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[Home](#)[Issues & Press](#)[Travel & Business](#)[Youth & Education](#)[About State Department](#)

Georgia

Country Reports on Human Rights Practices - [2005](#)

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The constitution of the Georgian republic provides for a strong executive branch that reports to the president, a unicameral parliament, and an independent judiciary; the country had a population of approximately 4.4 million. In November 2003 former president Shevardnadze resigned, culminating what became known as the Rose Revolution. In January 2004 Mikheil Saakashvili won the presidency by over 90 percent in elections; his National Movement Party won a majority of seats in the parliament in March 2004. International observers determined that the January presidential elections and the March parliamentary elections represented significant progress over previous elections and brought the country closer to meeting international standards, although several irregularities were noted. The civilian authorities generally maintained effective control of the security forces.

De facto authorities in the separatist Abkhazia and South Ossetia regions remained outside the control of the central government; ceasefires were in effect in both areas, although incidents of violence, including deaths, occurred in both areas.

The government's human rights record improved in some areas in during the year, although serious problems remained. The following human rights problems were reported:

- law enforcement officers tortured, beat, and otherwise abused detainees
- inhumane and life-threatening prison conditions
- corruption and impunity in law enforcement
- arbitrary arrest and detention
- lack of judicial independence
- interference with citizens' right to privacy
- government pressure on the media
- discrimination and harassment against some religious minorities
- violence and discrimination against women
- trafficking in persons

During the year the government took steps to improve the human rights situation. The activities of a monitoring council, amendments to the law, and increased investigation and prosecution of alleged abusers reduced the amount of abuse and ill-treatment in pretrial detention facilities. The status of religious freedom improved through increased investigation and prosecution of harassers of nontraditional faiths.

During the year de facto authorities in the separatist region of Abkhazia restricted the rights of citizens to vote and to participate in the political process by introducing a new citizenship law that forced ethnic Georgians to give up their Georgian citizenship. They also failed to set up a human rights office in Gali. In both Abkhazia and separatist South Ossetia, deprivation of life, arbitrary arrest, and detention were problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. There were reports of arbitrary and unlawful killings in the separatist areas of South Ossetia and Abkhazia, areas not under government control.

In December 2004 police officer Roland Minadze's conviction on charges of falsification and fabrication of evidence in

connection with the beating and subsequent death of Khvicha Kvirikashvili was overturned and returned to court for reinvestigation. The prosecutor's office resubmitted the case to the court, seeking a higher sentence due to aggravating circumstances.

Despite ceasefires, killings were committed by elements on both sides of the separatist conflict in South Ossetia. In May four Ossetians and one Georgian police officer were killed in a shootout near the village of Tamareshini. In December the remains of four Georgian men kidnapped from their village on June 6 were returned to Georgia from South Ossetia. In October Givi Chukhrukhidze died from gunshot wounds suffered when armed men attacked his home in the conflict zone. None of these deaths were investigated, prosecuted, or punished by the de facto authorities.

Partisan violence continued in Abkhazia. Early in the year an armed group attacked the village of Ganmukhir near the Abkhaz-Georgian administrative zone and also killed a Georgian policeman at a checkpoint in the zone. In March an armed gang attacked a family in the village of Otobaia and killed Meri Jalagonia and beat the rest of the family. In April near the village of Gumurishi, Lasha Rigvava was killed in an incident involving Russian peacekeeping forces. In May near the village of Dikhasurga, Abkhaz militants killed Tsiuri Margania.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992-93 fighting. In November two separate antitank landmine incidents at a mandarin plantation in the Abkhaz-Georgian conflict zone resulted in one death and four injuries. An investigation by the UN Observer Mission in Georgia (UNOMIG) concluded that the mines were recently laid to deter workers and disrupt the harvest. Abkhaz police subsequently arrested Vakhtang Dzandzava on suspicion of planting a mine. In June in South Ossetia, a mine explosion injured a Russian peacekeeper and two Georgian police officers searching for Gogi Kakhniashvili, a missing Georgian who was also believed to have died in a mine explosion.

b. Disappearance

There were no reports of politically motivated disappearances perpetrated by the government. However, conflict-related disappearances and kidnappings occurred during the year in the separatist regions (see section 1.g.) of both Abkhazia and South Ossetia, and were frequent. In May in the South Ossetian village of Avnevi, armed men detained two observers of the Organization for Security and Cooperation in Europe (OSCE) mission who were later released. In July Gocha Djaremlishvili was kidnapped from Artsevi village; his whereabouts remained unknown at year's end.

In May Abkhaz militants kidnapped three men from Nabakevi village who were later released. At least a dozen other kidnappings for ransoms were reported in Abkhazia by year's end.

The Abkhaz began forcefully conscripting young male ethnic Georgians living in the Gali region of Abkhazia into the army. More than 50 were reportedly forcefully taken. The local military authority was reportedly accepting \$100 (180 GEL) to "delay" conscription and \$1,500 (2,700 GEL) for return of those already taken.

Kidnapping for ransom decreased significantly elsewhere in the country. The Ministry of Internal Affairs (MOIA) reported 88 cases of kidnapping during the year and stated that investigations had resulted in charges in 84 of these cases.

Government and Abkhaz commissions on missing persons reported that more than one thousand Georgians and several hundred Abkhaz remained missing as a result of the 1992-94 war in Abkhazia (see section 1.g.). The International Committee of the Red Cross (ICRC) assisted joint official efforts to fulfill the country's obligations under international humanitarian law to provide answers to the families of missing persons. This included the determination of gravesite locations, the exhumation, identification, and repatriation of remains to the families. No repatriations occurred during the year.

At year's end the whereabouts of Chechen refugee Adam Talalov, who disappeared in 2003 from the Pankisi Gorge, remained unknown, and no developments were expected in the case.

The investigation into the kidnapping and release of three UN military observers in 2003 in the Kodori Valley in Abkhazia continued at year's end. No developments were expected in the investigation.

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

The law prohibits such practices, although they occurred.

The government took significant actions during the year to address torture and ill treatment. Positive steps included: extensive monitoring of pretrial detention facilities in Tbilisi and nongovernmental organizations (NGO) monitoring of police stations; amendments to the law to bring the definition of torture in line with international standards, providing longer imprisonment and suspension from public office for abuse by officials; amendments to the criminal procedure

code to discourage abuse (the new law requires that confessions given by detainees during their detention must be ratified in court before being admissible as evidence); and increased general prosecutor activity to investigate and prosecute abusers (see section 1.d.). Serious abuses and police misconduct, such as the fabrication or planting of evidence, reportedly decreased.

The general prosecutor was in charge of investigations into allegations of torture and ill treatment. Prosecutors were required to investigate police use of force when a detainee with injuries sustained during arrest was registered. If they concluded that charges were not warranted, the decision could be appealed to a higher level of the general prosecutor's office. NGOs reported that investigations usually substantiated the reasonable use of force by police. Any person subjected to abuse was able to pursue a civil action against the abuser in a civil action.

According to the NGO Former Political Prisoners for Human Rights (FPPHR), however, the government failed to address hundreds of allegations of abuse stemming from 2004. The prosecutor general's office reported it launched investigations into some of these allegations, but asserted that the list of alleged abuses submitted by the NGO often lacked sufficient detail to launch investigations.

NGOs reported law enforcement officers continued to beat, torture, and otherwise abuse detainees during the year. According to information released by the Ministry of Justice (MOJ), in the first 6 months of the year, 23 percent of convicts had undergone physical violence at the hands of law enforcement officials, a 3 percent rise in comparison to the same period in 2004. Over a 10-day period in January, monitoring in pretrial detention facilities by the ombudsman's council confirmed that police violence against detainees was at a very high level; the council reported 15 cases of police physically abusing detainees in that period.

According to statistics from the MOIA's Human Rights Protection and Monitoring Division, of the approximately 8 thousand detainees held during the year, 1,360 (17 percent) were registered with injuries, 90 of whom claimed to have been beaten by police. According to the ombudsman's office, the monitoring group recorded 192 cases involving physical abuse between January and August.

In December 2004 the government created a monitoring council under the MOIA to visit detention facilities under the ministry's jurisdiction; members were NGO volunteers who work on torture chosen by the ombudsman's office. To address concerns about abuse in pretrial detention facilities, in April, the MOIA's Human Rights Protection and Monitoring Division was given oversight over all 67 pretrial detention facilities, and authorities created a new registration process for detainees brought to pretrial detention facilities. The registration process required that any indication of physical abuse be noted pursuant to a mandatory physical exam upon the detainee's arrival. Medical exams were also required, and any signs of abuse noted, anytime a detainee was moved to and from facilities. The MOIA's monitoring division was required to investigate all abuse cases. According to the head of the monitoring division, police were not permitted to enter pretrial detention facilities unless they obtained permission from him.

As of November all law enforcement officers and representatives of the prosecutor's office, except for officers of the special police unit, were required to wear identity badges during meetings with detainees and prisoners; the special police unit was exempted to protect members' anonymity. NGOs believed this prevented accountability for any abuse by the unit.

Human rights advocates reported that due to unannounced and random monitoring of police stations, allegations of abuse by law enforcement officials at police stations decreased substantially over the course of the year. NGOs agreed that monitoring effectively reduced abuse in pretrial detention facilities--since January the number of cases of abuse in the pretrial facilities decreased--although they reported a considerable increase in the number of detainees registered with signs of abuse upon arrival at police stations or pretrial facilities. Amnesty International (AI), other NGOs, and the ombudsman's office reported a large number of cases in which a detainee reportedly sustained injuries resulting from police ill treatment during arrest. The police claimed injuries were either preexisting or the result of detainee resistance.

Detainees were reportedly tortured or abused in cars while being taken to a place of detention, in police stations, and in the MOIA. One detainee alleged he was abused during a remand hearing. There were also allegations that several people were attacked on the street by plainclothes security service agents or taken to unpopulated places such as cemeteries or forests and abused.

During the year there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (see section 1.d.). NGOs claimed that close ties between the prosecutor general's office and the police hindered their ability to substantiate police misconduct, and believed the continuing lack of professionalism and independence of the judiciary made it unresponsive to torture allegations. As a result, despite positive reforms, NGOs claimed law enforcement officials could still resort to torture or ill treatment with limited risk of exposure or punishment. NGOs also believed a lack of adequate training for law enforcement, as well as low public awareness of the new protections afforded citizens, impeded improvements.

There were still significant obstacles to bringing all cases of torture and ill treatment to light. NGOs reported victims often did not report abuse, fearing police retribution against them or their families. According to AI, the ombudsman's

office was aware of several cases of apparent abuse, but detainees--who had visible injuries--later refused to report abuse or withdrew their earlier complaint. In May representatives from the ombudsman's monitoring group were present when an individual arrived at a pretrial detention facility with injuries. The representatives interviewed him, made a record of his injuries, and forwarded the case to the general prosecutor's office for investigation. According to his lawyer, the man then refused to cooperate in the investigation, fearing there would be retaliation against his family.

In April prisoner Eldar Konenishvili was held in Prison No.1 and then taken to Gurdzhani police station where police beat and threatened him. Konenishvili could identify all his attackers, but a police officer accused of abusing Konenishvili was not suspended from duty. An investigation continued at year's end.

The investigation into the April 2004 alleged torture of Sulkhan Molashvili while in pretrial detention continued at year's end. In September Molashvili was sentenced to nine years' imprisonment for abuse of power and misappropriation of money; an appeal was pending at year's end. A filing by Molashvili's attorneys at the European Court of Human Rights in Strasbourg alleging the case against Molashvili was politically motivated was also still pending. Citing fear of retribution to his family, Molashvili did not report his alleged torture until July 2004. After a press conference by Nana Kakabadze of the FPPHR regarding Molashvili's treatment, he was transferred to a cell which the Council of Europe reported lacked light or functioning sanitary facilities.

No charges were brought against suspects in the investigation into allegations that police subjected Irakli Tushishvili to electric shock in MOIA custody. Tushishvili was reportedly released in 2003.

There were no known developments in the criminal proceedings against two police officers for extortion and physical abuse of 15-year-old D. Asaturov and his family.

Criminal agents within the prison population allegedly committed abuses against prisoners in pretrial detention facilities.

In November in the village of Pichori in the Gali region, Abkhaz police detained and then abused Temuri and Giorgi Morogoshias; they were later released.

Prison and Detention Center Conditions

The ombudsman and NGOs agreed that prison conditions remained poor, did not meet international standards, and may have worsened during the year. The UN, the ICRC, and many NGOs, including Human Rights Watch (HRW) continued to report inhumane and life-threatening prison conditions, including poor facilities, overcrowding, inadequate nutrition and health care, and the influence of criminal gangs. Most prison facilities lacked basic utilities and sanitary facilities. Abuse and extortion of prisoners and detainees by prison staff continued.

The December transfer of some of the prison population to a new 1,500 inmate prison in Kutaisi eased overcrowding in the region's prisons. A riot broke out among those prisoners transferred to the new prison, however, because water and electricity were not functioning when the prison opened. Services were operational within a week.

Conditions at pretrial detention facilities remained poor. During the year, however, the MOIA refurbished a facility in Tbilisi, installing new electric and heating systems.

A June parliamentary committee visit to Batumi Prison No. 3 found it at double its capacity. In one instance, 37 prisoners shared a cell intended for 12. Prisoners suffering from tuberculosis or hepatitis-C shared cells with healthy inmates.

The Thieves-in-Law, a powerful network of organized crime gangs, was prevalent in all prisons and routinely extorted payments called *obshiak* from fellow prisoners that were in turn used to bribe prison officials and judges. In the Gugeti prison colonies, prison officials refused to patrol at night for fear of assault from the Thieves. NGOs reported that many prisoners sought placement in punishment isolation cells in spite of their deplorable conditions, to evade the Thieves' influence. According to the ombudsman's office, refusal to cooperate with gangs provoked physical and psychological intimidation.

Payment of guards and prison staff salaries became more regular during the year, which reportedly decreased corruption. However, in June mounting NGO and ombudsman pressure culminated in the criminal investigation of Shota Kopadze, director of the penitentiary department of the MOJ, for alleged collaboration with the Thieves to extort and abuse prisoners; the ombudsman's office accused Kopadze of extorting over \$166 thousand (300 thousand GEL) *obshiak* from prisoners monthly. The ministry refused to dismiss Kopadze, although two prison administrators were subsequently arrested--one for extorting a bribe from a detainee's relative, and the other following an incident in which ombudsman and general prosecutor officials were harassed during a monitoring visit to the detention facility under his supervision. On December 22, President Saakashvili fired and replaced Kopadze with Deputy Public Defender Bacho Akhalaia.

NGOs reported violence among prisoners continued during the year.

The prison mortality rate reportedly improved, although human rights NGOs reported authorities kept official rates artificially low by releasing terminally ill prisoners or hospitalizing dying prisoners. Observers claimed deaths of prisoners without families usually went unreported. During the year there were 44 registered deaths in prison. In July Albert Zasaev committed suicide in Geguti prison. In October Zurab Tsintsadze committed suicide in Jail No. 9 in Khoni. In November the body of Paata Mamulia was found in the basement of Jail No. 1; another inmate was accused of killing Mamulia in a fight.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions and human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the government.

The MOJ penitentiary system monitoring council condemned the return of inmates from hospitals to prisons without required medical checks and requested investigations.

Following the September deaths of two inmates from airborne meningitis, NGOs and inmates' families expressed concern about the spread of the disease. Prison doctors claimed the prisoners were infected with a progressive neurological infection rather than meningitis. Local NGO Liberty Institute reported one of the inmates was transferred out of the hospital due to lack of resources for treatment; his family was prepared to cover costs but was uninformed of his transfer. An investigation into the incident continued at year's end.

After the deaths, 55 hospitalized inmates were transferred back to their prisons. However, NGO and media involvement resulted in the return of 25 inmates to the hospital. The ombudsman's office submitted a complaint with the general prosecutor's office regarding this incident.

The MOIA reported that no deaths occurred in pretrial detention facilities during the year. NGOs, however, reported that Giorgi Jhvania attempted suicide by hitting his head with a heavy object while being held in Zugdidi.

Juveniles were held in separate facilities; however, juveniles were rarely separated from other inmates in MOIA temporary detention facilities. Pretrial detainees were often kept with convicted prisoners due to overcrowding. For example the UN International Children's Fund (UNICEF) reported the pretrial detention of 17-year-old Aleko Kamushadze, who was held for eight months in cell with 30 men—among them convicted murderers and rapists.

NGOs reported that at least four prisoners were held in prison longer than their sentence required.

The ICRC had full access to detention facilities, including those in Abkhazia and South Ossetia, and the OSCE reported no serious problems in obtaining access to prisoners or detainees. The prosecutor office's human rights unit enjoyed free access to prisons to monitor conditions. Local human rights groups and members of the prison monitoring council reported sporadic difficulty in visiting detainees, particularly in cases with political overtones.

In November the justice minister announced the abolition of the monitoring board of civil society and NGO representatives. Board members called this action illegal and continued working through year's end. Board members had the right to pay unannounced visits to any prison facility. Only about 4 or 5 of the 20 monitoring board members were reportedly active, and prisoners were reluctant to speak with the monitors for fear of retribution. Monitors were not allowed to bring audio or video equipment with them to prisons to document prisoner injuries or specific objectionable prison conditions. An NGO monitoring board member noted that, in contrast to monitoring at police stations during initial questioning and detention, the monitoring of prisons was ineffective.

The UN expressed concern over the conditions of pretrial detainees and convicted prisoners in Abkhazia, including female prisoners, and especially the conditions on death row. In South Ossetia, the UN expressed concerns about detention conditions after visits to Tskhinvali Prison and the detention facility of the de facto Ministry of Interior.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus

The Ministry of Police and Public Order (MPPO) had primary responsibility for law enforcement. Since its creation out of a merger of ministries in December 2004, the MPPO continued to be commonly referred to as the Ministry of Internal Affairs (MOIA). During times of internal disorder the government may call on the MOIA or the military. The ministry controls the police, which are divided into functional departments as well as a separate, independently funded police protection department that provides security and protection to private businesses. During the year the MOIA abandoned its plan to reorganize the remaining three thousand lightly armed internal troops into a gendarmerie.

Public confidence in the police continued to increase during the year due to a reduction in corruption. A significant rise in the salary of police officers as well as regular payment of these salaries provided an incentive to police officers to refrain from ill treatment or abuse of detainees so as to not jeopardize their jobs. In April the patrol police, which was reformed in 2004, expanded its training.

Police officers were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. However, NGOs believed that the failure of the MOIA and the general prosecutor's office to systematically conduct investigations and pursue convictions of alleged abusers continued to foster a long-standing culture of impunity, particularly in regions outside Tbilisi.

In general officers were held accountable for abuses only in extreme cases, and the law limited detainees' ability to substantiate claims of such abuses (see section 1.e.). Many observers claimed that prosecutors were frequently reluctant to open a criminal case against police or they closed a case for lack of evidence. Human rights NGOs also believed that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the system.

According to the General Prosecutor's Office's Human Rights Protection Unit as of November, 188 criminal cases concerned with alleged ill treatment, abuse, or torture by law enforcement officers had been opened. Charges were brought against 25 law enforcement officers. At year's end 10 officers were serving prison terms for convictions made since the Rose Revolution.

The General Prosecutor's Office's Human Rights Protection Unit began issuing updates on the status of cases, trials, and investigations of human rights violations.

On May 5, Sergo Chachibaia, the former head of the Samgrelo criminal police, and Merab Tsaava, senior inspector of the Samgrelo organized crime unit, as well as three Samgrelo police officers, Rozman Gogenia, Ruben Kalandia, and Jemal Isoria, were convicted on various charges including repeated abuse of authority with the use of violence or a weapon, degradation of the personal dignity of a victim, and intentional unlawful arrest or detention. Chachibaia was sentenced to seven years, Tsaava to four years, and the three police officers each to three years' imprisonment.

On May 27, Senior Inspector K. Kesauri was sentenced to five years' imprisonment after being convicted for abuse of authority and intentional injury. On May 26, three police officers were convicted of repeated abuse of authority with the use of a weapon, degradation of personal dignity of a victim, and intentional injury; Gogi Kharebava was sentenced to five years' imprisonment. Ilia Nachkebia and Paata Jgharkava were sentenced to four years' imprisonment.

On May 31, Levan Levidze, the senior inspector in the MOIA criminal search agency was found guilty of abuse of authority and forgery and sentenced to six years' imprisonment. The prosecutor appealed the case and requested that Levidze be sentenced to eight years in prison.

Arrest and Detention

Under new legislation adopted in April, a person can only be arrested upon sufficient evidence and with a warrant. Judges issued warrants and detention orders; they could be obtained post facto and usually were. In practice police continued to detain people without warrants and to plant drugs or weapons in order to make an arrest. The prosecutor's office is the only body authorized to engage directly with the courts; previously, the MOIA could pressure judges into granting applications for wiretaps, search warrants, and arrest warrants.

The law provides for detainees to be charged within 72 hours, and those not charged within this period must be released; these rights were not fully observed in practice.

Under the April legislation, bail was introduced and is now preferred to pretrial detention. Before April bail was rarely used due to fear by judges of being subject to bribery accusations.

A detainee has the right to demand 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. According to the law, the defendant's attorney is appointed by the judge, although the defendant may move for a change in counsel. In reality the attorney selected to represent a defendant reportedly often only represented the state's interests. Also, prosecutors have more input into the process than they were legally allowed. Local police authorities limited lawyers' access to detainees. In practice there were not enough attorneys for the indigent (see section 1.e.). Due to supply and demand, defendants did not always receive an attorney. A pilot project set up two public defender's offices in the country. Attorneys were provided at public expense in these areas, which included Tbilisi.

Officers must notify detainees' families of their location as soon as possible; these rights were not fully observed in practice, and authorities frequently did not permit detainees to contact their families.

Monitoring by the ombudsman revealed that many detainees out of a group interviewed in August were not informed

of their rights.

On August 15, the Shida Kartli regional police and prosecutor's office detained 12 individuals suspected of illegal firearms possession for 12 hours and prevented access by lawyers and an ombudsman representative. NGO intervention resulted in the release of six although the police only officially registered four of the detainees.

There were no reports of political detainees.

Pretrial detention and house arrest are among six possible preventive measures to ensure suspects will appear at trial. Before new legislation was passed in April, three-month pretrial detention was always imposed, which could have been extended by three-month intervals up to nine months. In practice suspects were detained in pretrial detention much longer than legally permitted. The maximum pretrial detention period was also reduced by the new legislation from nine to four months. Decisions to remand or to prolong any pretrial detention must be appealed to a higher court. Under the new legislation, the overall maximum time period for trial and exhaustion of appeals to be completed was reduced from 30 to 12 months.

The UN noted that early in the year courts and prosecutors almost exclusively resorted to long pretrial detention regardless of the gravity of accused offense.

Abuse during pretrial detention decreased, while incidents of police abuse inflicted during arrest reportedly increased (see section 1.c.). In regions outside Tbilisi, abuse in pretrial detention facilities continued due to less frequent monitoring of pretrial detention facilities.

Abkhazian militia arrested at least a dozen Georgians in the administrative border region on charges of illegal woodcutting. Abkhaz authorities reportedly demanded \$5 thousand each (9 thousand GEL) in return for their release. The men were still in custody at year's end.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but the executive branch and powerful outside interests continued to pressure judicial authorities. Many NGOs complained that judicial authorities increasingly acted as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. NGOs expressed concerns that recent judicial appointees lacked experience and training to act independently. Moreover, the presence of presidential and executive branch appointees, as well as the prosecutor general, on the High Council of Justice (HCOJ), which among other things has the power to initiate disciplinary actions against a judge, had a crippling effect on judicial independence. 2004 constitutional amendments empowered the president to appoint or dismiss judges without parliamentary or other confirmation, severely limiting the independence of an already weak judiciary.

Reports of prosecutors directing investigations, supervising some judicial functions, and exerting disproportionate influence over judicial decisions decreased, although prosecutors continued to pressure judges for favorable rulings. According to April legislation, all defendants must now confirm in court any statements given while in pretrial detention; otherwise, the statements will not be accepted as evidence. NGOs reported that the amendment had little impact, due to either a detainee's fear of reprisal if a confession was not ratified in court or to the lack of public awareness of this protection.

Detainees were physically pressured in order to force them to extract information incriminating others.

In August Irakli Sioridze, a court officer of the MOJ, was detained on charges of exceeding authority. During an hour-long interrogation, several law enforcement officers reportedly beat and kicked him severely in order to force him to give incriminating evidence against Giorgi Usupashvili. According to Sioridze, the officers wanted him to sign a statement saying that Usupashvili had misappropriated \$111 thousand (200 thousand GEL). An investigation was opened into the abuse allegations. At year's end Sioridze was held in pretrial detention awaiting trial.

A July amendment to the criminal code increased the vulnerability of witnesses to improper police pressure. The amendment proscribes penalties of up to five years in prison for witnesses who change or retract their original statements to police. NGOs believed this made witnesses less likely to amend initial statements provided under police pressure to suit the police's interests.

According to law, the HCOJ is a self-governing body representing the judiciary that acts as an advisory body to the president, addressing issues affecting the judiciary's ability to function and administer justice efficiently. The council had 12 members, 4 chosen from within each branch of government. In December an amendment was adopted (for implementation in 2006) to increase HCOJ membership from 12 to 18 members.

The HCOJ administered a three-tiered court system comprised of regional/city courts, appellate courts, supreme courts of autonomous republics (which serve as appellate courts in the relevant territorial units), and the Supreme

Court. The system was reorganized pursuant to a July amendment to the law. At the lowest level are regional/city courts, which hear routine criminal, civil, and administrative law cases. At the next level are three appellate courts, which unlike their predecessors serve a purely appellate function. The Supreme Court acts as the court of final instance (or as a court of cassation); it no longer served additional functions.

A separate 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 interpreted its function in human rights cases narrowly, agreeing to rule only in 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, but juries were not used. The new criminal procedure code will introduce jury trials for the first time for certain grave crimes in 2006.

Defendants have the right to be present at their trial and to consult with an attorney, although the right to consult with an attorney was limited in practice. When a person is detained and not formally charged (a suspect), the right of attorney consultation is limited to one hour. After a person is formally charged with a crime (a defendant), the right is not limited in this manner.

The state-controlled bar association went unfunded and was defunct at year's end, effectively eliminating the provision of attorneys for detainees unable to afford counsel (the association previously assigned attorneys to indigent defendants based on the prosecutor's office recommendation). NGOs reported that in serious cases in which the law required the accused to be represented by counsel, prosecutors have pooled their personal money to pay for a defense attorney in order to move the case along. In practice the prosecutor's office not only had control over state-appointed lawyers, but it also influenced whether to grant a defendant's request to change lawyers.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. Defendants and their attorneys have access to the prosecution's evidence relevant to their cases. In practice the prosecution may not provide the defense with information until the day before trial. Defendants are presumed innocent and have the right to appeal.

Under some provisions, defendants could be tried in absentia.

Many of these rights were not enforced effectively due to the lack of judicial independence and prosecutor pressure.

Defense counsel is not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings.

An April briefing paper issued by HRW criticized the new plea bargaining system, noting it allowed law enforcement officers to cover up allegations of torture. Defendants agreed to officials' versions of events in allegations of police abuse, in exchange for promises of a lighter penalty. Officials also allegedly negotiated liberty for cash payments. While the law instructs judges to ensure that plea bargain arrangements are not coerced, both NGOs and the HRW report note that judges have confirmed plea bargain agreements that effectively eliminated the possibility of pursuing torture allegations. Members of the diplomatic community, local lawyers, and NGOs criticized the system, noting the opportunities for abuse afforded by a lack of checks and balances in the justice system. In response to the April HRW briefing paper and a subsequent October open letter, the parliament was reviewing two amendments to the criminal procedure code. The first would void any plea agreement infringing on the right of a person in any case of torture, inhumane, or degrading treatment, and the second would require the courts to confirm there was no such treatment by the police.

Political Prisoners

The parliamentary human rights committee and ombudsman claimed that there were no official political prisoners in the country; however, many individuals, including several high-ranking officials from the previous government, considered themselves political prisoners. International and local human rights organizations varied on estimates of how many political prisoners there were, reporting from none to 20.

Members of the former paramilitary group Mkhedrioni and the Zviadists were reportedly no longer being held. The remaining Zviadists were released pursuant to a routine pardoning commission recommendation and presidential approval.

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

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

Legislation 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. NGOs reported that in practice police conducted searches and occasionally monitored private telephone conversations without first obtaining court orders; the police often obtained the necessary warrant after the fact. NGOs reported that most people were unaware of their right to postpone a search of their home by one hour in order to summon an objective third party witness for the search. The government stated that security police and tax authorities entered homes and workplaces without prior legal sanction.

In Abkhazia teenage boys were frequently taken from their homes allegedly for forced conscription in the Abkhaz military. Some parents claimed that their sons were younger than 18 and thus too young for military service, while others claimed they paid ransoms for the release of their sons.

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

Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved, although ceasefires were in effect. Commonwealth of Independent States peacekeeping forces (in effect Russian peacekeepers) were present in Abkhazia. Russian, Ossetian, and Georgian forces participated in a Joint Peace Keeping Force in South Ossetia. Incidents of violence occurred in both Abkhazia, particularly in the Gali region, and in South Ossetia. These conflicts and the problems associated with the approximately 230 thousand internally displaced persons (IDPs) from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability.

The government had no effective control over Abkhazia or South Ossetia during the year.

In September artillery shells were fired at an apartment building in Tskhinvali, South Ossetia, injuring 10 people; both sides denied responsibility, and a joint peacekeeping force investigation was inconclusive.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. A human rights commission established by the unrecognized South Ossetian government was abolished in 2004 and replaced by a Plenipotentiary on Human Rights. Abkhaz de facto authorities continued to resist the establishment of a UNOMIG human rights office in Gali.

The situation in the Gali region of Abkhazia, where many ethnic Georgians live, remained tense as a result of incidents of kidnapping, arbitrary arrest, and deaths in custody. Systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots or ransom.

The new Abkhaz law on citizenship, which excludes the possibility of dual Abkhaz-Georgian citizenship, limited the rights of the ethnic Georgian population in Abkhazia.

In South Ossetia kidnapping was used reciprocally both as a way to secure release for captured compatriots and for ransom. In one instance, an ethnic Georgian child was kidnapped within the conflict zone and released after 99 days of captivity. A bounty was offered but went uncollected.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, there were some incidents of government obstruction.

In 2004 parliament adopted a law on freedom of speech and expression providing greater protection for journalists, including the right to protect sources, protection of whistleblowers, the right to conscientious abstention from story assignments, and the corresponding protection from persecution from their employing media establishment if a journalist declined to take an assignment. Additionally defamation as a criminal offence was officially abolished. Journalists were also legally able to tape using hidden microphones.

There were approximately 200 independent newspapers in circulation. During the year the print media frequently criticized senior government officials; however, few editorially independent newspapers were commercially viable. Typically newspapers were subsidized by and subject to the influence of patrons in politics and business. In addition lack of financial resources limited their circulation. In August the government unveiled an anticorruption action plan which called for an end of all direct and covert subsidies to the media; by year's end no action was taken on the plan.

Following the 2004 privatizations, there were seven independent television stations in Tbilisi, three with national coverage-- Public TV, Rustavi-2, and Imedi. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered daily news. A lack of advertising revenue often forced regional television to depend on local government officials for support.

Throughout the year newspapers continued to be critical of the government while broadcast media tended to avoid criticism of the government on high profile issues such as judicial reform, in order to protect their business interests. Some NGOs and independent analysts accused the government of pressuring the media to avoid broadcasting material critical of the government, especially regarding controversial or high profile issues.

Economic and political pressure on the media, in part encouraged by the general low profitability of media outlets, particularly of print media, resulted in decreased diversity of opinions and more coverage favorable to the government.

In June 79 domestic print and broadcast organizations issued an open letter addressed to the government and international community, which complained of government pressure on the media, especially television stations.

The international media were allowed to operate freely.

Despite new comprehensive laws providing for media freedom and journalist protection, journalists did not avail themselves of these protections and often were uninformed about them. NGOs believed that lack of experience and professionalism explained the media's apparent aversion to asserting their legal rights.

In July Mze TV canceled *Archevanis Zgvarze* (*On the Verge of Choice*), a popular television show often critical of government policy. The cancellation occurred shortly after an influential parliamentarian appeared on the show and criticized comments made by the program host. The government denied any connection with the cancellation.

In contrast to the previous year's absence of physical attacks, there were a number of physical attacks on media representatives, journalists, or their property.

In April a journalist from the newspaper *Imedi* in Kakheti alleged that Mikhail Kakalishvili, a member of the National Movement, assaulted her and forcefully destroyed a cassette. The journalist had earlier published stories critical of Member of Parliament (MP) Guram Kakalashvili, the brother of the alleged assailant. An investigation into the incident was pending at year's end.

In April journalist Saba Tsitsikashvili accused Mikheil Kareli, governor of the Shida Kartli region, of verbally and physically abusing him as he attempted to enter the village of Uplistsike to take photos of flood damage. On December 30, Tsitsikashvili filed suit against Kareli alleging illegal interference with the professional activities of a journalist. In a separate incident on September 6, Tsitsikashvili was attacked in Gori; he claimed the attack was retaliation for critical articles he wrote about the mayor of Gori. Police subsequently arrested the assailant, whom Tsitsikashvili identified in a line-up as a relative of one of the mayor's bodyguards.

Spektr, a newspaper in eastern Kakheti, alleged that copies of its newspapers disappeared from stores in April after it published articles critical of the local government; Kakheti officials denied any involvement. In June the editor of *Spektr*, Gela Mtvlishvili, accused Tengiz Benzhanishvili, the mayor of Signagi and the subject of a series of articles on corruption, of threatening her and her children.

In July unknown assailants threw a hand grenade that exploded in the yard of the newspaper *Spektr* editor. In November another grenade exploded in Mtvlishvili's yard. Local police closed an investigation into the harassment due to Mtvlishvili's reported unwillingness to cooperate with investigators.

In August hidden cameras captured Shalva Ramishvili accepting \$30 thousand (54 thousand GEL) from Koba Bekauri, an MP and National Movement party member. Ramishvili was the co-owner and general director of Television Station 202, as well as host of *Debates*, the last remaining politically focused talk show at that time that was willing to feature figures that criticized the government. Police said Ramishvili was accused of extorting a total of \$100 thousand (180 thousand GEL) from Bekauri in exchange for not broadcasting a compromising film about the MP. Ramishvili and 202 co-owner David Kokhreidze were both jailed; they claimed the incident was a "sting operation" and part of a report on Bekauri's business dealings. The government hailed the arrests as part of its crackdown on corruption; a trial was pending at year's end.

On December 1, the governor of Imereti, Akaki Bobokhidze, reportedly severely beat journalist Irakli Imnaishvili after a televised debate. On December 7, a group of national journalists issued an appeal to the international community to persuade the government to open an investigation, which the prosecutor's office did by year's end. Bobokhidze submitted a letter of resignation but remained in office.

In December 2004 the State Monopoly Service of Georgia asked television stations Imedi and Kavkasia to suspend

community announcements against the use of torture, sponsored by the European Commission and the FPPHR, a move allegedly to restrict public debate about police use of torture. The stations suspended the advertisements until late January, when, after meetings between all parties involved, the NGO received a letter from the monopoly service clarifying it did not ban the announcements, but recommended they not be aired. The community announcements were re-aired.

Self-censorship was still common as journalists feared losing their jobs.

A few journalists claimed they were denied access to public briefings. Radio Liberty's local bureau reported trouble interacting with the defense ministry. In September Koba Liklikadze, a defense affairs reporter for Radio Liberty, said he was denied an interview with a defense ministry official. According to Likikadze, defense ministry press secretary Nana Intskerveli said he was a "problematic journalist" and was no longer welcome at the defense ministry. Military expert and journalist Irakly Aladashvili also was denied access to the defense ministry. Liklikadze and Aladashvili were also both denied access to defense ministry press events hosted by foreign embassies. Journalists complained that it was difficult to obtain information from the MOIA as well as from state energy distribution companies.

Unlike the previous year, the government did not use financial pressure to influence media and there were no reports of harassment from state tax authorities.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by their respective de facto governments.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, the police were blamed in at least four instances for forcefully dispersing a peaceful protest.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Most permits for assemblies were granted although the government has the legal right to disperse any assembly that is "a disruption of the public order;" no mechanism is designated to determine what constitutes such a disruption.

In February a protest by students objecting to the detention of the rector of the university in Akhaltsike was forcefully dispersed by law enforcement. Police detained the leaders of the protest. Later, the police declined to punish the protesters after the ombudsman's office intervened, declaring the government should be more patient towards peaceful meetings and assemblies.

On March 14, police dispersed a demonstration of medical students protesting the new law on higher education. Although students complained of excessive force, no injuries were reported.

On June 30, special forces disbursed a street demonstration in protest of a district court decision to put two well-known wrestlers accused of extortion into pretrial detention; opposition leaders in the crowd claimed injuries at the hands of special forces.

In August the patrol police used force to disperse a protest by residents of the western village of Chiatura who were seeking compensation for mining-related damage to their homes.

Reports indicated that activists beaten and apprehended in the 2004 protest of Zaza Ambroladze's detention served administrative detention and were subsequently released.

Reports indicated that all 11 persons violently beaten and detained by police in the 2004 Batumi central market protest served administrative detention and were released.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination.

c. Freedom of Religion

The law provides for freedom of religion; however, in practice local authorities sometimes restricted or were hostile to the rights of members of nontraditional religious minority groups.

The law recognizes the special role of the Georgian Orthodox Church (GOC) in the country's history but stipulates the separation of church and state. A constitutional agreement (Concordat) signed by the president and the Georgian Orthodox patriarch gives the GOC legal status and states that, with the consent of the GOC, the government can issue permits or licenses for the use of official symbols and terminology of the GOC, as well as for the production, import, and distribution of worship articles. The tax code grants tax exemptions only for the GOC.

In December numerous MPs objected strongly to a report by the ombudsman calling for equal recognition under the law for all religions. The MPs stated that the historical position of the GOC justified its privileged position.

Before a registration process for religious groups was established by parliament in April, religious groups were required to register as public entities, but the law provided no mechanism for such registration and stipulated a fine for any unregistered religion. Religious groups may now register as local associations ("unions") or foundations. An association is based on membership (a minimum of 5 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. In both cases, registration is granted by the MOJ. Registration must be granted or denied within 15 days of application. Refusal may be appealed in court.

The MOJ approved the first applications filed under the new registration process. Both the Foundation of the Church of Jesus Christ of Latter Day Saints and the Seventh Day Adventists received their approvals in less time than the period allowed by law. Some religious communities were dissatisfied with the status that registering under the law provided. The Catholic Church and Armenian Apostolic Church as well as Muslims opposed registering, short of registering as a religious body, and continued to object to the GOC's preferred status.

In some cases local authorities declined to recognize the validity of building permits for minority religions.

While less harassment was reported during the year, representatives of minority religion continued to report intimidation from local government authorities and obstructions to constructing worship halls. The Catholic Church, True Orthodox Church, Baptists, Armenian Apostolic Church, and other Protestant denominations had difficulty in building churches during the year.

Reports of violence against minority religious groups continued to decrease, but several groups reported intimidation by local authorities as well as by citizens. They reported that the government, particularly law enforcement personnel, failed to respond adequately and sometimes even cooperated in attacks, which consequently became more aggressive. Investigations into attacks on followers of minority religions were not pursued vigorously.

In August a large and vocal protest at the Vatican embassy by a GOC parents group objecting to perceived proselytizing by the Catholic Church continued for two days. Police did not disperse the protesters even when objects were thrown at the embassy.

A law separating state schools and religious teaching was also adopted in April. This narrows the interpretation of the GOC Concordat regarding teaching Orthodoxy as an elective part of the school curriculum. The new law stated that such Orthodox teaching may only take place after school hours and cannot be controlled by the school or teachers. Also, outsiders, including clergy, cannot regularly attend or direct student extracurricular activities, student clubs, or their meetings. Such classes were taught by lay theologians rather than priests.

The Ministry of Education (MOE) offered students the opportunity to take a "Religion and Culture" class, which covered the history of major religions. Many parents complained teachers focused solely on the GOC. The GOC has a consultative role in all curriculum development, although there was no textbook for "Religion and Culture."

Religious minorities broadly welcomed the changes to school religious education, although they observed along with NGOs that practice did not always keep pace with the law.

On January 22, the MOE and the GOC patriarchate signed a joint memorandum reaffirming their cooperation in the field of education. The memorandum created a joint working group to develop curriculum, choose teachers, and publish material for teaching Orthodox Christianity. The MOE offered to assist the church financially in its education projects and institutions and to include the church in the development of new material for religious education. No other religious groups were afforded these privileges. This education was not part of school programs or extracurricular activities, but was offered only upon request outside of schools, similar to "Sunday school."

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed or given to the GOC during the Soviet period. The Jewish community also experienced delays in the return of property confiscated during Soviet rule, including a former synagogue that a 2001 supreme court ruling instructed the government to return.

Societal Abuses and Discrimination

Judaism is practiced in a number of communities throughout the country, particularly in the largest cities, Tbilisi and Kutaisi. There were approximately four thousand Jews remaining in the country; many emigrated in the early 1970s and during *perestroika* in the late 1980s. The Jewish communities reported they encountered few societal problems. There was no historical pattern of anti-Semitism in the country, nor were there any reported incidents of harassment during the year.

Despite a general tolerance toward minority religious groups traditional to the country--including Catholics, Armenian Apostolic Christians, Jews, and Muslims--citizens remained very apprehensive towards Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership through providing economic assistance to converts. Some members of the GOC and the public viewed non-Orthodox religious groups, particularly nontraditional groups or sects, as a threat to the national church and the country's cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Reputable and repeated public opinion polls indicated that a majority of citizens believed minority or nontraditional religious groups were detrimental to the country and that prohibition and outright violence against such groups would be acceptable to control them.

On January 31, defrocked Orthodox priest Father Basil Mkalavishvili was sentenced to six years' imprisonment on a number of counts related to his inciting and conducting religiously motivated violence. His deputy Petre Ivanidze and follower Merab Koroshinadze were given four- and one-year prison terms, respectively; four others received suspended sentences. The criminal case against Mkalavishvili, whose followers engaged in a number of violent attacks on nontraditional religious minorities, had been under way since 2000.

The conservative Orthodox group Society of David the Builder became active in harassing liberal activists within the GOC.

In March neighbors of a Seventh-Day Adventists' worship hall in Rustavi threatened to burn it down if the Adventists held a planned conference. Police only agreed to prevent disruptions to the conference after NGO involvement. During the conference, however, a woman entered the church and verbally harassed the congregation. In a televised report about the incident, GOC priest Zurab Tskhovrebadze warned against Adventists and implied that the religion was un-Christian.

On April 1, members of the Jehovah's Witnesses requested permission to use the Tbilisi Sports Palace for a two-day religious convention for up to five thousand persons. On April 18, the management of the Sports Palace responded that they would only be willing to accommodate such a convention if Jehovah's Witnesses obtained a guarantee from the state to provide security. Private companies usually provide security for such events, and representatives of the Jehovah's Witnesses complained it was a discriminatory demand. Instead, the Jehovah's Witnesses held the conference on their own property in Marneuli without disturbance.

The Russian-language congregation led by Pentecostal pastor Nikolai Kalutsky was subject to many mob attacks, most recently blockades of attempted church services at his home in April. The police did little to protect his church or prosecute those responsible for the attacks. In May the constitutional court ruled that Kalutsky's rights to practice his faith freely were violated by attacks. The MOJ and ombudsman agreed to assist the congregation in finding a new building for services.

Also in May Gaioz Shvangiradze and Ia Bagatelia, leaders of a Pentecostal church that meets in a private home in Orsantia village in Zugdidi district, were summoned by the head of the village administration, Murman Khazalia. Khazalia demanded to see their identity documents and proof of their right to hold services (no such official document exists or is required). He banned services until they could produce the documents and threatened to call in the police and representatives of the GOC. When Khazalia stepped down from his position for health reasons, the services resumed.

In June renovations to a Jehovah's Witnesses' meeting house in Kutaisi were halted due to attacks by angry neighbors. Victims in the attacks filed criminal complaints with authorities. Police were initially unresponsive to calls from the Jehovah's Witnesses reporting the attack, but an investigation was under way and pending at year's end. These attacks were accompanied by specific verbal threats against the Jehovah's Witnesses. Renovations to the meeting house were still halted at year's end. At about the same time as the attacks at the renovation site, the Jehovah's Witnesses were able to conduct a regular congress in the city without incident.

In October the prosecutor's office's monthly report on promoting human rights noted 11 investigations based on religiously motivated attacks, 3 of which were related to the June incidents in Kutaisi. One indictment was submitted to court.

Regular and reliable information about South Ossetia and Abkhazia was difficult to obtain. Former Abkhaz president Vladislav Ardzinba's 1995 decree banning Jehovah's Witnesses in the region remained in effect, but was not enforced.

Although Baptists, Lutherans, and Catholics also reported they were allowed to operate in Abkhazia, the GOC reported it was not able to operate. The GOC patriarchate expressed concern over Russian Orthodox Church (ROC) support of separatism in the region by subsidizing Web sites that encourage secessionist sentiments. The GOC patriarchate also complained that despite the fact that the ROC recognizes Abkhazia as part of Georgia, the Moscow Theological Seminary trained Abkhaz priests and the ROC sent in priests loyal to Moscow, under the pretext of setting up indigenous Abkhaz churches.

Several property disputes between the GOC and the Armenian Apostolic Church continued at year's end.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice. Freedom of movement was restricted by the de facto authorities in the separatist regions of Abkhazia and South Ossetia. Police checkpoints often obstructed citizens' internal movement in these regions.

A new Abkhaz citizenship law allowed dual Russian-Abkhaz citizenship but not dual Georgian-Abkhaz citizenship. As a result, ethnic Georgians in the separatist region must relinquish their Georgian passport to vote or participate in the political process. If they want to travel abroad, ethnic Georgians then must obtain a Russian passport.

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

In 1999 a presidential decree was issued to repatriate and rehabilitate approximately 275 thousand Meskhetian Turks relocated during the Soviet period. A governmental commission set up in March by the president worked to determine the exact number of displaced Meskhetians and consider potential places for repatriation in the country. The commission's chairman visited Armenian-populated areas in the Samaske-Javakheti region where most Meskhetians historically resided, although the Armenian community there opposed Meskhetian repatriation. There were no new repatriations during the year.

Abkhaz militia conducted searches of local populations and erected border checkpoints in the villages of Kvemo Bargebi in June, Nabakevi in November, and Zemo Bargebi in December. Money and valuables were extorted from ethnic Georgians on the pretext that they violated identity document requirements.

Internally Displaced Persons (IDPs)

There were approximately 245 thousand persons displaced at year's end due to conflicts in the separatist regions of Abkhazia and South Ossetia, as well as hostilities in Chechnya. IDPs occupied collective centers in hotels, hospitals, and other civil buildings in Tbilisi, or lived in private homes with relatives or friends throughout the country, particularly concentrated in Tbilisi, Zugdidi, and Gori. The UN High Commissioner for Refugees (UNHCR) reported that collective centers were not well adapted to serve as homes. In October the government provided housing vouchers based on the average market value of homes in the area to 126 IDPs housed in a Kutaisi hospital's tuberculosis ward in close proximity with patients. During the year a fire at a collective center killed one IDP.

The Abkhaz separatist regime continued to prevent repatriation of the approximately 230 thousand IDPs previously driven from the region, despite a 1994 agreement between itself, Georgia, Russian, and the UNHCR. Also, the Abkhaz de facto authorities did not allow the opening of a human rights office in Gali which would help build confidence for refugee return, despite an agreement to do so. The de facto South Ossetian authorities continued to obstruct repatriation of 12,767 ethnic Georgians to the region.

Protection of Refugees

The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There were over two thousand registered refugees from Chechnya in the country. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. International humanitarian organizations assistance to refugees in the Pankisi Valley was sporadic. Chechen refugees remained vulnerable to abuse, including police harassment and threats of *refoulement*.

The majority of the Chechen refugees lived with the local Kist (ethnic Chechens from Georgia) population; only 15 percent were sheltered in communal centers. In December one hundred Chechen refugees returned to Chechnya.

According to the ombudsman's office, in March two Kists, both Russian citizens, went to the Ministry of Refugees and Housing in Tbilisi seeking asylum. The MOIA arrested them and transported them to the Azerbaijani border, where authorities reportedly refused them entry unless they agreed to return to Russia. The men spent several weeks in the neutral zone between the Georgian and Azerbaijani borders before returning to Georgia. The Ministry of Refugees and Housing eventually gave the two Kists asylum status.

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, and citizens exercised this right through periodic elections, held on the basis of universal suffrage. Irregularities in the November 2003 parliamentary elections led to peaceful mass protests, which resulted in former president Shevardnadze's resignation in November 2003. The supreme court subsequently annulled the results of the November 2003 parliamentary contests. In January 2004 Mikheil Saakashvili was elected president in the constitutionally mandated presidential election, and parliamentary elections were held in March of that year.

According to international observers and civil society groups, the February 2004 constitutional amendments that strengthened the power of the executive did so at the expense of the parliament and the judiciary.

A new Abkhaz citizenship law adopted in the fall did not allow dual Georgian-Abkhaz citizenship. As a result ethnic Georgians in the separatist region had to relinquish their Georgian passport to vote or participate in the political process. If they wanted to travel abroad, ethnic Georgians had to obtain a Russian passport.

Elections and Political Participation

The OSCE reported that the January 2004 presidential election demonstrated notable progress, although time constraints limited administrative improvements since previous elections. The OSCE noted a continued lack of separation between state administration and political party structures and the tendency to misuse state administration resources. The voter register also continued to be incomplete and sometimes inaccurate. While the OSCE reported the voting process itself was excellent in the majority of regions, there were significant irregularities in Kvemo Kartli, and the worst irregularities were recorded in Ajara, where no pre-election registration was conducted and little to no campaigning occurred.

International observers deemed the March 2004 parliamentary elections the most democratic since independence, with voter registration procedures further improved, including the addition of a consolidated computerized database; however, there continued to be a lack of political balance and independence in election commissions. During the election, international observers noticed a number of irregularities, including campaign material on display in several polling stations, implausible voter turnout in certain regions, and an unusually high percentage of invalid votes. Significant voting irregularities again took place in Kvemo Kartli.

On October 1, parliamentary by-elections for five open seats were held and the ruling National Movement party won all five seats. Local NGOs, including the International Society for Fair Elections and Democracy (ISFED) (which had observers at all polling stations), considered the by-elections to be generally fair, despite continuing problems including inaccurate voter lists and a lack of tamper proof ballot boxes.

In April the government adopted a new law to address criticisms surrounding the composition of the Central Election Commission (CEC), the goal of which was to replace politically appointed CEC members with professionals. Previously, the CEC was staffed with political party members by quota, which led to its politicization. However, the new law does not define professionalism, how candidates will be screened, nor how a selection committee will be formed. NGOs and opposition groups criticized the law for purportedly consolidating power over the election process in the hands of the president, who, according to the new law, appoints all members of the CEC selection commission. In June the new CEC chairman and members were confirmed by parliament. ISFED criticized the lack of transparency in the selection process and the ambiguity of the selection criteria. ISFED also noted that the government did little to publicize the competition for CEC members, rushed the selection process, and failed to define the criteria by which candidates were narrowed down or how many candidates were presented to the president. According to the law, the selection commission presents the president with two to five candidates for each vacant position. The president then chooses two candidates to nominate, after which parliament confirms one. Under the new law, only a simple majority is needed to confirm the CEC chairperson, as well as the other CEC members.

International organizations, including the UN and the OSCE, as well as the government did not recognize the October 2004 Abkhaz presidential elections or the repeat presidential elections in January.

There were no government restrictions on political party formation beyond registration requirements; according to the MOJ Registration and Licensing Department, there were 185 registered political parties. The government denied the

Republican Party's registration to participate in the October by-elections. The party claimed the CEC had improperly prevented the party's participation in the by-elections, while the CEC claimed the Republican Party failed to properly complete the registration process. The CEC further noted that all other opposition parties had complied with the registration process.

An investigation into a July violent attack on opposition MP Valeri Gelashvili in Tbilisi continued. Armed and masked men attacked Gelashvili's car as he, his bodyguard, and a business associate were traveling on a main street during a weekday afternoon. Gelashvili was severely beaten in the face and head with gunstocks; the other two people in car were struck but did not require hospitalization. Opposition leaders and the media immediately speculated that the attack was politically motivated, since Gelashvili had been involved in a long running dispute with the government over being paid for work his construction company did on a new presidential residence; no valuables from the victims, nor the car itself, were taken to indicate robbery was a motivation.

There were 21 women in the 235-seat parliament. The speaker of parliament, Nino Burjanadze, was a woman. The majority head of parliament was also a woman, and women held important committee chairmanships.

There were 8 members of minority groups (5 Armenians and 3 Azeris) in the parliament.

Government Corruption and Transparency

Government corruption continued to decrease in the executive branch, but remained widespread in the judicial branch and in some law enforcement agencies. During the year most government officials continued to receive salaries in a timely manner, reducing corruption significantly.

On June 28, the head of the Tbilisi city tax department and seven other officials were arrested on corruption charges. Minister of Finance Valeri Chechelashvili subsequently resigned on June 30 amid criticism from the president for weak oversight and control. In a 6-month period during the year, over 60 police officers were charged with corruption, in addition to 3 mayors and 6 prosecutors. The government fired 15 judges who were caught on videotape accepting bribes.

In August the State Minister for Reforms Coordination unveiled an anticorruption action plan, requiring elected officials to disclose their financial holdings; the action plan was not yet implemented by the end of the year.

The law provides for public access to government meetings and documents; however, the government usually did not provide access. The government often failed to register freedom of information act requests. 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.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While some NGOs enjoyed free access and close cooperation with the government, others complained of discrimination from government members.

The government maintained a constructive relationship with several NGOs, although it restricted government access to others.

A pre-Rose Revolution law providing for the Ministry of Finance to access the funding records of international NGOs was not adopted; no NGOs complained of the government implementing this provision.

The UNHCR and the OSCE operated sporadically in the separatist conflict areas due to poor security conditions but provided periodic findings, reports, and recommendations.

NGOs viewed the Office of the Public Defender, or ombudsman, as the most objective of the government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuses. The parliamentary Committee on Human Rights and Civil Integration, the MOIA's human rights division, as well as the national security council's human rights advisor, also had a mandate to investigate claims of abuse. The prosecutor general office's human rights unit focused on curbing pretrial detention abuses and trafficking in persons. By statute the prosecutor general is charged with protection of human rights and fundamental freedoms--the human rights protection unit is the reporting and monitoring arm of the legal department and has no independent investigative powers.

In June an ombudsman official visited Prison No. 7 to interview a detainee who alleged abuse by prison administrators, accompanied by a general prosecutor representative, as is customary. During the visit, police forcibly

confiscated a video camera, assaulted and locked both officials in a room, and damaged police property in an attempt to create evidence to show a provocation on the part of the ombudsman representative. As a result of a criminal case opened by the prosecutor general, the deputy director of the prison was arrested and the director of the prison was held in pretrial detention in his own prison. NGOs reported he still actively served as director, returning to his cell only when visitors were present.

The FPPHR was denied access to detention facilities. In December 2004 community announcements about police torture prepared by FPPHR were pulled from all television channels. Television representatives claimed that the advertisements were removed on the order of the Ministry of Security. The ministry claimed it merely gave a recommendation and left the choice to the channels (see section 2.a.).

The UNCHR office in Sukhumi continued to monitor the human rights climate in Abkhazia and to visit detention facilities in the region. Despite increasing concerns about the deteriorating situation in Gali, the de facto Abkhaz authorities continued to resist opening a UNOMIG human rights branch office in that area. In addition the de facto authorities still failed to implement UNOMIG's recommendations endorsed by the UN Security Council to permit education of local youth in their native Georgian language and to permit deployment of UNOMIG civilian police officers in the Gali area.

Section 5 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 provisions effectively.

Women

Violence against women was a problem. There are no laws that specifically criminalize domestic violence. Domestic violence was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos and because it is not illegal. In 2003, 795 crimes were registered against women. A local NGO operated a shelter for abused women, although services were limited due to a lack of facilities. The government operated a hot line for abused women but did not provide other services.

Rape, including spousal rape, is illegal. A first time offender may be imprisoned for up to 7 years; a repeat offender or perpetrator against multiple victims may receive up to 10 years; factors such as if the victim was pregnant, contracted HIV/AIDS, or subjected to extreme violence, demand up to 15 years; and if the victim was a minor, up to 20 years. The MOIA reported 141 cases of rape and attempted rape during the year. Observers believed many instances of rape went underreported due to social stigmas for victims. Police did not always investigate reports of rape. There was a hotline for victims.

The kidnapping of women for marriage occurred, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times abductions occurred against the will of the intended bride and involved rape. Police rarely took action in these cases even though the law criminalizes kidnapping.

Prostitution is a criminal offense but was widespread, especially in Tbilisi. Several NGOs claimed that prostitution increased during the year due to continuing poor economic conditions.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

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

The law provides for the equality of men and women; however, in practice this was not enforced. NGOs reported that discrimination against women in the workplace exists but instances were never reported. The speaker of parliament set up a Gender Equity Council including MPs, as well as representatives from the executive branch, the ombudsman's office, and NGOs. A government commission on gender equality was established under the prime minister to implement relevant policies.

Women's access to the labor market improved; however, women remained primarily confined to low-paying and low-skilled positions, regardless of professional and academic qualifications, and salaries for women lagged behind those for men. As a result, many women sought employment abroad. According to the UN Development Program (UNDP), employers frequently withheld benefits connected to pregnancy and childbirth. Five servicewomen claimed they were discharged from the armed forces while on maternity leave, despite a law that prohibits dismissal from employment of pregnant women and women with children under the age of three. A lawsuit was filed in April and was pending at year's end.

Children

The law provides for the protection of children's rights and welfare, although funding shortages limited government services.

Primary and basic education is compulsory from age 6 or 7 to age 14, and provided up to age 16 (a total of 11 years). UNICEF estimated primary school enrollment at 91 percent in 2003 and secondary school enrollment at 79 percent in 2002, and most children attended school. Education was officially free through high school, but in practice a lack of resources inhibited schools functioning continually and affected the quality of education in some areas. School facilities were inadequate and lacked heating, libraries, and blackboards. Most parents were obliged to pay some form of tuition or teachers' salaries, which otherwise went unpaid. However, 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."

In June the MOE implemented a series of examinations to determine eligibility to enter university, in an effort to combat endemic bribery previously necessary to ensure acceptances, recommendations, and good grades. Officials believed up to \$30 million (54 million GEL) were spent on bribes annually, more than the country's entire education budget. The exams were uniformly praised for eliminating rampant corruption in the university enrollment process. Parent-teacher supervisory boards were established at secondary schools, providing better oversight of school management.

Free health care was available for children up to age four.

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. Child abuse other than sexual abuse is not specifically criminalized.

Incidents of sexual exploitation of children, especially among girls, were reported. Child prostitution and pornography are punishable by up to three years' imprisonment. The MOIA sponsored a center for the rehabilitation of minors, which regularly provided medical and psychological assistance to child and adolescent victims of prostitution before returning them to guardians.

There were unconfirmed reports of trafficking in children (see section 5, Trafficking). Street children and children living in orphanages were reportedly particularly vulnerable to trafficking.

Difficult economic conditions broke up some families and increased the number of street children. NGOs estimated that there were approximately 1,500 street children between 3 and 15 years old in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the government to provide support. The private voluntary organization Child and Environment and the MOE each operated a shelter in Tbilisi; however, the two shelters could accommodate only a small number of street children. The government took little other action to assist street children. There were unconfirmed reports of police violence against street children, but the patrol police routinely transferred street children to a 24-hour care center or orphanage.

Orphanages were unable to provide adequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. Staff wages, which had been poor and often many months in arrears, were increased and paid on a more regular basis. Due to reported mismanagement of resources, staff members often diverted money and supplies provided to the orphanages for personal use.

In August the ombudsman's office reported that corrupt practices led to unsanitary conditions at the Gldani orphanage in Tbilisi. Management reportedly purchased inferior products and skimmed from employee salaries. Children lacked clothes, food, toothbrushes, blankets, and other necessities, and the first floor of the orphanage was flooded due to plumbing problems. By year's end the orphanage had been repaired, but reports of financial mismanagement persisted.

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

Trafficking in Persons

Although the law prohibits trafficking in persons, the country was a source, transit point, and destination for trafficked persons. There was evidence that local officials facilitated trafficking.

The law prohibits trafficking in persons, including minors, for the purposes of sexual, labor, and other forms of exploitation. The basic penalty is from 5 to 12 years' imprisonment, with maximum penalties of 20 years for aggravated circumstances. A memorandum of understanding between the prosecutor general's office and the Ministry

of State Security allowed greater cooperation, joint operations, and a number of arrests and charges under trafficking statutes. During the year there were 24 criminal investigations on trafficking in persons; charges were pressed in 11 cases. Eight cases were brought to trial resulting in six convictions.

On January 3, a new antitrafficking and illegal migration unit (ATIM) was created within the MOIA. In its first year of existence, the ATIM made arrests in five trafficking cases, one of which included a government official.

In January the new ATIM arrested Georgian members of an international trafficking operation, involving Georgia, Turkey, and Azerbaijan, which had actively recruited impoverished women. Women were sent to Azerbaijan where they were confined, injected with drugs, and sexually abused before being trafficked back through Georgia to Turkey for forced prostitution. Victims were eventually returned to Tbilisi after their Turkish tourist visas expired. The local leader of the operation was incarcerated pending prosecution, and the case continued at year's end.

Also in January the ATIM arrested an individual in connection with the internal trafficking and enslavement of Giorgi Brevadze. Brevadze, an engineer by education, was held by the Chikadua family in Svaneti for approximately a year and a half for forced labor and then sold to a cousin for \$200 (360 GEL).

During the year MOIA representatives from the Department for Combating Trafficking and Illegal Migration detained Ivlika Djavakhishvili and Nanuli Kendadze, a maternity hospital employee, on charges of child trafficking. In Kutaisi, MOIA representatives detained Laura Obladze, Liana Kovzadze, and Zaira Areladze--also employees of local maternity hospitals--on charges of child trafficking. Investigations by the general prosecutor's office in both cases were under way at year's end.

Ashot Hovhannesian, charged in 2004 with organizing a trafficking network and seeking to traffic 14 Uzbek women to Dubai, was sentenced to five years' imprisonment. The sentence was suspended due to many victims' unwillingness to testify.

On February 1, President Saakashvili established an Interagency Commission against Trafficking (ICAT) under the auspices of the NSC. International organizations and NGOs were also invited to participate. The human rights unit of the NSC was responsible for monitoring the overall trafficking situation in the country. On November 29, the president appointed the prosecutor general to be ICAT chairman. The prosecutor's office has the responsibility to monitor trafficking cases.

The country cooperated with other countries in the region to uncover trafficking rings and assisted in the repatriation of trafficked persons discovered in transit through the country.

The extent of trafficking was not large, and the country was primarily a transit country, country of origin, and very rarely a destination, for trafficked persons. Women were trafficked from the country to Turkey, Greece, the United Arab Emirates, the US, and Western Europe to work in hotels, bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Ukrainian and Uzbek women, as well as women from other countries of the former Soviet Union, were trafficked through the country to Turkey, sometimes using fraudulently obtained passports. Georgian victims most likely came directly from Tbilisi or the impoverished former industrial centers of Poti, Kutaisi, and Rustavi. Local NGOs reported that men were trafficked to Russia, Greece, Spain, Portugal, and other destinations to work in construction, agriculture, and manual labor. Children were seldom trafficking victims, although street children and children living in orphanages were allegedly particularly vulnerable. During the year trafficking cases indicated IDPs were a particular target for traffickers. Conditions for trafficked laborers and prostitutes were extremely poor.

Traffickers were largely freelance domestic operators with connections abroad, as well as some small international operations.

Traffickers often used offers of employment from friends and families to lure potential victims. Overseas jobs offered through tourism firms or employment agencies were also methods, but during the year it did not appear that employment agencies were aware that they were fronting for traffickers.

There was evidence of certain individual government officials' involvement in trafficking. In February two government officials, David Kobakhidze and Giorgi Amilakhvair, heads of the Ambrolauri and Zestponi passport agencies, were arrested and charged with misuse of authority, fraud, and facilitation of trafficking; an investigation continued at year's end.

The MOIA made numerous public statements that victims of trafficking would not be held liable for their crimes associated with having been trafficked, such as illegal border crossing, if they provided significant information about the crime of trafficking. No victims were prosecuted for violations committed while they were trafficked.

There were no government programs to help victims; however, the government referred victims to several NGOs that provided assistance to victims. The government also provided manpower and facilities to NGOs, although it did not

contribute financial resources to victim assistance. The IOM provided repatriation assistance. One internationally funded NGO operated a trafficking hot line that offered psychological support and assistance, although only a small percentage of the callers identified themselves as trafficking victims. The IOM operated three hot lines.

The government did not conduct any large-scale public awareness campaigns during the year, although it cooperated with multiple NGOs which continued to provide informational brochures and local television public announcement campaigns.

A government action plan incorporated educational and informational activities, informational materials for the public on legitimate overseas employment, special training for target groups (including social workers, law enforcement officials, and judges), and a civic education curriculum.

Persons with Disabilities

The law prohibited discrimination against persons with disabilities, although in practice the issue 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 against persons with disabilities existed. There is no law or official provision mandating access to buildings for persons with disabilities and very few, if any, public facilities or buildings were accessible.

In June a group of disabled children in wheelchairs were refused entry to a restaurant in Mtskheta. The children were offered admission to the restaurant after the intervention of the president's representative to the region (a position similar to a de facto governor or mayor). The general prosecutor and MOIA announced an investigation of the incident. NGOs reported no one was held accountable.

A report issued jointly by the ombudsman and the health minister found that conditions at the Gldani psychiatric hospital were substandard. The report's primary concerns included lack of proper equipment, medicine, and heat.

National/Racial/Ethnic Minorities

The government generally respected the rights of ethnic minorities in nonconflict areas but limited self-government. The law stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian. New requirements for serving on the CEC mandated that a candidate must speak Georgian, thereby effectively excluding many citizens who do not speak the language. Some government materials distributed to the public were only available in the Georgian language.

Ethnic Georgians living in the Gali region of Abkhazia had no access to education in the Georgian language.

In March in the Tsalka region, ethnic tensions flared after a violent attack upon a Greek family. The family claimed that police were unresponsive to the incident. Tsalka Greeks in general complained of persecution by Georgians resettled from Svaneti and Ajara, mostly manifested in robberies; while there was an ethnic dimension to the situation, it was difficult to ascertain whether ethnic or criminal factors were the key motivations behind these acts. Observers also noted that a lack of resources for adequate policing in the region contributed to the problem.

Other Societal Abuses and Discrimination

The law expressly prohibits discrimination on the basis of HIV/AIDS status; however, there is no penalty for violating this prohibition. NGOs reported societal stigmas that resulted in individuals avoiding testing or obtaining health care for fear of discrimination. Some health care providers, especially 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. The MOIA conducted mandatory testing on all job applicants.

Section 6 Worker Rights

a. The Right of Association

The law allows all workers, including government employees, to form and to join unions of their choice, and they did so in practice. However, there are certain restrictions with regard to law enforcement agencies and employees of the general prosecutor's office.

The principal union was the Georgian Trade Union Amalgamation (GTUA), which was the successor to the official Soviet labor union. The GTUA consisted of 31 sector unions and over 259 thousand unionized workers, 14 percent of the total workforce (1.8 million). There were two additional unions: the Free Trade Union of Teachers of Georgia Solidarity and the Independent Trade Union of Metropolitan Employees.

The GTUA inherited substantial real estate and other assets unrelated to the essential functions of a labor federation from its Soviet-era predecessor. During the year GTUA leaders claimed the government threatened them with prosecution to force a transfer of GTUA property to the government. The GTUA deputy claimed he was arrested and held without charge, but then was released when GTUA transferred its property to the government. Officially the transfer took place in compliance with the law, as it was based on the decision of the supervisory board. GTUA filed a complaint with the International Labor Organization (ILO). In response the ILO Committee on Freedom of Association invited the ILO Governing Body to approve a number of recommendations, including a request that the government return seized property to the trade unions, take measures to ensure the GTUA's appeal regarding its assets is heard, refrain from any interference in workers' organizations to elect their representation freely, and drop criminal charges against GTUA head Irakli Tugushi. The ILO Governing Body noted these recommendations at its session in November.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages. Despite this provision the GTUA and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers, employees of various mining, winemaking, pipeline, and port facilities, and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers-- including their public sector employers--for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of Labor investigated some complaints but took no action against any employers.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference. Collective bargaining is recognized by law, and the law provides punitive measures against those who refuse to take part in negotiations. However, the government did not always protect this right in practice. The practice of collective bargaining was not widespread. The GTUA administered approximately 1,600 collective bargaining agreements. Prior poor management and leadership, plus a general unfamiliarity with the collective bargaining process, limited the scope of collective bargaining.

The law provides for the right to strike with some restrictions on certain agencies, and on strikes that could pose a threat to life. In general workers exercised their right to strike in accordance with the labor code; strikes must be sanctioned by the employer based on written notification provided three days in advance and a one-hour warning strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

In Abkhazia in August, the head of the village of Achigvara forced ethnic Georgians to work in the nut harvest. Bajuli Jgerenaia was severely beaten for protesting this forced labor. The head of Repi village in the Gali region of Abkhazia required villagers to pay him a tribute of 150 kg of nuts per family from their harvest. In Sheshleti village in Gali, the head of the village required inhabitants to pay him 1 kg of nuts per tree.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, but the government was not able to implement them effectively. The Ministry of Health, Social Service, and Labor is responsible for enforcing laws regulating child labor. The actual enforcement of these laws was questionable, although child labor was not considered a serious problem.

According to the law, the minimum age for employment of children is age 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 15 and over are subject to reduced working hours. The Labor Inspection Department at the Ministry of Health and Social Security was the only mechanism for monitoring enforcement of the minimum age requirement; however, the department was dissolved during the year. At year's end a small group of labor inspectors ensured compliance with the law by checking personnel records at organizations, because problems were not likely to be documented in official company records. The only organizations believed to strictly follow minimum age rules were the railroad and aviation departments.

Children were trafficked for sexual exploitation (see section 5).

e. Acceptable Conditions of Work

The national minimum wage for public employees grew to \$63.88 (115 GEL) a month, an increase stemming from reforms in tax and revenue collection, government downsizing, and anticorruption actions. However, the minimum wage still did not provide a decent standard of living for a worker and family. The official minimum subsistence level for a single person was \$83.33 (150 GEL) and for a family of four \$145.55 (262 GEL). The mandated minimum wage for private sector workers was \$11.11 (20 GEL). The average wage in private enterprises was \$81.66 (147 GEL) monthly; in state enterprises, \$82.77 (149 GEL). Minimum monthly pensions doubled from \$7.77 (14 GEL) to \$15.55 (28 GEL). Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Health and Social Security, previously called the Ministry of Health, Social Security and Labor, was responsible for enforcing the minimum wage. The GTUA had its own inspector to monitor compliance.

The old Soviet labor code, still in effect with some amendments, provides for a 41-hour workweek and for a weekly 24-hour rest period. Overtime work, as a rule, is not permitted, and can be applied only in exceptional cases; premium pay for overtime is required. Standards were not effectively observed.

The government set occupational health and safety standards. The Ministry of Health and Social Security is charged with monitoring implementation of health and safety standards. Enforcement was a problem; however, as the labor inspection department was dissolved. The law permits higher wages for hazardous work, and the law provides workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment. In practice these protections were rarely, if ever, enforced.



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