants stopped their vehicle, dragged two Ratom members out of the car, and physically assaulted them. The Ratom members told the public defender that the assailants warned them not to attend any more rallies and threatened them with physical retribution if they did. On April 11, an investigation into the incident was opened by the Ministry of Internal Affairs. At year's end the investigation continued.

On April 10, Shmagi Gelbakhiani, Ivane Gobejishvili, and other members of the youth organization of the nonparliamentary opposition group Alliance for Georgia reported that they were going to a protest rally outside of Parliament when they were blocked by a black jeep. Five men got out of the car, verbally assaulted them, and beat them with rubber clubs. An investigation was under way at the Ministry of Internal Affairs.

Gocha Sakhltkhutsishvili, a member of the organizational committee of the protest actions, reported to the Public Defender's Office that on April 15, he parked his car on the street and was attacked by three or four persons, who dragged him out of the car and beat him. The attackers then fled taking Sakhltkhutsishvili's car with them. The car was later found by police. The Ministry of Internal Affairs opened an investigation on April 15. At year's end the investigation continued.

Unknown assailants also physically assaulted opposition figures in 2008. For example, in June 2008 General Gia Sehrvashidze, one of the leaders of the Christian Democratic Alliance, was hospitalized after being attacked by four masked individuals. According to the Ministry of Justice, an investigation was conducted, during which Shervashidze told investigators that he could not identify his attackers and that he did not consider the attack politically motivated. The investigation did not find any possible leads.

The public defender's January-July 2008 report mentioned the following as opposition supporters who were attacked but stated the Prosecutor's Office had not investigated the incidents: Mamuka Kvaratskhelia, Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Tavdgiridze, Giorgi Shervashidze, Boris Dzanashvili, Levan Jgarkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili, and Nona Sagareishvili. Criminal cases were opened into all of the incidents and were being pursued at year's end. In one incident the victim refused to give testimony to law enforcement officials on the subject matter of the case.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. However, government officials were not always responsive to the needs and concerns of religious minority groups.

The constitution recognizes the special role of the Georgian Orthodox Church in the country's history under its own patriarch but stipulates the separation of church and state. A concordat (constitutional agreement) signed by the president and the Orthodox patriarch gives the church legal status. The concordat contains several controversial provisions that give the patriarch legal immunity, grant the church the exclusive right to staff the military chaplaincy, exempt church clergymen from military service, and give the church a unique consultative role in government, particularly in the area of education. However, these provisions were not in force, due to lack of implementing legislation. On April 24, the government and the Georgian Orthodox Church signed a special agreement of cooperation wherein the church took on a special role in the

resocialization of convicts through involvement in the church and public works. The tax code exempts the Georgian Orthodox Church from paying value-added tax (VAT) for the importation of some religious items (crosses, candles, icons, books, and calendars used exclusively for religious purposes) but requires other religious groups to pay VAT and file for reimbursement.

Any religious group may register as a noncommercial legal entity. The registration application should include the name of the organization, the place of its location, the purpose of its activities, information on the founder(s), information on the governing body of the organization, and the decision-making process of the governing body. Groups may register in one of several forms, such as a union or foundation, to receive legal and tax benefits. A union is based on membership (a minimum of five members is required), while a foundation involves one or more founders establishing a fund for furtherance of a certain cause for the benefit of the particular group or the general public. Registration is a function of the tax department under the Ministry of Finance, which must grant or deny registration within three days of application; a refusal may be appealed in court.

Some religious communities expressed dissatisfaction with the status that registration provided. The Roman Catholic Church and the Armenian Apostolic Church opposed registering as civil organizations, preferring to register as religious organizations or at least to be granted equal status as the Georgian Orthodox Church. Both the Armenian Apostolic and Roman Catholic churches asserted that they were traditionally established churches in Georgia and registration as an association or foundation would diminish their status. However, many other religious groups registered under the legislation, which does not discriminate against any religious activity. Jehovah's Witnesses, who were registered as a civil organization, denied this was the case, stating that they paid all taxes and had not pursued filing for reimbursement. According to Jewish community representatives, the community imported religious items under a humanitarian category. Generally any company that imported goods had to pay VAT at the border, but if the imported goods were not designated for further selling by the importer, the Ministry of Finance must reimburse the VAT.

The separation of state schools and religious teaching further narrowed the interpretation of the government concordat with the Orthodox Church on teaching Orthodoxy as an elective part of the school curriculum. The law states that Orthodox teaching may only take place after school hours and cannot be controlled by the school or teachers. Outsiders, including clergy, cannot regularly attend or direct student extracurricular activities, student clubs, or their meetings. Lay theologians, rather than priests, led such activities. Religious minorities broadly welcomed the change to school religious education, although they observed along with NGOs that practice did not always keep pace with the law. For example, implementation of the law was flawed, especially as applied to prayer and displays of crucifixes and other religious objects. The Public Defender's Office characterized the problem as especially common in Adjara, where Muslim students were frequently the target of religious pressure from Orthodox teachers. However, the Ministry of Education and Science noted a marked reduction in religious shrines at schools and some additional restraint on the part of teachers in keeping religion out of the classroom elsewhere in the country.

Public schools offered students the opportunity to take an elective course on religion in society, which covered the history of major religions. Parents complained teachers focused solely on the Orthodox Church, as did the primary textbook. During the year the Ministry of Education and Science completed work on a new curriculum addressing the public complaints. The ministry had some difficulty introducing the course as an independent and required curriculum. However, the government was able to add the course into the existing nonmandatory history curriculum wherein the school may offer the course and students may choose to take it.

Delays in obtaining permits to build kingdom halls required many Jehovah's Witness congregations to continue meeting in private facilities that are bought for the congregation, but in the name of a particular member. Jehovah's Witness leaders noted that if they tried to purchase a facility in their organizational name, they often faced delays in permits and protests from the inhabitants and businesses in the neighboring area. In February the Administrative Court ruled in favor of the Jehovah's Witnesses in a case protesting the denial of a construction permit by the Tbilisi City Administration; however, the decision was appealed and continued at year's end.

The Jehovah Witnesses provided a list of 35 incidents involving harassment they said were reported to the authorities. The Jehovah Witnesses reported that in only two cases was an individual charged, the rest remained unresolved despite their claim that law enforcement knew the identity of the harassers. In 2007 the ECHR ruled against the government for failing to protect the group from violent harassment in 1999. Four additional cases were pending before the ECHR on the alleged violation of rights against members of Jehovah's Witnesses, some filed during the administration of previous governments. One of these cases contested a 2001 Supreme Court ruling that revoked the group's registration. However, in 2007 the organization was registered under the new registration law. This status allows them to import materials, rent venues, and conduct other transactions as a legal entity.

Jehovah's Witnesses reported that authorities continued to defer on decision for permits to hold a large gathering in Tbilisi and that the authorities had not permitted them such access since 2004. Jehovah's Witnesses reported that many private facility owners would not lease or rent them the space for large activities.

The Roman Catholic and Armenian Apostolic churches were unable to secure the return of churches closed or given to the Georgian Orthodox Church during the Soviet period. In 2007 the Ministry of Justice adopted plans to rely on disinterested expert opinion for assessment of future ownership disputes, instead of a now inactive commission that had included a Georgian Orthodox participant. No action was taken, however, on the return of five churches to the Roman Catholic Church (RCC), and due to direction by the Vatican, the church halted all litigation. The RCC also was hampered in constructing new churches and reported that, in one case from 2008, authorities referred the church to a local Georgian Orthodox bishop for permission. The Georgian Orthodox bishop suggested repairing an old church instead, which the local government accepted. However, in order for the reconstruction to begin, ownership of the land on which the church stands

must be given to the RCC. At year's end the ownership of the land had not passed from the government to the RCC.

The Armenian Apostolic Church's main concern remained the return of five churches in Tbilisi and one church in Akhaltsikhe. However, the status of at least 30 other churches it claimed remained in dispute around the country. Controversy continued to surround the disposition of the Norashen Church, claimed by both the Armenian Apostolic and Georgian Orthodox churches. In November 2008 Father Taniel Sikinchelashvili, a Georgian Orthodox priest, brought a bulldozer into the common churchyard, which a Georgian church shared with the Norashen Church, to clear the grounds of rubbish. Father Taniel claimed that the passage was too narrow for the bulldozer to pass, so he removed, and later replaced, several Armenian headstones in the yard. Upon seeing this, Armenian clergy were indignant and called the action disrespectful to the Armenian remains buried there. During the year the activity stopped and the rubble that sat atop some Armenian graves was cleared. Although the Georgian Orthodox Church proposed the creation of a commission to study the origins of the disputed churches, there was no movement from either side to start the process at year's end.

On November 19, a disputed church claimed by the Armenian Apostolic church collapsed in Tbilisi. The church was reportedly constructed in 1356 but was closed during the Soviet era and used as a warehouse. The church never reopened, even after Georgian independence, when title to the property passed to the Georgian Ministry of Culture. The Armenian Apostolic Church released a statement on November 20 blaming the Georgian government and the Georgian Orthodox Church for failure to safely preserve claimed Armenian holy sites and their refusal to return claimed Armenian churches to the Armenian Diocese of Georgia. The local Tbilisi municipality had begun cleaning up the site at year's end.

Societal Abuses and Discrimination

During the year several religious minority groups faced harassment and attacks by two growing fundamentalist Georgian Orthodox groups made up of lay persons and clergy. Harassment included the passing out of pamphlets warning parents about pedophilia in the Roman Catholic Church from foreign news reports; holding a street protest at the site of a Muslim community center in Tbilisi where local ethnic-Azeri Muslims reported that many of the protestors, who were drunk, pushed them around and told them to get out of Georgia (they also reported that although police came and calmed the situation, no arrests were made); the placement of giant white crosses in traditionally ethnic-Azeri Muslim villages; and the staging of a large protest at the opening of a new Roman Catholic Church facility. The Georgian Orthodox Church stated that while there were clergy in these groups, the groups were not officially part of the church.

Judaism is practiced in a number of communities throughout the country, particularly in the largest cities, Tbilisi and Kutaisi. There were an estimated 8,000 to 10,000 Jews in the country. The Jewish community did not report any acts of anti-Semitism during the year. Synagogues were not under the ownership of the Jewish Community, which is registered as a union. The government leased them to the community for the symbolic price of one lari (69 cents) per month. In April 2008 an anti-Semitic leaflet by the political movement Axali Sitkva was distributed in Tbilisi metro stations; Tbilisi Jewish leaders saw the leaflet as an effort to manipulate nationalist sentiment prior to parliamentary elections.

According to the Jewish community, the Ministry of Economic Development in 2008 transferred another synagogue in Tbilisi to the Jewish community on a 25-year lease. A 150-year-old Ashkenazi synagogue was reopened in the old district of Tbilisi. The synagogue was badly damaged by an earthquake in 1991 and was restored with the support of the Euro-Asian Jewish Congress (EAJC).

Despite a general tolerance toward minority religious groups considered to be "traditional" to the country, including Catholics, Armenian Apostolic Christians, Jews, and Muslims, citizens remained apprehensive towards "nontraditional" religions, which were perceived as taking advantage of the populace's economic hardships by gaining members through economic assistance. Some members of the Orthodox Church and the public viewed non-Orthodox religious groups, particularly those considered "nontraditional" groups or sects, as a threat to the national church and the country's cultural values, asserting that foreign Christian missionaries should confine their activities to non-Christian areas.

Defrocked Orthodox priest Basil Mkalavishvili was released in July 2008 after serving four years of a six-year jail sentence. Mkalavishvili was arrested in 2004 and found guilty of carrying out organized violence against Jehovah's Witnesses and Baptist-Evangelists and burning their religious literature. Mkalavishvili was excommunicated in 1995, after he criticized the Georgian Orthodox Church leadership for not taking a "radical stance" towards religious minorities. After his release from jail he started his own private congregation. On December 22, the restoration of Father Mkalavishvili was discussed at a meeting of the Holy Synod of the Georgian Orthodox Church, but the Georgian Orthodox Church decided against the motion.

Muslim officials reported that local government and police erected 22 solid crosses in and around Muslim communities in the Bolnisi District. The Georgian Orthodox Patriarchy called the local district bishop to Tbilisi and explained that the crosses were an act of provocation and must be removed. No crosses were observed in a later visit to the area by a representative of the Ministry of Reintegration. However, large crosses lit up with strings of lights were still observed outside traditionally Muslim villages in the district. Local residents said they were continually erected despite efforts to take them down. Officially, permission is needed to erect a structure along the road; however, no group claimed responsibility for the crosses. Bolnisi District officials continued to refuse official permission for the public call to prayer. A call to prayer nonetheless continued.

On September 16, representatives from radical fundamentalist Georgian Orthodox groups stopped construction on a mosque in a traditionally ethnic-Azeri village. The group members demanded to see the villagers' construction permit, despite not having the legal right to do so, and threatened the villagers with violence if the construction did not cease. The village community members were repairing the roof of their 104-year-old mosque and claimed that they had received permission from local authorities to complete the roof work. At year's end the repairs on the mosque had not continued, as

the question of official permission was not settled and members of the orthodox group continued a vigil at the mosque to ensure that villagers did not continue repairs.

The Public Defender's Office was approached 41 times by religious minorities concerning possible instances of violations to their rights. During the year there were attacks on religious minorities, including the Jehovah's Witnesses. Police were quick to respond to incidents of abuse but slower in their follow-up to crimes they viewed as minor "hooliganism," defined as actions that violate public order or demonstrate open contempt towards society by using violence or threats of violence.

During the year the government investigated several cases of interference, threats, intimidation, or violence against religious minorities. According to the Ministry of Internal Affairs, there were nine criminal cases opened for the damage of property, 10 criminal cases opened for physical abuse, and one criminal case opened for verbal abuse. The ministry also reported that five administrative sanctions were imposed for verbal abuse. The Prosecutor General's Office continued to exercise prosecutorial discretion to emphasize cases arising after 2003, given its limited investigative and prosecutorial resources. Investigations prior to 2003 were scheduled to continue where feasible, but priority was given to new cases. Religious minority groups pointed out that this could lead to the eventual elimination of cases that could be investigated under law predating 2003. The Ministry of Justice asserted, however, that since 2004 the investigation of incidents and attacks based on religious grounds was a priority.

Thirty-five incidents involving harassment were reported to authorities by the Jehovah's Witnesses. These included 10 cases of vandalism and other problems with Jehovah's Witnesses Kingdom Halls. Out of those, investigations were started on six cases, and one case was brought to the court. There were eight acts of physical violence. Criminal proceedings were started on four cases; police issued a warning to one of the perpetrators. Two cases were reported as persecutions. In one case the Borjomi local court fined and officially warned to two perpetrators who insulted members. The other case pertained to the government's compliance with the ECHR 2007 decision to pay compensation to 97 victims of a mob attack.

There were no developments reported in the investigation into the 2007 incident involving unidentified individuals who insulted and physically abused Jehovah's Witnesses Davit Shermadini and David Karamiani in Gldani and forcibly took their Jehovah's Witnesses literature, destroying it at the scene. At year's end the investigation was still underway.

De facto authorities in the separatist Abkhazia and South Ossetia regions remained outside the control of the central government, and reliable information from those regions was difficult to obtain. Although the Russian Orthodox Church recognizes the Georgian Orthodox Church's authority over churches in the separatist regions, the Georgian Orthodox patriarchate claimed that the Russian Orthodox Church was sending in priests loyal to the church patriarchate in Moscow on the pretext of setting up indigenous Abkhaz churches.

In 2008 the Russian Holy Synod passed a resolution officially recognizing Georgian Orthodox jurisdiction over Abkhazia and South Ossetia. On September 16, however, the Abkhaz Orthodox Church declared "independence" from the Georgian Orthodox Church.

On April 4, the de facto Abkhaz authorities expelled three Georgian Orthodox priests accused of spying. In April the de facto authorities also expelled four Georgian Orthodox monks and three nuns of the Saint Giorgi Church in the village of Azhara in Kodori Gorge, reportedly for not recognizing Abkhaz de facto jurisdiction over the area. The monks crossed the administrative boundary line at the Enguri Bridge into Georgian-controlled territory. While they were crossing, Russian forces reportedly shot guns in the air for five minutes.

A 1995 decree issued by the de facto leader of Abkhazia prohibiting Jehovah's Witnesses in the region remained in effect but was not enforced. During the year members of Jehovah's Witnesses reported no problems in Abkhazia, where the group had approximately 1,500 members, but was not conducting services openly. Although Baptists, Lutherans, and Roman Catholics reported they were allowed to operate in the region, the Georgian Orthodox Church reported that it was unable to do so.

In South Ossetia, Orthodox believers were not able to conduct services in Georgian Orthodox churches located near the villages of Nuli, Eredvi, Monasteri, and Gera because these areas were under the control of Ossetian de facto authorities.

For a more detailed discussion, see the [2009 International Religious Freedom Report](http://www.state.gov/g/drl/rls/irf/) at www.state.gov/g/drl/rls/irf/.

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, and the government generally respected these rights in practice. The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

De facto authorities in the separatist regions of Abkhazia and South Ossetia, as well as Russian troops in parts of Georgia occupied during the August 2008 conflict, restricted freedom of movement. Checkpoints operated by de facto militia and Russian troops often obstructed citizens' internal movement in these regions and between these regions and areas controlled by the Georgian government. In June 2008 Abkhaz de facto authorities closed the cease-fire line to all civilian vehicular traffic.

Following the August 2008 hostilities, Russian and South Ossetian forces occupied villages outside of the South Ossetian

and Abkhazian administrative boundaries. By October 2008 Russian and irregular forces had, to some extent, pulled back to preconflict positions. Major exceptions included an increase in the scale of the Russian presence and expansions into previously unoccupied areas, including a new Russian checkpoint outside the village of Perevi, outside South Ossetia, and a significant Russian and Ossetian presence in the Akhalgori valley and the Upper Kodori Valley in Abkhazia. The Akhalgori valley, which the Georgian government had governed since 1991, is populated predominantly by ethnic Georgians. Russian forces limited movement in and out of the valley, especially for nonresidents; international observers had difficulty gaining access. Ossetian authorities reportedly exerted pressure on local residents, especially younger ones, to accept Ossetian authority and Russian passports or leave.

In October 2008 parliament passed the Law on Occupied Territories, which put limits on the movement of foreigners in and out of Abkhazia and South Ossetia, requiring permission from authorities in Tbilisi. It also imposed special requirements on those conducting economic activities in the territories. There were no reports of any international humanitarian organizations being unduly restricted in practice by the Georgian authorities. Russian and Abkhaz de facto authorities generally allowed international organizations to operate in Abkhazia, with limitations; Russian and South Ossetian de facto authorities blocked virtually all international organizations, including humanitarian ones, from entering South Ossetia.

An Abkhaz "citizenship" law allows dual Russian-Abkhaz citizenship but not dual Georgian-Abkhaz citizenship. Ethnic Georgians living in Abkhazia were required to acquire Abkhaz "citizenship" to open businesses, bank accounts, vote in elections, travel freely, and own property. While ethnic Georgians in the region could "legally" apply for an Abkhaz passport, the processing of their applications met with long delays and in most cases was never completed.

Abkhaz de facto militia conducted searches of local populations and erected arbitrary checkpoints. Money and valuables were extorted from ethnic Georgians accused of violating the identity document requirements. International organizations reported that Gali residents faced serious threats of extortion, especially at harvest time, but generally refused to make public or specific allegations for fear of retribution.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons

According to the Ministry for Refugees and Accommodation, before the August 2008 armed conflict there were approximately 235,000 IDPs from conflicts of 1992 and 1993; the UNHCR estimated this number as 220,000. The UNHCR estimated that, of the approximately 127,000 individuals displaced as a result of the August 2008 conflict, by September 2009 approximately 7,893 persons remained displaced in undisputed Georgia. In addition, the UNHCR accounted for 106,134 in an "IDP-like" situation needing protection and humanitarian assistance as of September; this included individuals who returned to Abkhazia, South Ossetia, and areas adjacent to South Ossetia, as well as those displaced in the August 2008 conflict who were subsequently relocated.

During the year there was debate regarding who was an IDP, as for example this status was given to the children of persons who were displaced by conflict, and who may have never been personally displaced. The numbers also included persons who had fully reintegrated into society, although perhaps not in their original hometown or region. Various agencies including the government, the UNHCR, and NGOs employed different methods in estimating the total number of IDPs.

IDPs from the August 2008 conflict continued to receive substantial assistance from the government as well as the international donor community during the year. The Ministry of Refugees and Accommodation continued to implement the "Action Plan" for the Implementation of the State Strategy on IDPs" adopted in December 2008. The three main objectives of the plan were to improve the living conditions of IDPs, promote their socioeconomic integration, and raise awareness of their situation. The government took steps during the year to rehabilitate existing collective centers, purchase or build new housing, or offer cash payments in lieu of providing housing to IDPs from the early 1990s and August 2008 conflicts. The government made substantial progress on providing housing to IDPs and moved from a reactive approach to the war (getting as much housing up as quickly as possible) to a long-term solution approach (providing "durable solutions" to IDPs from both conflicts).

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 40,000 IDPs, many working as seasonal laborers, returned to the Gali region of Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia. A property law prevented IDPs living in other parts of the country from reclaiming homes in Abkhazia, especially outside Gali.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided some protection against refoulement, the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, in its April 2008 report, the UNHCR expressed concern that the legislation did not fully ensure respect for nonrefoulement and recommended additional legislation and procedural safeguards, training

for border guards, and a mechanism to speed referral of asylum seekers. The government granted refugee status and asylum.

The situation of Chechen refugees in the Pankisi valley improved significantly enough that by the end of December the Norwegian Refugee Council (NRC) had pulled out of the valley. The UNHCR coordinated with NRC and others in the international community to ensure a smooth transition from relief assistance to development. On April 15, the government issued Chechen refugees travel documents for the first time, granting them the right to travel overseas.

Two Russian soldiers stationed in South Ossetia defected in June and December, and in both cases the government assisted them with temporary protection while they initiated the process of applying for asylum in the country. Both cases were in process at year's end, and both individuals remained in Georgia with protected status as asylum seekers.

Stateless Persons

According to the UNHCR, there were more than 1,600 stateless persons in the country at the end of the year. However, the precise number of stateless persons was not known, as cumbersome procedures for obtaining identity documents complicated the assessment. Among those registered as stateless, documentation was poor. The number of registered stateless persons may include Chechens who volunteered for repatriation to Russia but were denied because they had never been registered in Russia and did not have documented Georgian citizenship. This confusion was compounded by persons who lived in the unrecognized, separatist regions.

The law allows for acquisition of citizenship by birth, including for children of stateless individuals born on Georgian territory. For persons born on foreign territory, the law allows the acquisition of citizenship through a naturalization process that requires 10 years of continuous residence in the country, demonstrated command of the Georgian or Abkhaz languages and Georgian history, and demonstrated permanent employment or possession of real property.

Children lacking birth certificates were unable to participate in social aid or educational programs. Often children were not registered because their parents had no documentation. In July 2008 the Civil Registry Agency (CRA) launched an intensive registration project in Kvemo Kartli to register juveniles and family members who lacked identification documents. On May 14, the CRA opened new offices in Khelvachauri and Poti.

After independence in 1991, many Roma left the country, although several thousand reportedly remained. During the year the European Center for Minority Issues estimated the Romani population at 1,500, with no more than 300 in any one location. Roma were found principally in the Tbilisi, Kutaisi, Kobuleti, Kakheti, and Sukhumi regions. Large numbers of Roma came from Abkhazia, from where they had migrated to Zugdidi and Tbilisi, while additional Muslim Roma arrived from Armenia and Azerbaijan. Internal seasonal migration was noted during the summer to the Black Sea coast. Romani IDPs from Abkhazia were not entitled to IDP social assistance because they had no documentation to prove their status. CRA officials asserted that Roma with out-of-date Soviet passports had no difficulty applying for and receiving Georgian documents but noted that Roma were often reluctant to file official applications for documents. During the year there were no reports of government mistreatment of Roma in the country.

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

The law provides citizens with the right to change their government peacefully; however, the government's record in the most recent national elections was mixed.

Controversial constitutional amendments adopted in 2004 strengthened presidential powers, giving the president the ability to dismiss Parliament in two circumstances: if parliament does not approve the president's cabinet nominations after three attempts, the president can dismiss Parliament and appoint the prime minister and cabinet unilaterally; or if Parliament does not pass the budget on time, the president can approve the budget by decree. In both instances newly elected parliaments could not vote on the cabinet or the budget; however, in neither case did the president invoke the new constitutional authorities.

Elections and Political Participation

Parliament passed amendments to the election code on December 28; provisions included the direct election of the Tbilisi mayor, the split of the Central Election Commission (CEC) seats between the opposition and the ruling party, and the funding of political parties. The new electoral code passed in December also amends the selection of the chairman. The president nominates three candidates for the post in consultation with members of civil society, from which opposition members of the CEC select one. If none of the three candidates receives a majority of opposition CEC votes, parliament elects one from among the three candidates.

Following opposition protests in 2007, the government changed the composition of the CEC to include six members appointed by opposition parties. One member was appointed by the ruling United National Movement (UNM) and the other six were appointed by the president and parliament under the previously existing procedure. The opposition also appointed members to all precinct election commissions; however, the midlevel district election commissions remained without opposition representation. In the period prior to the May 2008 parliamentary elections, multiparty composition of election administration was implemented at all levels, including the district election commissions, and Parliament passed an amendment to lower the threshold for party representation from 7 to 5 percent of the parliamentary election results. Prior to this reform, the president and parliament appointed a new CEC chairman, but opposition parties alleged that the appointee was selected in advance by the president and that the process was therefore not consistent with the transparent procedure provided for in the electoral code.

Presidential and parliamentary elections were held in January 2008 and in May 2008, respectively.

The OSCE reported that, while the early presidential election in January 2008 was consistent with most OSCE and Council of Europe standards and presented the first genuinely competitive post independence presidential election, it also revealed significant challenges. The campaign was overshadowed by allegations of intimidation and pressure. The distinction between state activities and the campaign of the ruling party incumbent candidate Mikheil Saakashvili was blurred, and the election was marred by other shortcomings in the election process, most notably flawed vote counting, tabulation, and postelection complaints and appeals procedures.

The May 2008 parliamentary elections, originally scheduled for later in the year, were brought forward following a plebiscite held simultaneously with the January 2008 presidential election. The OSCE assessed that authorities and other political stakeholders made significant efforts to conduct these elections in line with OSCE and Council of Europe commitments; however, according to the OSCE, a number of problems made this implementation uneven and incomplete. The OSCE's final report noted shortcomings in vote counting, tabulation, and the handling of election complaints. The OSCE also reported widespread allegations of intimidation and pressure on opposition activists, public-sector employees, and others in the presidential and parliamentary elections. There also were credible allegations that there was pressure on businesses to contribute to ruling party election campaigns. The OSCE also reported flaws in the conduct of election commissions.

In advance of the 2008 elections, Parliament restructured the incoming Parliament: the new Parliament consisted of 75 majoritarian deputies elected in single-mandate constituencies and another 75 deputies elected through a proportional party-list system. The OSCE's final parliamentary elections report stated: "The election system was modified without reaching a consensus between the UNM and opposition parties...Opposition parties had strongly opposed single-mandate constituencies, which they saw as benefiting the UNM, given the fragmentation of the opposition, and had favored regional proportional constituencies." The report also noted that the unified election code (UEC) "does not require single-mandate constituencies to be of equal or comparable size. In these elections the number of voters in individual election districts, which as a rule coincide with the administrative districts, ranged from around 6,000 to more than 140,000. Such large variations undermined one of the main principles of electoral rights, namely the equality of the vote. In amending the constitution and the UEC, parliament did not try to address this imbalance."

In 2008 the ECHR issued a judgment that found one violation by the country of the right to liberty and security as provided by the European Convention on Human Rights. In the case of the Georgian Labor Party v. Georgia, the court found that there was no violation in the introduction of an active system of voter registration shortly before the election in a "postrevolutionary" political context, aimed at remedying the problem of chaotic electoral rolls; no violation and no evidence of abuse of power or electoral fraud adduced to back up a complaint of a propresidential majority in electoral commissions at all levels. However, it found there was a violation in the illegitimate and unjustified exclusion of two electoral districts from the country-wide vote tally.

The ECHR called for the government to award the Labor Party 1,043 euros (\$1,496) for costs and damages. The court stated that the government failed to comply with a number of rule of law requisites and effectively disenfranchised a significant section of the population, estimated at 60,000 voters. The Ministry of Finance claimed it had paid the judgment by electronic transfer.

Unknown assailants allegedly attacked members of the political opposition before and after the January 2008 presidential and May 2008 parliamentary elections. Opposition members accused the government of not earnestly attempting to identify, arrest, and try the attackers, many of whom wore masks. At year's end there was no reported progress made on the investigation of these attacks.

The OSCE's final report on the May 2008 parliamentary elections noted that the election campaign was conducted in a highly polarized environment, which was compounded by reports of widespread intimidation of opposition candidates, party activists, and state employees in many regions. Of the numerous specific allegations the OSCE election observation mission examined, it found several to be credible. The OSCE examined a series of postelection beatings and other violence involving masked men attacking a total of 13 opposition activists, many of whom were taking legal action against alleged cases of election-related irregularities. The OSCE visited seven of the 13 individuals and confirmed that they had been attacked. It noted that some opposition leaders accused the authorities and the ruling party of responsibility for the postelection attacks. The public defender also issued a statement criticizing the attacks and noting that a number of individuals who had been attacked refused to identify themselves out of fear.

There were no government restrictions on political party formation beyond registration requirements; according to the Ministry of Justice's Registration and Licensing Department, there were 200 registered political parties by the end of the year, compared with 189 in 2008. However, members of nonparliamentary opposition parties reported that they were subject to politically motivated assaults as a result of their three-month protest action. The nonparliamentary opposition also reported that their members were unduly singled out for prosecution, most commonly for the alleged possession of illegal weapons or drugs (see sections 1.d. and 1.e.).

There was also a case of the government allegedly extending benefits to a politician who was in its favor and then withdrawing the benefits in a punitive manner once that person shifted to the opposition. After former parliamentary speaker Nino Burjanadze joined the nonparliamentary opposition, she reported that the government took politically motivated steps, including the confiscation of a residence she received from the government in May 2008 through a presidential decree authorizing the sale of the residence and a plot of land to Burjanadze for one lari (69 cents). The decree stated that the residence was in honor of Burjanadze's efforts "in the development of parliamentarism and

democracy in Georgia." On August 18, the Tbilisi City Court ruled in favor of the Finance Ministry in a claim against Burjanadze. The Finance Ministry said that Burjanadze owed the state 1.25 million lari (\$739,645) in unpaid taxes for the residence. Burjanadze claimed that the amount of tax she owed amounted to 300,000 lari (\$177,500) and that the authorities increased the market value of the residence, based on which the tax was calculated, only after she joined the opposition. On October 21, the government took possession of the residence after Burjanadze exhausted all her appeals and the residence did not sell in auction. Due process concerns included the failure of the judiciary to permit Burjanadze to submit her own experts' assessment of the value of the property to the court.

In July 2008 parliament passed an amendment to the election law that denied six opposition parties state funding based on their refusal to take their seats after the parliamentary elections. Some opposition political members stated that they were being punished by the government for their failure to participate in the new parliament. In December 2008 parliament restored political party funding to opposition parties and endowed a foundation to provide funding to all political parties for research and training. On July 27, the president put forth a proposal to allow 10 opposition members to take their seats despite their earlier boycott. On September 24, Parliament passed a constitutional amendment endorsing the proposal. At year's end Konstantine Gamsakhurdia, leader of the opposition Freedom Party, was the only opposition member to have taken back his seat.

There were seven women in the 150-seat parliament. A woman was one of seven vice-speakers, and another woman was the chair of the procedural committee in parliament.

There were five members of minority groups in parliament: two ethnic Armenians and three ethnic Azeris. As a result of 2006 local government reforms, the number of seats held by ethnic minorities in municipal councils was commensurate with the ethnic population in each region of the country. Higher-level city managers included ethnic minority leaders among their ranks.

The 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 Georgian citizenship in order to vote in regional elections.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. While the government implemented these laws effectively against low-level corruption, which decreased as a result of high profile reforms led by the president, some NGOs alleged that senior-level officials engaged in corruption with impunity. The World Bank's worldwide governance indicators reflected that corruption was a serious problem.

There was a general consensus among public officials and civil society organizations that levels of petty corruption fell after the 2003 Rose Revolution. Only 2 percent of the respondents to Transparency International's Global Corruption Barometer, released on June 3, reported having to pay a bribe in the past year. Observers attributed the improvement to the detention of corrupt public officials, increases in public servants' salaries, and the simplification of administrative procedures.

In spite of this, high-level corruption remained a persistent concern, and observers considered the official anticorruption campaign too heavily focused on prosecution as opposed to prevention and too ad hoc rather than systemic and participatory in nature. Areas of concern included democratic institutions, civil society involvement in the planning and execution of public policy, property rights, and elite corruption.

In 2005 a national anticorruption strategy was approved by presidential decree. Some concrete results of this strategy were the reduction of bureaucratic red tape throughout the government and the state funding of political parties. On January 8, an anticorruption interagency council was created to update this national anticorruption strategy. Concrete accomplishments of the council included the adoption of guidelines on practical issues relating to seizure and confiscation of illegal assets by the General Prosecutor's Office in February. On February 6, two presidential orders aimed at ensuring impartial and fair recruitment, appraisal, and promotion within the public service entered into force.

According to the Law on Public Service, public officials upon accepting a position are required to submit yearly declarations of their personal and family members' financial incomes and property for tax inspection. The Bureau of Declarations is the receiving agency for the financial information. Government corruption cases are investigated by the Prosecutor's Office under the Ministry of Justice.

For the judiciary the task of addressing corruption and ensuring a cadre of independent and qualified judges involved a multiprong approach. Specific steps taken by the courts included providing adequate salaries, pensions, benefits for judges to lessen the appeal of bribery, and improving basic work conditions so that the job itself is a sustainable professional career. A portion of new training for prospective judges focused on judicial ethics and the importance of avoiding ex parte contact. Under the new CPC, the judge is removed from the investigative process, thus reducing the opportunity for ex parte communication and undue influence from the prosecution. A new training program shifted the selection of judges to a merit-based system reducing the opportunity for political influence.

There were a low number of reported corruption cases among judicial authorities. During the last two to three years, only two credible instances of judicial corruption were reported.

On December 12, a prosecutor was arrested and accused of accepting a 2,000 lari (\$1,180) bribe to secure a favorable sentence for the defendant (see section 1.e.). The case continued at year's end.

According to the Ministry of Justice, the number of convictions during the year for corruption related offenses was as follows: misappropriation or embezzlement, 217; illicit entrepreneurial activity, 10; legalization of illicit income, 1; abuse of official authority, 96; exceeding official powers, 30; accepting bribes, 40; bribe-giving, 47; trading with influence, 3; and falsification in service, 24.

Mamuka Maziashvili, head of the Division on Regulation of Gambling Businesses, at the Central Headquarters of the Revenue Service of the Ministry of Finance, was found guilty on May 1 by the Tbilisi City Court for taking bribes. He was sentenced to five years of imprisonment with an additional four years of conditional sentence. He was also fined 30,000 lari (\$17,750).

Lasha Loladze, head of the Tbilisi Tax Inspection Unit of the Revenue Service of the Ministry of Finance, was found guilty on January 23 by the Tbilisi City Court for forgery and taking bribes. He was sentenced to six years of imprisonment with five years of conditional sentence. He was also fined 200,000 lari (\$118,000).

Zviad Merabishvili, head of the Audit Division of the Tbilisi Tax Inspection Unit of the Revenue Service of the Ministry of Finance, was found guilty on January 23 by the Tbilisi City Court for forgery and taking bribes. He was sentenced to six years and six months of imprisonment with five years of conditional sentence. He was also fined 150,000 (\$89,000).

On March 19, by verdict of the Tbilisi City Court and a plea agreement between the Prosecutor's Office and the accused, the following cases were concluded: Beka Okrotsvadze, deputy minister of economic development, was found guilty of taking bribes and sentenced to five years of conditional imprisonment and fined 300,000 lari (\$177,500); Lasha Moistsraphishvili, deputy head of the Privatization Department of the Ministry of Economic Development, was found guilty of taking bribes and was sentenced to five years of conditional imprisonment and fined 100,000 lari (\$59,000); Nikoloz Chantladze, head of the Privatization Department of the Ministry of Economic Development, was found guilty of taking bribes and sentenced to five years of conditional imprisonment and fined 100,000 lari (\$59,000); Tamaz Machaladze was found guilty of offering a bribe and sentenced to three years of conditional imprisonment and fined 500,000 lari (\$296,000).

A number of politically active defendants in corruption cases alleged that they were victims of selective prosecution (see section 1.d.).

In 2007 Mikheil Kareli, the former mayor of Shida Kartli region, was arrested and charged with bribery and illegal business practices. Earlier several officials from the local administration, including Gori governor Vasil Makharashvili, deputy chairman of the City Council Nugza Papunashvili, and Gaioz Dzanadia, were reportedly arrested on corruption charges. Kareli was released on bail later that month. Later that year the prosecution filed four additional charges against Kareli. Kareli failed to appear to face charges, and a warrant was issued for his arrest. In April 2008 the courts filed an indictment to try Kareli in absentia in Gori district; the trial was ongoing at year's end. In July 2008 French authorities arrested Kareli in France, and Georgian authorities requested his extradition to Tbilisi. French authorities had released Kareli on his own recognizance and were reviewing the extradition request. The press reported that Kareli had requested political asylum.

In 2007 David Kekua, the deputy head of the General Inspection Department of the Ministry of Internal Affairs, was charged with planting evidence during a high-profile murder investigation and held in pretrial detention. In October 2007 he was found dead in his cell in Tbilisi Prison Number 7. According to the Ministry of Justice, the Tbilisi City Court seized video recordings of the cell in October 2007 that clearly showed that Kekua's death was a suicide. On February 5, the investigation into the case was terminated.

The law provides for public access to government meetings and documents; however, the government sometimes did not provide access. Although the law states that a public agency shall release public information immediately or no later than 10 days from request, the release of requested information could be delayed indefinitely, and requests were sometimes ignored in practice.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, while some NGOs enjoyed close cooperation with the government and officials were cooperative and responsive to their views, others complained of not having sufficient access to government officials and a lack of inclusiveness of all civil society views.

The major human rights problems that caused tensions between the government and NGOs during the year were the alleged mistreatment of prisoners, intimidation and use of government resources during the 2008 presidential and parliamentary campaigns, violence against nonparliamentary opposition figures with no accountability during the spring protests, violations of rights to property, politically motivated arrests, and lack of accountability for the use of excessive force by the police.

According to the NGO Frontline, on October 11, human rights lawyer and Chairperson of Human Rights Priority Lia Mukhashavria was fined by the Tbilisi City Court for "minor hooliganism" and acts of harassment. Frontline alleged that her conviction was directly related to her human rights work. Human Rights Priority provided legal assistance to victims of human rights violations.

The UN and the OSCE monitored only sporadically in the separatist conflict areas due to a lack of access, limited staff, and poor security conditions but provided periodic findings, reports, and recommendations. The situation became more difficult after the August 2008 conflict, as Russian troops refused or restricted observers' entry to South Ossetia and

Abkhazia as well as to other areas of Georgia where allegations of ethnically motivated attacks persisted. On June 15, UNOMIG was terminated when Russia vetoed the mandate extension in the UN Security Council. On June 30, the OSCE completed its last patrol in Georgia; Russia blocked the extension of the OSCE's 17-year-old mandate to facilitate the settlement of the South Ossetia conflict. The OSCE human rights officer had not been allowed into South Ossetia since the August 2008 conflict.

The EUMM facilitated conflict resolution (including those involving human rights issues) between the Georgian, Russian, and de facto authorities in the separatist regions by running regular patrols near the conflict areas and facilitating informal contacts among the sides. However, the EUMM was denied access to the separatist regions and patrols were permitted only on the undisputed Georgian side of the administrative boundary lines.

The Geneva discussions, which were established as part of the August 2008 cease-fire, established two Incident Prevention and Response Mechanisms (IPRMs), one for Abkhazia and one for South Ossetia, to facilitate practical and depoliticized discussions of the situation on the ground. Representatives of the EUMM, UN, and OSCE facilitated these meetings, which helped decrease tensions. South Ossetian de facto authorities announced in October they would not attend additional IPRM meetings until three missing-persons cases from 2008 were resolved.

A new public defender, Giorgi Tugushi, took office on September 16. NGOs continued to view the Public Defender's Office as the most objective of the government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuse. The office generally operated without government interference and was considered effective, with some exceptions. The government funded the Public Defender's Office, which received 2 million lari (\$1.2 million) during the year, up from 1.9 million lari (\$1.1 million) in 2008, one of the few government agencies to receive an increased budget.

On June 15, a representative from the Public Defender's Office was assaulted by police while monitoring a nonparliamentary opposition protest (see section 2.b.). According to information received by the Public Defender's Office, the Ministry of Justice was investigating all June 15 incidents. At year's end the investigation continued.

There were no developments reported during the year in the Office of the Prosecutor's criminal investigation into then public defender Subari's allegation that Ministry of Internal Affairs special unit officers members beat and injured him when he tried to prevent an altercation between demonstrators and unit members during the November 2007 protests in Tbilisi.

As required by law, the public defender submitted biannual reports to parliament. The public defender's most recent biannual report, submitted on October 31 and officially heard on December 18, covered the first half of the year. The report was chiefly dedicated to the April–July antigovernment protests and related incidents. Additionally, the public defender commented on the systemic abuse of power, inhumane treatment of criminal suspects and inmates, and the overcrowding and inadequate conditions of the penitentiary system. Ruling party members mostly criticized the parts referring to the abuse of power by law enforcement and the lack of fair trials, while opposition members criticized the section referring to the need for equality in religious freedom.

The Public Defender's Office also published a report with all suspected politically motivated assaults on nonparliamentary opposition activists during the April–July protests, involving a total of 32 cases. According to the Public Defender's Office, it forwarded all the information gathered in these cases to the Prosecutor's Office for further investigation. Investigations continued at year's end.

Former public defender Subari's previous report, which covered the second half of 2008 and focused on the need for checks and balances and an independent judiciary, was submitted to Parliament on March 31.

Following the January 2008 election, the Public Defender's Office asked the CEC for videotapes from voting precincts where observers noted problems. Eventually, the public defender received some but not all of the tapes he requested, and only much later following an intense public dispute. The CEC was slow to deliver tapes, stating that it did not have time to review hundreds of minutes of hundreds of tapes.

The public defender's authority does not include the power to initiate prosecutions or other legal actions. The public defender objected to Ministry of Justice regulations prohibiting the use of cameras and recorders in the penitentiary system as an obstacle to substantiating claims of prison abuse.

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 had mandates to investigate claims of abuse. By law the prosecutor general is charged with protection of human rights and fundamental freedoms.

In October the Human Rights Unit at the Office of Chief Prosecutor was placed under the Department for the Supervision of Prosecution. Apart from the overall monitoring over prosecution and supervision of compliance with national and international human rights standards, the department is also tasked with statistical and analytical activities within the prosecution system. According to the Ministry of Justice, the Human Rights Unit continued to "monitor and respond to the notifications regarding the alleged violations of human rights in the organs of the Prosecution Services, detention facilities and isolators, as well as to identify and respond to the facts of torture, inhuman, cruel and degrading treatment or punishment." In addition, the unit is responsible for considering human rights recommendations of national and international human rights institutions and taking responsive measures.

On February 2, Dimitri Shashkin was named as the minister for a newly created Ministry of Corrections and Legal Assistance. Shashkin was also tasked to oversee government democratic reforms, including the passage of the reformed

electoral code, improvements to the prison health system, and legal aid services.

In 2007 Abkhaz de facto authorities agreed to permit a UN human rights officer's presence and the deployment of three UN civilian police in the Gali sector headquarters, however; this mandate was terminated on June 15 (see section 1.g.).

Section 6 Discrimination, Societal Abuse, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not always enforce these prohibitions effectively.

Women

Rape is illegal, but spousal rape is not specifically addressed by criminal law. 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; a repeat offender or perpetrator against multiple victims may receive up to 10 years. If the victim becomes pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years or, if the victim is a minor, up to 20 years. In the first 11 months of the year, investigations were initiated in 136 rape cases. Of these, 46 were terminated, prosecutions were initiated against 47 cases, and court proceedings were begun in 28 cases involving 28 defendants. 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 was a problem. According to Ministry of Internal Affairs statistics, police responded to 1,331 cases of family conflicts during the year, compared with 2,576 cases in 2008 and 2,056 cases in 2007.

Domestic violence is legally defined as a violation of the constitutional rights and liberties of one member of a family by another through physical, psychological, economic, or sexual violence or coercion; however, domestic violence is not specifically criminalized. Perpetrators of domestic violence were prosecuted under existing criminal provisions, such as battery or rape.

The law allows victims to file immediate protective orders against abusers and authorizes police to issue temporary restrictive orders against persons suspected of abusing a family member. Restrictive orders were issued in 176 cases of domestic violence during the year, compared with 141 cases in 2008. Within 24 hours the temporary order should be approved by a court, at which point it becomes a protective order that prohibits the abuser from coming within 100 meters (310 feet) of the victim and forbids the perpetrator to use common property, such as a residence or vehicle, for six months. The victim may request an unlimited number of extensions of the protective order. The Ministry of Internal Affairs has developed the legally required form that police should use to issue restrictive orders, but training for police in this area was lacking outside of Tbilisi. A local NGO operated a hotline and a shelter for abused women, although services were limited due to a lack of funding and facilities.

On December 28, parliament amended existing legislation on domestic violence. The amended version lays the foundation for the protection, assistance, and rehabilitation of domestic violence victims; provides a framework for the cooperation of various government agencies in preventing domestic violence; and establishes rehabilitation measures for domestic violence offenders. It establishes a broader definition of a victim of family violence as "a family member who has suffered physical, psychological, sexual, or economic violence or coercion." It also calls for the establishment of domestic violence crisis centers run by the Ministry of Labor, Health, and Social Protection or by nongovernmental organizations. Crisis centers are intended to offer domestic violence victims psychological, medical, and legal assistance.

In conjunction with these amendments, parliament amended other laws, including the labor code, the Law on Firearms, the Law on Public Service, and the administrative procedural code in ways designed to prevent domestic violence and assist its victims. Among other changes, they exempt state duty payment on court cases related to protection of and assistance to domestic violence victims; streamline and simplify court application procedures for domestic violence victims; allow a court, either on its own initiative or by request of a party, to hold closed sessions in domestic violence cases; allow a court to consider separation of a child from a violent parent; and limit access to firearms by a domestic violence offender.

In December 2008 presidential decree 625 ordered the establishment of an interagency council to address domestic violence and coordinate the activities of ministries and NGOs to combat the problem. During the year the Interagency Council prepared and received presidential approval on the 2009-10 National Action Plan to Fight Domestic Violence. It was on the basis of the plan that the antidomestic violence legislation was revised. During the year the Interagency Council initiated a public awareness campaign, coordinated domestic violence training in partnership with the Prosecution Service and Police, mobilized funding to rehabilitate two state-run domestic violence shelters, and introduced a special postgraduate course for law students at Tbilisi State University on trafficking in persons and domestic violence issues.

Kidnapping of women for marriage occurred but was not widespread. Such kidnappings often were arranged elopements. Police rarely took action in these cases, although the law criminalizes kidnapping. A local NGO in the Samtskhe-Javakheti region maintained a hotline and shelter to assist victims of attempted kidnappings, who were often rejected by their families after escaping from the kidnapper.

Prostitution is illegal but was widespread, particularly in Tbilisi. Several NGOs claimed that prostitution remained common due to continuing poor economic conditions.

Sexual harassment and violence against women in the workplace were problems. The law prohibits sexual harassment; however, the government did not effectively enforce the law, and complaints were rarely investigated.

Couples and individuals have the 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. Contraception was widely available. Skilled attendance during childbirth was accessible. Women and men were equally treated and diagnosed for transmitted infections, including HIV. However, patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited women's reproductive rights.

The law provides for the equality of men and women; however the law was not always implemented in practice. A Gender Equality National Action Plan adopted in 2007 was not enforced. NGOs stated that discrimination against women in the workplace existed, but instances were never reported. The speaker of Parliament continued to chair a Gender Equity Advisory Council, which included MPs as well as representatives from the executive branch, the Public Defender's Office, and NGOs. It became a permanent body at the end of the year. The State Commission on Gender Equity, chaired at the deputy-state-minister level, prepared recommendations on the implementation of international agreements and conventions on gender equity. Within the Public Defender's Office, there is a special group dedicated to women's and children's issues.

The labor code does not protect pregnant women from being dismissed from work while they are on maternity leave. According to the UN Development Program, employers frequently withheld benefits for pregnancy and childbirth.

Although some observers noted continuing improvement in women's access to the labor market, women remained primarily confined to low-paying and low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. As a result, many women sought employment abroad.

Children

The law provides for acquisition of citizenship by birth (*jus soli*), including for children of stateless individuals born on Georgian territory.

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

Education was officially free through high school, but in practice a lack of resources inhibited schools' functioning and affected the quality of education in some areas, especially in the separatist regions of Abkhazia and South Ossetia. In some areas school facilities were inadequate and lacked heating, libraries, and blackboards. Most parents were obliged to pay some form of tuition to support the schools. Many parents were unable to afford books and school supplies, and in some cases students were forced to drop out due to an inability or unwillingness to pay tuition. According to the Ministry of Education, the situation in schools improved in terms of heating, although such supplies as blackboards remained inadequate in some schools. Approximately 55 schools were damaged during the August 2008 conflict. During the 2008 conflict, IDP shelters were established in 165 schools, 169 kindergartens, and nine higher education institutions, which resulted in the unavailability of buildings for use during the school year and damage to structures.

Despite legal prohibitions, local residents and international organizations reported that schools in the ethnic Georgian region of Gali in Abkhazia were generally allowed to provide instruction in the Georgian language but not in certain subjects, such as history and geography, which had to be taught in Russian or Abkhaz. However, the de facto authorities did not provide funding for teachers of Georgian, and local communities had either to pay for teachers themselves, make arrangements for teachers to cross from undisputed Georgia to teach, or send their children out of Abkhazia for Georgian-language lessons. An increasingly strict boundary regime imposed by Russian border guards made the latter two types of arrangements more and more difficult. There were some reports of Russian border guards detaining children attempting to cross the boundary for language lessons.

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. Incidents of sexual exploitation of children, particularly girls, were reported.

There is no explicit statutory rape law, but an article in the criminal code makes "perverse action" involving juveniles under the age of 16 illegal. The precondition for the crime is that the perpetrator has to be aware that it is illegal. In such cases the penalty is an unspecified fine and/or detention for up to two years.

Commercial sexual exploitation of children and child pornography are punishable by up to three years' imprisonment. The Ministry of Internal Affairs sponsored a center for the rehabilitation of minors, which regularly provided medical and psychological assistance to child and adolescent victims before returning them to their guardians. Street children and children living in orphanages were reportedly particularly vulnerable to trafficking.

The number of street children was not considered to be high and has been decreasing yearly. Difficult economic conditions contributed to the problem. According to a 1999 UN Children's Fund (UNICEF) study, there were an estimated 2,500 children living and working in the streets. A study covering the period 2007-08 by the NGO Save the Children indicated that the number had decreased to approximately 1,500. The NGO Child and Environment and the Ministry of Education each operated a shelter in Tbilisi, but the two shelters could accommodate only a small number of street children. The government took little other action to assist street children. According to a 2006 UN-sponsored report

prepared by the Minnesota Advocates for Human Rights, the Education Ministry viewed street children as a local issue that should be addressed by municipalities, not the ministry.

There were unconfirmed reports of police harassment of street children, but the patrol police routinely transferred street children to 24-hour care centers. The NGO Child and Environment ran one night center and three day centers during the year and provided support to 350 street children per day countrywide. These centers lacked resources for treatment and rehabilitation of children, many of whom were substance abusers or suffered from mental disorders.

Ongoing conflicts in Abkhazia and South Ossetia displaced thousands of children; the numbers increased further as a result of the August 2008 conflict with Russia. Even before that conflict, UNICEF reported that 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.

Orphanages were unable to provide adequate food, clothing, education, and medical care, and facilities lacked heat, water, and electricity. Staff members reportedly often diverted money and supplies provided to orphanages to their personal use.

Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, there were reports that women and girls were trafficked from and within the country for commercial sexual exploitation, and labor and men and women were trafficked within and from the country for forced labor.

Instances of trafficking in persons during the year declined. During the year Georgia remained a country of origin, but fewer cases of trafficking through the country were recorded, and, according to the International Organization for Migration (IOM), there were no statistics to confirm that Georgia was a country of destination for trafficking.

The most common purposes of trafficking are sexual exploitation and labor exploitation. In the past internal trafficking was investigated and prosecuted by law enforcement officials, but there were no reports of such investigations during the year. Claims of labor exploitation in the conflict area in South Ossetia were reported in Georgian mass media after the August 2008 war, and occasionally similar claims were presented in the case of Abkhazia. However, the IOM reported that it had seen no conclusive evidence of trafficking in either of the two conflict zones.

The country was a country of origin, possibly transit, and very rarely a destination for trafficked persons. Women were trafficked from the country to Turkey and the United Arab Emirates to work in hotels, bars, and restaurants or as domestic servants. Many were exploited in the adult entertainment sector or forced into prostitution. Victims most frequently came from Tbilisi or the impoverished former industrial centers of Kutaisi and Rustavi. Local NGOs reported that men were trafficked to Russia and other destinations to work in construction, agriculture, and other sectors requiring manual labor. There also was evidence that women from other countries of the former Soviet Union were trafficked through the country to Turkey.

Based on information from law enforcement investigations and the IOM's caseload of assisted victims during the year, women and girls from the ethnic Azerbaijani community in Kvemo Kartli were particularly vulnerable to trafficking. Although some reports indicated that IDPs, particularly the 30,000 persons displaced by the August 2008 conflict with Russia, might also be particular targets of traffickers, there was no evidence of increased trafficking activity involving IDPs at year's end.

Children were seldom trafficking victims, although street children and children living in orphanages were vulnerable. Conditions for trafficked laborers and women trafficked into prostitution were extremely poor.

The government did not have control over the separatist regions of Abkhazia and South Ossetia and was unable to carry out investigations into allegations of trafficking there.

Traffickers were largely freelance domestic operators with connections outside the country; there were also some small international operators. They often used offers of employment from friends and families or offers of overseas jobs from tourism or employment agencies to lure potential victims.

The criminal code prohibits trafficking in persons for sexual exploitation, labor, and other forms of exploitation. Trafficking in adults is punishable by seven to 20 years in prison. Trafficking in minors is punishable by a prison sentence of eight years to life, under aggravated circumstances. Minors are defined as anyone under the age of 18. The code prohibits internal and external trafficking and makes no distinction between the two.

The law provides for confiscation of assets of convicted traffickers and members of their families if the assets were acquired through trafficking in persons. Such assets are to be used to satisfy the needs of the trafficking victim, with any remaining assets going to the state. A victim can also claim civil damages from the trafficker during criminal proceedings. By law it is also a criminal offense to make use of the services of a (statutory) trafficking victim. Such activity is punishable by three to 15 years' imprisonment.

An interagency antitrafficking coordination council served as the overall coordination mechanism for antitrafficking measures by state agencies. National NGOs and international organizations were actively involved in the work of the council, which met quarterly. In 2007 the council approved a strategy for rehabilitating and reintegrating trafficking victims into society. The strategy was the final document in a series providing the framework for assistance to, and protection of, trafficking victims. The Prosecutor General's Office, the State Fund, international organizations, and local NGOs jointly

implement the strategy, which calls for individual victims to receive a specific rehabilitation plan according to their needs. The State Fund for Victim Protection and Assistance oversees the design and implementation of individual plans.

The government operated shelters in Batumi and Tbilisi and a hotline for trafficking victims. The country has a system for protecting and providing rehabilitation opportunities for trafficking victims and integrating them back into society.

A public information campaign continued into its sixth year, ensuring that information about trafficking was widely available through law enforcement agency Web sites, public service announcements, antitrafficking television programming, and brochures at the country's main ports of entry. In addition, local and international NGOs continued their own initiatives to combat trafficking, including seminars and public awareness events. These efforts were supported by the other members of the interagency coordination council.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities, although in practice the problem was a low priority for the government. Discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services was a problem, and societal discrimination existed. The administrative code mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. However, very few, if any, public facilities or buildings were accessible.

The government took some steps to address the needs of persons with disabilities during the year. On June 14, National Disability Day, the first Disability Fair-Forum was held in Tbilisi to raise public awareness on the problems and needs of persons with disabilities. In September 2008 a Center for Disability Rights was established in the Office of the Public Defender. On July 23-25, the office held workshops on the rights of persons with disabilities. A new Ministry of Internal Affairs building and presidential palace were accessible to persons with disabilities.

In March 2008 the National Agency of Public Registry of the Ministry of Justice hired six persons with disabilities as part of a telephone consulting service that provided information about how to apply for benefits. As part of the pilot program, persons with disabilities received training and office equipment that permitted them to work from home. In the same month, 40 new buses equipped with a vertical lift to assist travelers with disabilities were added to the municipal bus fleet in Tbilisi.

As of December, 139,354 persons with disabilities were registered in the country. There were 8,034 registered children with disabilities. These numbers included only those officially registered; the actual number could be higher.

National/Racial/Ethnic Minorities

The law requires that all government officials speak Georgian, the state language, which some minorities claimed excluded them from participating in government. Some government materials distributed to the public were only available in the Georgian language. Authorities asserted the government was not obliged to provide all official materials in minority languages. Ballots and election materials were available in minority languages during the presidential and parliamentary elections of 2008. In 2007, the Ministry of Education translated textbooks in minority languages (Armenian, Azeri, and Russian) for the first, seventh, and 10th grades. In 2008 the textbooks were translated for second, eighth, and 11th grades. The textbooks were being introduced in minority schools in minority regions and Tbilisi.

Ethnic Georgians living in the Gali region of Abkhazia had no legal access to education in the Georgian language. In practice teachers who did not speak Abkhaz instructed students in Georgian; however, such teachers were often subjected to harassment and prosecution by Abkhaz de facto authorities.

Many inhabitants of the region of Akhalkalaki, which is dominated by ethnic Armenians, complained about government unwillingness to give provincial-language status to the Armenian language, since very few persons there spoke Georgian or were able to conduct daily affairs in Georgian. However, many NGOs in the region stated that they saw an improvement during the year in the number of opportunities for Georgian-language instruction and in the quality of the classes. Ethnic Azeris in the ethnic-Azeri-dominated region of Kvemo Kartli made similar complaints.

In July 2008 Vahagn Chakhalian, Armen Chakhalian, and Ruben Chakhalian, all members of United Javakh, a local NGO that calls for autonomy for ethnic Armenians in the country, were charged with violating public order, resisting arrest, threatening law enforcement officers, and illegally possessing firearms. In 2006 the men reportedly attempted to break into the Akhalkalaki municipal building, wounding police in the process. A fourth person, Aram Batoian, was also at the scene, and according to the Ministry of Justice he was charged with the organization of group activities violating public order as well as the illegal purchase and possession of firearms; his case was submitted to the Akhalkalaki District Court and remained under consideration at year's end.

On April 7, Vahagn Chakhalian was found guilty by the Akhalkalaki District Court on six of 12 charges brought by the public prosecution. He was convicted of organizing a riot directed against the public order, hooliganism, and the illegal purchase and possession of firearms and sentenced to 10 years of prison. Ruben Chakhalian was convicted of two of four charges against him, namely organizing a riot directed against public order and the illegal purchase and possession of firearms. He was fined 5,000 lari (\$2,960). Armen Chakhalian was found guilty of the illegal purchase and possession of firearms and was fined 2,000 lari (\$1,180).

Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian in the areas where they are the dominant ethnic group. The law requires that ethnic minority students learn Georgian as a second language, and the government funded more than 200 primary and secondary Russian-, Azeri-, and Armenian-language schools for persons whose first language was not Georgian. The Zurab Zhvania School of Public Administration based in Kutaisi provided courses specifically for students from minority areas. The school also facilitated integration of future public servants from minority areas into Georgian society at large. In Tbilisi a large majority of ethnic minority groups were able to communicate in Georgian in their daily interaction with members of other linguistic groups.

The government took several steps to integrate ethnic minority communities through Georgian-language instruction, education, involvement in political dialogue, and improved access to information. In 2008 the General Skills National Examinations for university enrollment were provided in minority languages for the first time. The government increased its efforts to provide Georgian-language instruction to members of ethnic minorities serving in the armed forces and police.

In 2007 parliament approved a law on the repatriation of the Muslim Meskhetian population, a national minority group that Stalin deported in 1944. The legislation was a response to commitments that the country made to the Council of Europe in 1999 to provide for the resettlement of the Meskhetians by 2011. Passage of the law allowed the government in January 2008 to begin accepting applications for repatriation from Meskhetians with documents that confirm their deportation. Passage of the law came under heavy criticism from opposition members of Parliament and the media, which pointed to the delicate ethnic and demographic balance in areas once inhabited by Meskhetians, but subsequently populated by a sizeable ethnic Armenian community. More than 1,700 Meskhetians had filed for repatriation by year's end. More than 150 returned unofficially over the previous three years, quietly settling in Akhaltsikhe and Abastumani. In December 2008 parliament voted to extend the application period until July 1.

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

There are no laws that criminalize sexual orientation, male-to-male sex, or female-to-female sex; however, homosexuality was not widely accepted in society.

There were a few lesbian, gay, bisexual, or transgender (LGBT) organizations; however, they did not work exclusively as such and instead promoted tolerance more broadly. One reason for this was the strong societal stigma against homosexuality, including its denunciation by the Georgian Orthodox Church. The new public defender (see section 5) stated that among his priorities would be the protection of LGBT groups and individuals, and on July 31, in a debate with another nominee for the post, he said that discrimination on the basis of sexual orientation was unacceptable.

On December 15, the office of an NGO that promotes LGBT equality was searched by police. Reportedly, officials used antihomosexual slurs, made unnecessary strip searches, unnecessarily damaged organizational posters, and unnecessarily ransacked offices. The Ministry of Internal Affairs denied that any procedural violations took place and maintained that the profile of the organization was irrelevant in terms of the law. The ministry reported that its General Inspection Office gave one officer a reprimand at the "severe" level in accordance with the police code of ethics, as his actions were determined to be nonethical and inappropriate for police officers. Two other officers were also given a reprimand at the "severe" level for not preventing the above-mentioned officer from making the unethical statements.

Other Societal Violence or Discrimination

The law prohibits discrimination against persons with HIV/AIDS; however, there is no penalty for violating this prohibition. NGOs reported that social stigma resulted in individuals avoiding testing and treatment for fear of discrimination. Some health-care providers, particularly dentists, often refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers for fear of losing their jobs.

Section 7 Worker Rights

a. The Right of Association

The law allows all workers, including government employees, to form and join independent unions of their choice without previous authorization or excessive requirements, and they did so in practice. However, the law restricts the right of employees of law enforcement agencies, medical doctors, firemen, the Prosecutor General's Office, and certain ministries (e.g., defense) to form and join unions and strike. Labor unions stated that provisions of the labor code limit the mechanisms available for them to exercise their rights. At least 100 persons are needed for a trade union to be established—a requirement considered unreasonable by the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations.

The principal association of unions is the Georgian Trade Union Confederation (GTUC), which represented unions in 23 sectors with more than 252,900 unionized workers, according to the GTUC information. There were a few small unions for civil servants, agricultural workers, and artists, but they did not participate in the GTUC. Although many employees in large-scale enterprises were unionized, they did not exercise power commensurate with their large membership. Only a minority of the members were active in the labor movement. Critics believed that this gave management a free hand.

The law allows unions to conduct their activities without interference. It provides for the right to strike; however, it limits the maximum length of strikes to 90 days. Strikes were reportedly limited to disputes concerning conflict of rights, not conflict of interests. Workers generally exercised their right to strike in accordance with the labor code, but strikes were rare. The GTUC asserted that the rarity of strikes was due to restrictive rules and workers' fear of losing their jobs.

b. The Right to Organize and Bargain Collectively

Collective bargaining is recognized by law, and the law provides punishment for those who refuse to take part in negotiations; however, the government did not always protect this right in practice. The Public Defender's Office stated that one of the major deficiencies of the labor code was the absence of a requirement that employers provide notice to employees in the event of termination of employment. The labor code also allows the employer to terminate employment at will, without providing a reason. This permits employers to fire employees on discriminatory grounds (i.e., gender, political affiliation, etc.) or for union activism.

The practice of collective bargaining was not widespread. Employers reportedly are not obliged to engage in collective bargaining, even if a trade union or a group of employees wishes to do so. During the year the GTUC administered approximately 80 collective bargaining agreements as well as three sector-level agreements. Poor management and leadership, as well as a general lack of familiarity with the collective bargaining process, limited the effectiveness of collective bargaining.

The law prohibits employers from discriminating against union members or union-organizing activities, and employers may be prosecuted for violations and forced to reinstate employees and pay back wages. However, the labor code allows employers to terminate at will, creating a loophole in the law. Despite the law, the GTUC and its national unions continued to report some cases of management warning staff not to organize trade unions and the GTUC alleged several instances during the year in which employers threatened union members with dismissal for union activity. The GTUC estimated that it lost approximately 20,000 members due to harassment and dismissals.

There were continuing reports that some workers complained of being intimidated or threatened by employers, including public sector employers, for union-organizing activity. Affected workers included teachers; employees of various mining, pipeline, and port facilities; and the Tbilisi municipal government. According to the GTUC, there were 51 dismissals during the year that could clearly be attributed to trade union membership. In other cases it was not possible to prove that the ground for dismissal was GTUC membership, as contracts in most industries were short term (as short as one month), and expiration of a contract could be cited as the reason for termination of employment.

In 2007 port authorities in Poti fired union members and sealed their union office because of union activity. After negotiations between the port authorities and the union, the port authorities reinstated most workers, and the office reopened. A court ruled against the union in a lawsuit filed on behalf of eleven workers who were not reinstated, and on May 4, the GTUC appealed to the ECHR, which accepted the GTUC's application and was expected to start reviewing the case early in 2010.

According to the GTUC, in March 2008 employees at BTM Textile, in the Autonomous Republic of Adjara, officially established a trade union, which affiliated with the Adjara branch of the GTUC. On the same day, nine workers who had been with the company since 2007 were elected as trade union committee members. *Notification of the union's establishment was officially sent to the general director of the company by mail. On the following day, the employer reportedly dismissed all nine union officers on the basis of 37(d) and 38(c) of the labor code, which allows an employer to terminate employment at will. The GTUC unsuccessfully challenged the dismissals in the Batumi City Court. At year's end the Georgian Supreme Court was reviewing these cases. The GTUC stated that these cases discouraged workers from joining or taking an active part in unions.*

The GTUC reported cases of employers failing to transfer compulsory union dues, deducted from wages, to union bank accounts. In one case reported by the GTUC, the company Georgian Post systematically blocked the transfer of 38,000 lari (\$22,485) in trade union membership fees from employees' salaries to a union bank account. According to the GTUC, by the end of the year the process of transferring the union dues continued.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor and no cases of forced labor were reported; however, there were reports that women and children were trafficked from and through the country for commercial sexual exploitation and men and women were trafficked from and through, but not to, the country for labor (see section 6).

NGOs and trade unions objected to a provision in the labor code that permits compulsory labor in instances of emergency and natural disaster but does not require remuneration to persons who are conscripted. The labor code also permits an employer to change the hours of work by 90 minutes without renegotiating the terms of any labor contract. NGOs stated that this provision would effectively require employees to work overtime without compensation in violation of the prohibition against compulsory labor in the constitution.

During the year there were reports of the forced conscription of boys in the separatist region of Abkhazia, which is not under the control of the Georgian government. Whether the boys were under the age of 18 could not be confirmed.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace; however, there were reports that child labor existed in some sectors.

The Public Defender's Office noted that one of the major deficiencies of the labor code was insufficient attention to the

rights of minors. However, with high unemployment resulting in a large pool of adult workers willing to work for low wages, child labor was uncommon. The Ministry of Health, Labor, and Social Affairs is responsible for enforcing laws regulating child labor. Although official data was 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. ITUC reported that children living in rural areas were slightly more involved in child labor. Children in urban areas were susceptible to trafficking, work in the streets, begging, or selling small items.

The minimum legal age for employment is 16. In exceptional cases children may work, with parental consent, at ages 14 and 15. Children under age 18 may not engage in unhealthy or underground work, and children ages 16 to 18 are subject to reduced working hours and are prohibited from working at night. The labor code permits employment agreements with persons under the age of 14 in sports, arts, and cultural activities and for the performance of advertising services. The Department of Social Protection in the Ministry of Health and Social Security is charged with identifying labor violations, receiving complaints, and determining compliance with labor laws and regulations. The Department includes a subdepartment for Child Protection and Social Programs, which employs 12 specialists who are mainly concerned with such policy issues as child adoption, foster care, and rights of children, including child labor. The subdepartment reported that it did not receive a complaint about child employment during the year. The policies that are developed by the subdepartment are implemented by the Social Service Agency under the same ministry through the mechanism of social workers. In the event a violation of child labor laws is found to have occurred, the law grants the power to impose sanctions on the employer to the courts. The Social Protection Department did not generally take action except when the violation was associated with job-related accidents.

e. Acceptable Conditions of Work

Neither the minimum wage for public employees, 115 lari (\$68) per month, nor the statutory minimum wage for private sector workers, approximately 20 lari (\$12) per month, provided a decent standard of living for a worker and family. The minimum wage was below the average monthly wage in both the private and the government sectors. The official minimum subsistence levels for the year were 124.70 lari (\$74) for a single person and 209 lari (\$124) for a family of four. Income from unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Labor, Health, and Social Affairs is responsible for enforcing the minimum wage. The minimum wage levels had not changed since 2005 (public sector) and the 1990s (private sector), and the existence of minimum wage requirements was little known among the public.

The labor code provides for a 41-hour workweek and for a weekly 24-hour rest period unless otherwise provided by a labor contract. The Public Defender's Office noted inadequate attention to the rights of pregnant women as one of the major deficiencies of the labor code. The code does not protect pregnant women from being dismissed from work while they are on maternity leave.

The labor code provides that unless otherwise addressed by an employment agreement, the duration of the business week should not exceed 41 hours a week, not including breaks and leave. Leave between shifts should not be less than 12 hours. NGOs stated that the provision in the labor code permitting employers to change hours of work by 90 minutes unilaterally would effectively require employees to work overtime without compensation (see section 7. c.). Pregnant women or women who have recently given birth are prohibited from working overtime without their consent. Overtime is defined as work that exceeds the work hours addressed in the employment agreement. If the employment agreement does not specify business hours, then overtime is considered to be performance exceeding 41 workhours per week. Terms of overtime labor are defined by agreement between the parties. The employer, as a rule, is not obligated to remunerate for overtime work or to remunerate at an increased rate.

The government set occupational health and safety standards, but the Public Defender's Office listed failure to ensure safe conditions for workers as one of the major deficiencies of labor code implementation. In addition, one deputy minister and a special adviser to the minister focused on labor problems. The ministry monitors adherence to accepted labor standards and drafts proposals as necessary. The parliamentary committee on Health and Social Security has general oversight over labor policy and considers labor-related proposals submitted by the ministry.

According to the GTUC, no workplace health or safety inspections were conducted by the government during the year. Moreover, the government body previously in charge of workplace monitoring, the State Department for Engineering Supervision, was abolished by the prime minister during the year due to alleged corruption, leaving no government organization in charge of this task. The law permits higher wages for hazardous work and provides workers the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment. In practice employees rarely, if ever, took advantage of these protections for fear of dismissal.

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