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2010 Country Reports on Human Rights Practices - Georgia

Bureau of Democracy, Human Rights, and Labor
April 8, 2011

The constitution of Georgia provides for an executive branch that reports to the president, a unicameral Parliament, and an independent judiciary. The country has a population of approximately 4.6 million. President Mikheil Saakashvili was reelected in January 2008 in an election that international observers found consistent with most Organization of Security and Cooperation in Europe (OSCE) democratic election commitments; however, the OSCE also highlighted significant problems, including widespread allegations of intimidation and pressure, flawed vote-counting and tabulation processes, and shortcomings in the complaints and appeals process. These and other problems continued into the parliamentary elections in May 2008, which international observers concluded were uneven and incomplete in their adherence to international standards. Although a significant number of opposition parties existed, the country was dominated by a single party. Security forces reported to civilian authorities.

The main human rights abuses reported during the year included abuse of prisoners and detainees, poor prison conditions, and arbitrary arrest and detention. There were reports of selective application of the law – crimes allegedly involving government officials or supporters were slowly investigated and often remained pending, while crimes allegedly involving persons or organizations linked to the opposition were investigated quickly and prosecuted to the full extent of the law. This imbalance led to allegations of impunity for government officials. There continued to be allegations of a lack of due process, government pressure on the judiciary, and that individuals remained in prison for politically motivated reasons. There were reports of pressure on businesses to suppress potential support for the opposition and independent media. There were reports of curbs on media freedom. There were some cases of restrictions on religious freedom and a lack of progress on religious issues. There were also reported cases of violations of the rights of internally displaced persons (IDPs) during some evictions in Tbilisi, and senior-level corruption in the government. Harassment of opposition and NGO members, prejudice against persons based on their sexual orientation and government interference with labor associations also were reported.

Significant human rights achievements included: the implementation of a new Criminal Procedure Code with increased evidentiary standards and rights of the accused; amendments strengthening the Public Defender's Office (human rights ombudsman/PDO); the construction of new prisons that met international standards; and the first direct election of the Tbilisi mayor.

De facto authorities in the separatist regions of Abkhazia and South Ossetia, supported by several thousand occupying Russian troops since the 2008 armed conflict between Russia and Georgia, remained outside the control of the central government. Russian

border guards restricted the movement of the local population. A cease-fire remained in effect in both Abkhazia and South Ossetia, although incidents of violence occurred in both areas.

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

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

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

The Ministry of Internal Affairs reported that there were two cases of police officers fatally using their weapons in the line of duty during the year. In one April 17 case, a court found the officer guilty of manslaughter and sentenced him to two years and six months in prison. The other incident occurred on August 18, and the ministry reported the police returned fire after the suspect in question shot at police officers and persons on the street.

There were no further developments, and none are expected, in the case of Roin Shavadze, whom police allegedly shot and killed in 2008. According to the Ministry of Justice, in 2008 authorities transferred the criminal case to the Investigative Division of the Prosecution of Ajara; at year's end, the investigation continued.

There were seven killings during the year connected to the conflict in Abkhazia (see section 1.g.).

A number of deaths occurred from unexploded ordnance. On January 14, in Ajara, a person collecting scrap metal from a former military firing range picked up a piece of unexploded ordnance and took it to his home where it exploded, killing three persons. NGO Halo Trust reported two injuries from unexploded ordnance in Tbilisi. Limited information about events in Abkhazia and South Ossetia made it difficult to confirm reports of incidents in those regions. However, Halo Trust reported one death from a mine and three injuries from unexploded ordnance in Abkhazia during the year.

b. Disappearance

There was a report during the year of a politically motivated disappearance connected to the conflict in Abkhazia. The government made little effort to investigate the 2009 reported kidnappings and beatings of a number of members of some nonparliamentary opposition parties by unknown assailants.

Ethnic Abkhaz Garri Jopua reportedly disappeared on October 9 and reappeared in Abkhazia on November 8. He alleged that he was detained and tortured by Georgian law enforcement officials, and credible sources found evidence that Georgian officials had detained him.

Reliable information from the separatist regions, which remained outside of government control, remained difficult to obtain. In some case missing individuals were detained by Russian or regional de facto authorities (see section 1.d.).

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

The constitution and law prohibit such practices; however, there were reports that government officials continued to employ them with limited accountability. The PDO's 2009 annual *National Preventive Mechanism Report* (released in June) noted that allegations of mistreatment increased compared with previous monitoring. In a June 26 speech, the public defender stated that accountability for torture and other inhuman treatment remained a problem.

On December 15, the PDO released a statement describing the National Preventive Mechanism's (NPM) monitoring for the first half of the year, which reported that instances of prison employees and police officers mistreating detained and imprisoned individuals continued. The PDO also noted that police quite frequently used excessive force when detaining persons. The PDO stated that investigations into allegations of mistreatment were inadequate and ineffective. However, the statement also noted that, unlike in penitentiaries and police stations, there were almost no cases of mistreatment in pretrial detention facilities.

The NGO Empathy reported that on April 6, police officers in Telavi beat a minor in their custody, denied him access to water, food, or washroom facilities, and refused to allow him to contact his family or a lawyer. Empathy reported that the Telavi prosecutor's office initiated a criminal investigation, but the only information about its progress at year's end was that the case had been transferred to the Isani-Samgori prosecutor's office.

During the year an Armenian NGO reported that Vahagn Chakhalian, an ethnic Armenian serving a 10-year sentence in the Rustavi prison for an attempted 2006 break-in at the Akhalkalaki municipal building (see section 6), complained to the PDO that on April 30, prison guards beat him. The Ministry of Justice asserted on June 15 that medical experts found no evidence of mistreatment and that his cellmate denied seeing any signs of physical abuse. On June 23, during a visit with PDO representatives, Chakhalian signed a statement denying any complaints against the prison administration and refusing any PDO assistance. The NGO claimed that the PDO was biased on this issue.

The PDO investigated the possible mistreatment of Neli Naveriani during her arrest in Mestia on July 7. The PDO representative who visited her at the Zugdidi penitentiary noted bruising on her arm, and Naveriani confirmed that she received the bruises from police officials. The deputy prosecutor in Zugdidi stated that Naveriani received the bruises while resisting arrest. On July 21 and November 17, the PDO requested that the Chief Prosecutor open an investigation into the case; however, by year's end no response was received.

On August 17, the PDO called on the chief prosecutor to investigate the observed injuries on Irakli Kakabadze's, arms and shoulders after his arrest on August 14. According to the PDO, Kakabadze, a dual U.S.-Georgian citizen, stated he received the injuries from the chief of the Tbilisi patrol police and his deputy. The PDO noted that the injuries were reported in the detention center's protocol. The Ministry of Internal Affairs claimed their investigation found no signs of mistreatment or disciplinary or criminal violations; that Kakabadze could not identify the perpetrators; and that his further questioning was hampered since he left Georgia on August 18. On October 27, the PDO made another request to the chief prosecutor; however, by year's end no response was received (see sections 1.d. and 2.b.).

The NGO Human Rights Priority reported that, on August 19, prison guards severely beat prisoners at Prison No. Seven in Ksani with sticks. According to Human Rights Priority, prison authorities singled out prisoner Archil Sakhvadze during the beatings and told him to withdraw the application he had filed with the European Court of Human Rights (ECHR). On August 31, Sakhvadze was transferred to Prison No. Six in Rustavi. Human Rights Priority reported that a PDO representative visited Sakhvadze and noted his injuries. According to Human Rights Priority, the ECHR sent a letter requesting information on the status of both Sakhvadze's health and the investigation into the allegations. On October 7, a reply was received giving details of Sakhvadze's health and indicating that an investigation into the allegations continued at year's end. According to the PDO and the Ministry of Correction and Legal Assistance, the case was still ongoing at year's end.

On August 27, Dimitri Lortkipanidze from the parliamentary minority reported that the lawyer of Vakhtang Maisaia, who was serving a 29-year sentence for espionage at Tbilisi Prison No. Eight, informed him that prison guards beat Maisaia to force him to end his hunger strike against his detention. Lortkipanidze called on the PDO to investigate the allegation. According to the PDO, the chief prosecutor's office informed them on December 10 that an investigation continued.

An incarcerated non-Georgian citizen reported that guards physically assaulted him during a prison transfer on August 8. The Ministry of Correction and Legal Assistance asserted that it investigated the report of assault against the non-Georgian citizen, which included interrogating witnesses and conducting medical examinations, and concluded that the allegations could not be corroborated. He also reported that during the year he witnessed prison guards randomly choosing inmates for beatings.

There were no developments in the reported May 2009 beating of Nugzar Otanadze. The PDO reported that it never received a response to a request for an investigation from the chief prosecutor's office. According to the Ministry of Justice, the investigation was terminated at Otanadze's request in September 2009.

There were no developments, and none were expected, in the investigation of the allegation that unidentified, masked officers in the Kutaisi Jail and Strict Regime Institution No. Two, beat 12 juvenile prisoners in July 2009. The investigation department of the Ministry of Corrections and Legal Assistance continued its investigation of the allegation of use of excessive force at year's end.

According to the PDO and human rights monitors, the incidence of abuse in police stations remained low, due to continued, unannounced, random monitoring of stations. However, the PDO reported in June that physical injuries were observed very frequently on persons upon admission to police detention facilities, and the number of such cases had increased. The public defender stated in a June 26 speech that officials who conducted investigations into allegations of torture often mischaracterized such acts as abuse of official power, which carried a far lighter sanction.

The PDO reported that it received three complaints during the year that police officers physically abused persons in detention, and that its last monitoring of pretrial detention facilities, conducted in December, found no cases of physical injuries. However, the PDO stated that accurate statistics do not exist given that an investigation is only launched upon a victim's request. The PDO reported that investigations into allegations made during the year were either dismissed or ongoing at year's end.

In a September 21 report on its February 5-15 visit to the country, the Council of Europe's Committee for the Prevention of Torture (CPT) reported receiving a few allegations of police physically mistreating persons in their custody. Most involved excessive use of force (for example, punches and kicks) at the time of apprehension, but there were also allegations of mistreatment during questioning. For example, one person alleged that following his apprehension in early February, he spent a night in an office at a district police station in Tbilisi where police officers repeatedly hit and kicked him to compel him to confess to a crime. Another person alleged that following

his apprehension, officers took him to the Department of Constitutional Security of the Ministry of Internal Affairs, where he was hit with clubs and kicked. However, the CPT report concluded that "the situation as regards the treatment of persons detained by police in Georgia has considerably improved in recent years."

During protests in spring 2009, the PDO received 32 complaints of police mistreatment from protest activists (see section 2. b.). Most cases involving violence against opposition activists during the 2009 spring protests remained unsolved at year's end.

According to the Ministry of Justice, authorities initiated 19 investigations into allegations of torture and 15 into inhuman treatment during the year, compared with 17 allegations of torture, six of inhuman or degrading treatment, one of use of duress to compel evidence, and one less-grave injury to health in 2009. During the year the Ministry of Justice reported that 11 cases were terminated and judgments were rendered against four persons (two for torture and two for inhuman treatment).

NGOs and the PDO reported that victims often failed to report abuse due to fear of retribution by police or prison authorities against them or their families. NGOs also continued to claim that close ties between the Prosecutor General's Office and police hindered the ability of NGOs to substantiate police misconduct. NGOs alleged that the judiciary's lack of professionalism and independence made it unresponsive to allegations of mistreatment. As a result, despite implementation of positive reforms, NGOs claimed law enforcement officials could still mistreat persons with limited risk of exposure or punishment. NGOs also believed a lack of adequate training for law enforcement officers, as well as low public awareness of the protections afforded citizens, impeded improvements.

The PDO noted that monitoring groups found no instances in which police officers incorrectly registered a detainee when they brought him to the police station, which previously had been a means for police officers to conceal abuse. All law enforcement officers and representatives of the Prosecutor's Office, with the exception of officers of the Ministry of Internal Affairs's special units (including the Special Operatives Department, the Constitutional Protection Department, and the counterterrorism center), were required to wear identity badges during meetings with detainees and prisoners. Special police units were exempt to protect members' anonymity. NGOs asserted that this protected the personnel of these units from accountability for abuse.

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

In 2008 Zugdidi police officers Data Gvinjilia and Davit Nadaraia arrested Gocha Ekhvaia near Engurkalakkombinad in Zugdidi. Ekhvaia alleged that they forcibly took him from his home after questioning him on the whereabouts of a missing person, beat him, and drove him around before testing him for drugs. Ekhvaia was placed in isolation for seven days of court-ordered administrative detention, during which he lost consciousness and was hospitalized. The Zugdidi regional prosecutor's investigation into allegations of police torture of Ekhvaia continued at year's end.

In September the government's Interagency Coordinating Council against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment adopted a new strategy. The new strategy prioritizes the following areas of needed reform: development of an effective complaints procedure for inmates; development of prompt, impartial, and effective investigations of all allegations of ill-treatment; protection, compensation, and rehabilitation of victims of mistreatment; improvement of internal and external monitoring systems for early detection and prevention of mistreatment in detention facilities; and improvement in the capacity of relevant institutions.

The government's action plan to address torture, mistreatment, and medical care included the PDO as the country's NPM, an institution required under the UN Optional Protocol to the Convention against Torture and intended to be the lead government agency for monitoring allegations of torture and mistreatment of detainees. It published

its first *National Preventive Mechanism Report*, covering 2009, in June.

In July 2009 parliament amended the law to give the PDO greater responsibility for monitoring prisons and other closed facilities and allow it to draw on outside experts in its monitoring efforts. However, the PDO noted that the Law on the Public Defender does not explicitly state that the NPM can use audio and video equipment. The mechanism follows the regulations established by each institution.

Prison and Detention Center Conditions

Conditions in many prison and pretrial detention facilities remained poor and did not meet international standards. The PDO, the CPT, and many NGOs including Human Rights Watch (HRW) continued to report that while newly constructed facilities met international standards, old facilities still in use were inhuman and exposed detained persons to life-threatening conditions, including poor facilities, overcrowding, and inadequate health care. Most prison and pretrial detention facilities lacked adequate sanitary facilities.

In its September 21 report on conditions found during its February 5 to 15 visit to the country, the CPT noted that, although there were no allegations of mistreatment of patients by staff, the "ever deteriorating" state of the Asatiani Psychiatric Institute in Tbilisi created conditions "easily described as inhuman and degrading." While the CPT noted that the government had taken action to prevent mistreatment of prisoners, it cited mistreatment at Prison No. 8 in Tbilisi (Gldani), Penitentiary Establishment No. 7 in Ksani, and Penitentiary Establishment No. 8 in Geguti as particular problems. In its 2009 *National Preventive Mechanism Report*, the PDO noted that in some penitentiaries sanitary-hygienic conditions and overcrowding were poor enough to amount to inhuman and degrading treatment.

According to Ministry of Corrections and Legal Assistance data, during the year 75 convicts died in prison compared with 92 in 2009 and 94 in 2008. Of the 75 deaths, five were suicides, one resulted from carbon monoxide inhalation from a fire in Ksani Prison No. 15, and the others were due to illness.

The 2009 *National Preventive Mechanism Report* recounted the case of a prisoner who committed suicide in December 2009 in Kutaisi Prison No. 2. The PDO called for a special investigation into the suicide because there was evidence of physical abuse inflicted on the body before the suicide. According to the PDO, on May 31, the investigation into the criminal case was suspended.

Many prisons were severely short of medical facilities, including equipment and medicine. The 2009 *National Preventive Mechanism Report* noted that inequality between the national healthcare system and healthcare in the penitentiary system violated international standards. Medical care was also provided unequally in penitentiaries in different geographical areas. Prisons administrators were not able to provide comprehensive emergency services. The PDO reported that during the year many prison doctors were terminated from their positions for not providing adequate service to inmates, and most prisoner deaths during the year were due to tuberculosis. The PDO criticized the Ministry of Corrections and Legal Assistance for a lack of adequate healthcare.

Since 2008 the Penitentiary Department has been overseen by the Ministry of Corrections and Legal Assistance, and the unit responsible for monitoring penitentiary establishments has been located in the General Inspection Department of that ministry.

According to Ministry of Corrections and Legal Assistance, the inmate population continued to grow, increasing overcrowding. During the year inmate population was 23,511 as compared with 21,239 in 2009 and 18,528 in 2008. The law defines three categories of penitentiaries: common regime, strict regime, and prison. Inmates were assigned to facilities depending on their crimes, with first-time offenders and persons convicted of less serious crimes assigned to common regime establishments; recidivists

and those who committed graver crimes were assigned to strict regime establishments or prisons.

The law sets the standard living space per prisoner as 22 square feet in common and strict regime establishments, 27 square feet in prisons, 32 square feet in the women's colony, 37 square feet for juveniles, and 32 square feet in medical facilities. According to the NPM 2009 report, overcrowding remained a problem, and eight facilities were overcrowded.

International organizations that monitor prison conditions pointed out that the country's space standards for prisoners did not meet international standards. The CPT found that overcrowding was "rife" in several of the prisons that it visited.

NGO Empathy reported that in September the Ministry of Corrections and Legal Assistance moved some juvenile offenders to Prison Facility No. Eight and that this facility did not meet international standards for juvenile justice including an adequate courtyard for exercise. The Ministry of Corrections and Legal Assistance reported that a new facility for female inmates, including female juveniles, opened during the year and a new administrative building was constructed to improve prison conditions at Juvenile Facility No. 11. During the year 70 juveniles participated in new rehabilitation programs including computer classes. Since its merger with the Ministry of Justice, the Prosecutor's Office appeared more flexible in following more progressive criminal justice practices, including piloting a juvenile diversion program during the year.

The presidential administration sought to use early release of certain convicts to reduce the size of the prison population. According to the Ministry of Corrections and Legal Assistance, the president pardoned 1,299 convicts during the year. In 1,115 cases, the prisoners were released from prison; in 154 the sentences were halved; in 18 the convict was released from a conditional sentence; and in 12 instances, prison sentences were shortened. In 2009 990 persons received pardons and in 2008 the number was 2,804.

Plea bargains were also used as a tool to try to alleviate prison overcrowding (see section 1.e.). During the year test cases began in the implementation of alternative sentencing for juvenile offenders. On October 1, a new code of imprisonment went into effect and councils for early release, akin to parole boards, were created. Three new prisons opened during the year that met European standards for living conditions.

A working unit of the Ministry of Corrections and Legal Assistance continued to oversee implementation of a code of conduct for penitentiary employees modeled after European practices. According to the ministry, during the year there were 156 cases of violation of discipline by officers in various penitentiaries compared with 263 in 2009 and 179 in 2008. Violations resulted in various degrees of punishment including notices (18 cases), reprimand (108), severe reprimand (27), demotion (two), and dismissal (one). The ministry reported that the most common reason for disciplinary action was abuse of authority.

On July 21, parliament amended the law to grant the public defender the right to make nonbinding recommendations to law enforcement agencies that they investigate allegations of human rights violations, including those involving abuse of prisoners. Government agencies have 10 days to respond to the public defender's recommendation. Agencies that decide not to open an investigation as recommended by the public defender are required to submit a written justification of their decision to the PDO within 15 days. The amendment was intended to force government agencies to justify publicly any failure to investigate allegations and to improve response times to the PDO. The PDO reported that its communications with most governmental institutions improved; however, there continued to be cases of late or inadequate responses, and the PDO was doubtful if the improvement was directly related to the amendment.

On December 30, the Ministry of Corrections and Legal Assistance eliminated its requirement that members of the clergy from confessions other than the Georgian Orthodox Church seek that church's permission to counsel or visit prisoners. Members of

the Muslim and Baptist communities had reported having trouble obtaining the Georgian Orthodox Church's permission for such visits during the year.

While there were Georgian Orthodox chapels in most prisons, there were no specific nondenominational areas for worship; some minority religious leaders complained that members of their communities were unable to worship in the prisons during their holidays due to a lack of appropriate space. However, a new order issued on December 10 under article 2 of the Code of Imprisonment explicitly provides for the religious worship of prisoners and detainees, including worship space, the right to meet with clergy of any confession, and the right to have religious items.

Authorities permitted prisoners to submit complaints to judicial authorities, such as PDO representatives, as well as NGOs, international organizations, and lawyers, without censorship and request investigations of inhuman conditions. Authorities opened investigations into such allegations; however, in many case they never officially completed their investigations, filed charges, or took other disciplinary action against officials alleged to have committed abuses.

The government permitted independent monitoring of prison conditions by international organizations, local and international human rights groups, and the media. Such monitoring occurred during the year. The ICRC had full access to prisons and detention facilities in undisputed Georgia and some access to facilities operated by the de facto authorities in Abkhazia and South Ossetia to monitor conditions of incarceration and treatment of all prisoners and detainees. The ICRC also supported health programs in prisons and detention centers.

Prison conditions in the two separatist regions were chronically substandard, although overcrowding reportedly was not a problem. According to press reports, in February a Georgian prisoner, Demur Gogokhia, died in Dranda prison. Abkhazian de facto officials reported that the cause of death was an infectious disease, but the Georgian media reported allegations that he had died from the effects of repeated torture. On June 25, an ethnic Georgian, Besik Anjaparidze, reportedly died in an Abkhaz jail four days after his arrest by de facto officials who cited a heart attack as the cause of death, but the Georgian government alleged he died as the result of physical abuse while in custody.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The Ministry of Internal Affairs has primary responsibility for law enforcement. During times of internal disorder, the government may also call on the armed forces. The ministry controls the police, which are divided into functional departments and a separate, independently funded, Police Protection Department that provides security and protection to both infrastructure sites and private businesses. The Ministry of Finance has its own investigative service.

On October 1, provisions of the reformed criminal procedure code (CPC) entered into force. The code encourages accountability and professionalism in the police by barring the use of illegally seized evidence and legally seized evidence stemming from an initial illegal action by police (see section 1.e.).

During the period leading up to the May municipal elections, there were reports that law enforcement officials intimidated opposition representatives (see section 3). There were also reports that law enforcement officials selectively enforced laws against those aligned with the opposition (see section 2.b.).

During nonparliamentary opposition protests between April and July 2009, police

reportedly used excessive force against protesters on several occasions (see section 2.b.); in most case the absence of accountability resulted in allegations of police impunity.

Also unresolved at year's end were allegations made in 2009 by the then public defender and by NGOs that police planted evidence, engaged in inhuman and degrading treatment, abused official authority, and exceeded the limits of official authority. Nonparliamentary opposition activists claimed that police especially targeted them with such actions (see section 1.e.).

According to the Ministry of Internal Affairs, its General Inspection Service imposed more disciplinary actions on law enforcement officers during the year than in previous years. Forms of punishment included reprimands, demotions, and dismissals. There were 861 such actions compared with 566 in 2009. The ministry also reported that during the year more police officers were arrested for committing various crimes, 46 as compared with 29 in 2009. Crimes during the year included corruption (18 cases), carrying or using narcotics (two), fraud or excessive use of authority (12), abuse of authority (12), and misappropriation of state property (two).

The Human Rights Protection Unit in the Office of the Prosecutor General issued regular updates on the status of cases, trials, and investigations of human rights violations. However, NGOs maintained that the incidence of abuse was higher than the number of cases investigated by the prosecutor general, and failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. Human rights NGOs also asserted that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the judicial system.

The Prosecutor General's Office was in charge of all criminal investigations into allegations of torture and mistreatment. Prosecutors were required to investigate the use of force by police when a detainee with injuries sustained during arrest was registered. The law requires the office to open an investigation when it receives information about a possible violation, even if from an anonymous source. If prosecutors conclude after investigation that charges are not warranted, the decision can be appealed to a higher level within the office. Any person subjected to abuse was able to pursue a civil action against the abuser. In some case the Prosecutor General's Office continued investigations indefinitely without issuing any findings. In most cases that were completed, the office concluded that the use of force by police was reasonable.

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

During the year the Police Academy included training on human rights in the basic course for patrol police and conducted specialized training on human rights in cooperation with international partners, such as the Council of Europe. The Police Academy curriculum for 7,000 patrol, regional inspectors, and junior police officers included training on the legal basis for the use of coercive force, proper crowd control, hate crime investigations, tactical training on negotiation skills for managing critical situations with the goal of using coercive force as a last resort, police ethics, and role playing to illustrate these points.

Arrest Procedures and Treatment While in Detention

The reformed CPC which took effect during the year includes better-defined rights and due process protections for those arrested and measures intended to increase the speediness of trials, thus potentially reducing time in detention (see section 1.e.). The code provides that the term of the defendant's initial arrest shall not exceed 72 hours without judicial review and that the arrested person shall be presented with the indictment within 48 hours from the moment of arrest. Upon arrest the defendant is to be advised of all legal rights, and any statements made after arrest but before the defendant is advised of his rights are inadmissible and excluded from evidence in the criminal case. Court observers found that judges adhered to these time frames strictly.

Police are also required to provide detainees a copy of the arrest and search form, signed by police and detainees. The PDO and NGOs reported that police often failed to inform detainees fully of their rights and that, if informed of their rights, detainees often did not understand them. However, the PDO reported that such instances could not be verified because detainees signed that they had been provided with information on their rights at the time of their arrest. On November 4, the PDO recommended that the Ministry of Internal Affairs use a form during detention that explicitly states the rights of those arrested.

The CPC permits law enforcement officers to arrest a person without a warrant only in exceptional cases. There was no indication that the code was violated in this regard during the year.

The law provides safeguards for a speedy trial through strict time frames. A pretrial hearing must occur within 60 days of arrest; if no pretrial hearing has commenced within 60 days, the defendant must be released. A trial should begin within 14 days of the pretrial hearing. The total time allowed under the CPC for detention of a defendant is nine months, within which the main trial proceedings must be initiated. Extensions of these timeframes are permitted at the request of the defendant; the prosecution has only limited ability to alter these time frames.

After multiple surveys, the judiciary established that the average trial length for cases to go through the court system was 12 to 13 months for criminal cases; 18 to 19 months for civil cases; and 15 to 18 months for administrative cases. The duration of trials at the trial-court stage did not exceed three to five months. A high number of judicial vacancies at the trial-court level may have contributed to some delays in scheduling trials. Thirty-three new judges completed training during the year. The speed at which the judiciary could add new judges was affected by a 12-month training program that each candidate was required to pass.

A second cause of delays in scheduling trials was the failure of prosecutors and defense lawyers to appear for hearings. Both prosecutors and defense lawyers used this tactic if they were not prepared to conduct their case on the day in question. The CPC permits courts to impose sanctions on trial lawyers for such misconduct. During the year judges imposed financial sanctions for such lawyer misconduct as confirmed by court monitors.

The Judicial Administration and Management Reform Project September survey, conducted by the Institute for Polling and Marketing, found that the main reasons for delay in the regional courts and the Tbilisi City Courts were: parties asked for postponement to negotiate plea agreement (12 percent); prosecutors requested postponement (9 percent); defense lawyers requested postponement because of conflict with another trial (8 percent); defense requested more time to prepare case (7 percent); witness did not attend trial (7 percent); health reasons (6 percent); absence of defense lawyer (5 percent); absence of prosecutor (2 percent); and absence of defendant.

There is a system of bail. The new CPC shifted the presumption toward releasing detainees, with conditions (including posting of bail or other surety), away from the previous practice where pretrial detention was presumed and bail or other alternatives

used only marginally. There was an increase in the judiciary's use of bail instead of pretrial detention during the year. NGOs noted that, due to economic hardship, some defendants were not able to pay bail even when it was granted and ended in pretrial detention. In many case prosecutors used standardized and stereotypical formulations in seeking to detain defendants and did not refer to the individual facts of the case, thus failing to provide an explanation of how the specific circumstances calls for application of coercive measures (detention).

According to Ministry of Justice data, detention was used in 7,802 cases (54.4 percent) during the year, bail in 3,977 (27.8 percent), bail secured by remand order in 2,465 (17.2 percent), personal guarantees in 79 (0.6 percent), and other coercive measures in six (0.04 percent). In the first 11 months of 2009, bail was used in 4,727 cases, custodial bail in 2,031, pretrial detention in 6,957, release under supervision in 174, and other measures of restraint in 35.

A property bond is also permitted. In addition to bail and pretrial detention, the law permits obligating a defendant to appear in court at a set time or upon summons; prohibiting a defendant from undertaking certain activities or pursuing a certain profession; obligating a defendant to report to the court, police, or other state agency daily or periodically; supervision by an agency appointed by the court; electronic monitoring; prohibiting a defendant from leaving or entering a certain location; prohibiting a defendant from meeting certain persons without special authorization; and ordering a defendant to surrender a passport or other identification documents. During the year test cases began in the use of alternative sentencing for juvenile offenders.

A detainee has the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. An indigent defendant or a defendant charged in a criminal case has the right to counsel at public expense. The ministry in charge of the proceedings appoints counsel upon the defendant's request. If a defendant requests an attorney after arrest, the investigator or prosecutor who is handling the case is responsible for contacting and engaging the attorney. While exact reasons varied (that is, insufficient time to retain a lawyer or lack of information on basic legal rights), many defendants were unrepresented at the bail or detention hearing stage. The proportion was 37 percent at Tbilisi City Court, based on data compiled by the court's monitors. The courts and Legal Aid Services sponsored public service announcements on access to free legal aid throughout the year.

Defense counsel has the right to meet persons accused of a crime without hindrance, supervision, or undue restriction; however, NGOs and lawyer associations complained that long lines and cumbersome entry checks at penitentiary institutions (that they must go through for each client they meet) hindered their ability to prepare cases. They blamed the problem on a shortage of interviewing rooms for lawyers and their clients at detention facilities.

Officers must notify detainees' families of their location within five hours of their arrest and record the circumstances of the notification in the case record. PDO representatives regularly reviewed these records during their visits to police stations and found that, in most cases, officers adhered to these requirements.

The constitution and the law stipulate that detainees must be brought before a magistrate judge within 72 hours. Those not brought before a judge by the prosecutor within this period must be released. The Prosecutor General's Office is the only body authorized to engage directly with the courts. There were no reports during the year of officials holding detainees longer than 72 hours without charging them.

In the case of Irakli Kakabadze and two others who painted over a street sign as part of a protest to call for its renaming, the PDO concluded that Kakabadze's detention on the charge of disobeying police orders was not warranted because video shot at the scene showed Kakabadze and the others obeyed orders (see sections 1.c. and 2.b.). Georgian Young Lawyers' Association (GYLA) representatives noted that the only wrongdoing committed by the protesters was defacing the street sign, a crime that envisages a 50

lari (\$28) fine, not arrest.

In May 2009 authorities arrested three members of the nonparliamentary opposition on charges of hooliganism after the opposition members allegedly slapped and punched Georgian Public Broadcaster (GPB) journalist Nika Avaliani. At a press conference, the three protesters alleged that during their detention, police beat them, verbally abused them, and threatened them with death and rape. The Ministry of Internal Affairs opened an investigation into the allegations which continued at year's end.

In contrast with 2009, there were no reports that law enforcement officers planted drugs or weapons on persons during the year to arrest or charge them in criminal cases. In 2009 this practice was reported, and many such cases were considered politically motivated (see section 1.e.). In most of the 2009 cases, individuals accepted plea bargains or were found guilty.

In 2009 there were reports that authorities detained individuals solely because they were family members of a criminal suspect, despite the lack of evidence of any ties to an alleged crime. The public defender and NGOs reported that in May 2009, police officers from the Ministry of Internal Affairs detained at least 11 relatives of Koba Otanadze, accused of being one of the leaders of the Mukhrovani mutiny (see sections 1.g. and 1.c.). Authorities did not formally register these individuals as detained, and the public defender could not determine their whereabouts. They were released 21 hours later, after the arrest of Otanadze. The Ministry of Internal Affairs confirmed the detention of some family members under the status of "suspects" or "witnesses." Authorities filed charges of resisting arrest against family member Nugzar Otanadze (see section 1.c.). No other formal charges had been filed at year's end, either against family members who had been detained or against those responsible for the detentions.

A February 23 amendment to article 80 of the Criminal Code of Georgia increased the minimum age of criminal responsibility to 14 years of age (from 12 years old). The amended article 80 provided state that, "[f]or purposes of criminal responsibility, juvenile is the person from 14 to 18 years of age at the time of commission of crime."

During the year de facto officials of the separatist territories and Russian officials continued to detain many individuals in the separatist regions of Abkhazia and South Ossetia on charges related to their "illegal" crossing of the administrative boundary line. Russian border guards, who began administering the boundary lines in 2009, carried out many of those detentions by enforcing boundary-crossing rules imposed by the de facto authorities, but they usually handed custody of the individuals over to the de facto authorities. In most case the individuals were released within a few hours or days; in some case the individuals were held considerably longer. In Abkhazia the detainees were often fined; in South Ossetia they sometimes were. Georgian authorities also detained a number of individuals near the administrative boundary lines on various charges, including illegal entry into the country. Such individuals often carried only Russian passports with no evidence of authorization to be present in Georgia.

On June 3, Russian border guards detained two herders who crossed the South Ossetian administrative boundary near Karbala while trying to round up their herd; one was released immediately because of ill health, while the other was released later that day. In mid-August, a resident of the South Ossetian village of Sinaguri tried to cross the administrative boundary into her village from undisputed Georgia, but Russian border guards stopped her because it was after the curfew of 8:00 p.m.; she eventually reached her home by another route, but her husband was later arrested by de facto officials reportedly for assisting her "illegal" crossing.

On July 5, a Russian helicopter landed in Khurcha, outside the Abkhaz administrative boundary, and detained three men who were apparently engaged in cross-boundary trade; Russian officials claimed they had landed inside Abkhazia, but EU monitors determined the location was outside the administrative boundary line. On October 2, Russian border guards detained a woman attempting to enter Abkhazia near Orsantia; she was reportedly accused of "smuggling" blankets and mattresses into Abkhazia. In mid-

November, Russian border guards detained dozens of individuals in a series of incidents, many of which were likely related to the transport of hazelnuts across the boundary during the harvest season. On November 22, approximately 20 individuals, including some women and children, were held overnight in Barghebi; the next day, approximately 12 men from the group were brought to Gali and fined.

On September 10, after the intercession of EU officials, Abkhaz de facto officials released Malkhaz Kordzaia, who had been held for two years on charges of "illegally" crossing the administrative boundary.

In May the de facto authorities released six individuals whom they detained in August 2009 in the Akhlagori region of South Ossetia for attempting to smuggle wood.

Amnesty

During the year according to statistics of the Ministry of Corrections and Legal Assistance, presidential orders pardoned 1,299 convicts, compared with 687 in 2009.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary. However, reports persisted that the executive branch and some senior judges exerted pressure on the judiciary.

According to the PDO's report for the second half of 2009, problems continued within the judicial system including court independence, quality of investigations, parity of the sides, and substantiation of court decisions at various stages of consideration.

Many NGOs complained that judicial authorities continued to act in favor of the ruling party, in some cases even without an actual directive to do so, particularly if there was a perceived government interest in the case. Some NGOs and nonparliamentary opposition alleged that in cases involving opposition activists, the courts tended to rule in favor of the government. NGOs also expressed concern that recent judicial appointees lacked the experience and training to act independently.

Much of the public viewed the judiciary as one of the country's most corrupt institutions. However, the most recent comprehensive survey of court user satisfaction with court effectiveness indicated that 63 percent of court users agreed that the courts were reliable, with 60 percent indicating that the courts were impartial. The Institute for Polling and Marketing conducted the survey in August.

On May 18, GYLA released a report, *Justice in Georgia*, which asserted that individual judges sometimes received "directives" on specific cases from other higher-ranking judges. Because of the subjectivity of determining the grounds for bonuses, as well as disciplinary punishments (and possibly criminal punishments) for violations of internal investigations, judges not following such instructions were subject to repercussions, most notably assignment to an undesired court.

In a December 13 paper, the International Crisis Group (ICG) stated that many Georgians still perceived the judiciary as dependent on the executive branch and deferential to the prosecution, especially given the 1 percent acquittal rate in criminal cases. In a December 15 report, Transparency International (TI)/Georgia also raised concerns about the implications of the low acquittal rate for a fair trial. According to the Ministry of Justice, during the year the acquittal rate was 6 percent compared with 12 percent in 2009.

During the year according to statistical data provided by the Supreme Court of Georgia, 21 defense attorneys were charged with crimes and 17 defense lawyers were charged with fraud. Sufficient information was not available to demonstrate that all these lawyers were objects of undue pressure by the government. However, the December

Report on the Georgian Mission of the International Observatory for Lawyers described cases of lawyer intimidation where the defense lawyers were arrested and sentenced on fraud charges. The Georgian Bar Association argued that these lawyers were working on "sensitive" cases or were considered "opposition" lawyers and were targeted as such. The December Report on the Georgian Mission of the International Observatory for Lawyers described two cases of government intimidation of attorneys. The PDO stated that some lawyers encountered difficulties in their ability to serve their clients properly. The PDO documented several "problematic issues" regarding the limited access of lawyers to their incarcerated clients.

On October 15, parliament approved a package of constitutional amendments, including provisions governing the judiciary, that were scheduled to take effect in 2013. Under these amendments, common court judges are to be given lifetime appointments after a three-year probationary period. The Venice Commission and Georgian experts had criticized this probation period as potentially undermining judicial independence due to a lack of clear guidelines or criteria governing the decision-making process as to how judges will be retained or removed.

The High Council of Justice appoints and dismisses judges. Chairman and members of the Supreme Court are nominated by the president and approved by parliament. The chairman of the Supreme Court sits as chairman of the council.

During the year NGOs and observers continued to criticize the lack of transparency in the selection, appointment, and disciplining of judges. Despite the use of objective written examinations to create a pool of potential qualified appointees and publication of the names of all potential candidates for public comment, the judicial appointment process was not sufficiently transparent. Oral interviews of appointees were held behind closed doors with no public knowledge of what criteria were used for selection.

During the year the Supreme Court and the High School of Justice reduced their training program for judges to 12 months to streamline the training program. Judicial candidates, who have served as lawyers for at least 10 years prior to being selected for the judicial training program, can now complete the High School of Justice course in six months. The program was intended to promote a merit-based selection and vetting process for judges and help eliminate unqualified appointees. The program included examinations and performance measures to provide objective criteria for ranking the performance of the judicial candidates.

A law on ex parte communications prohibits prosecutors, defendants, investigators, and any interested third parties from contacting judges outside the courtroom during cases to influence their decisions. According to the judiciary, during the year there were no disciplinary actions taken against sitting judges or other public officials for such violations; this also was the case in 2009. The disciplinary process against judges was primarily initiated for violations of an in-custody defendant's term of detention or for other types of procedural violations that infringed upon the legal rights of defendants.

During the year 10 judges reportedly left office on personal resignation requests, and four new judges were appointed after graduating from the judicial training program. The reformed CPC removed the judge from the investigative process, thus reducing the opportunity for ex parte communication and undue influence from the prosecution.

During the year the High Council of Justice's Judicial Ethics and Disciplinary Procedure Department received 1,053 complaints. They reported that the majority of complaints were unsubstantiated or faulty. The High Council started disciplinary proceeding against 30 judges and referred these cases to the Disciplinary Board of the Common Courts. As a result of the board's decisions, one judge was dismissed, one received a reprimand, and one received a notice. Other cases awaited a decision from the board at year's end. In 2009 the Disciplinary Board of the Common Courts discussed 44 disciplinary cases involving 32 judges, 19 of which were new cases and 25 held over from 2008. Of these cases, the board imposed disciplinary sanctions on 18 judges, three of whom were dismissed.

Some members of the courts were arrested on corruption charges during the year. On May 31, the Ministry of Justice's Inspector General's Office conducted a large scale anticorruption operation and arrested a judge of the Tbilisi Court of Appeals. Dimitri Mchedlishvili, an appellate judge, was arrested for allegedly accepting a bribe of 5,000 lari (\$2,825) in exchange for assisting a defendant on a criminal case. During 2005-07, he was the High School of Justice's Chief of the Judicial Disciplinary Proceedings Department. In July he was found guilty and sentenced to three years' imprisonment, one-year conditional sentence with two years of probation. In addition he was fined 10,000 lari (\$5,650).

Prosecutor Levan Bochorishvili was arrested during the year for allegedly accepting bribes in the amount of 1,000 and 1,500 lari (\$565 and \$847) in exchange for fashioning favorable plea agreements for defendants. In July he was found guilty and sentenced to three years of imprisonment, one-year conditional sentence with two years of probation. In addition he was fined 30,000 lari (\$16,949). During this investigation, defense attorney Nana Tkheldize was arrested for allegedly accepting payments in the amount of 6,500, 4,000, 1,500, and 1,000 lari (\$3,672, \$2,260, \$847, and \$565) to use in securing favorable plea agreements for defendants.

The Prosecutor's Office is responsible for disciplinary action for violations of the ethics code for prosecutors. The Office of the Prosecutor General conducts an inquiry into such facts and presents this information to the prosecutor general with a recommendation for disciplinary action. The Ministry of Justice, actively implemented the code during the year with 23 employees of the Chief Prosecutor's Office receiving disciplinary actions ranging from notice to reprimand. Three prosecutors were reprimanded specifically for a violation of the code of ethics.

In December 2009 officials arrested a prosecutor and accused him of accepting a 2,000 lari (\$1,087) bribe to secure a favorable sentence for a defendant. Officials also arrested the defense attorney for his alleged role in the incident. In May the prosecutor was found guilty and sentenced to nine months' imprisonment, four years and three months' conditional sentence, and five years and three months of probation. In addition he was deprived of the right to hold a government position for three years.

The OSCE's September 13 report on the May 30 municipal elections raised concerns about the handling of election grievances by the courts, noting that "most appeals were dismissed by the courts, even when during the hearings substantial evidence and testimonies on violations were presented."

Trial Procedures

The constitution and the law provide for the right to a fair trial; however, in spite of continued reforms, concerns continued about the fairness of trials.

Human rights activists were concerned that the Prosecutor's Office is not independent from the Ministry of Justice and that there is no direct parliamentary vote on the chief prosecutor's nomination. Concerns also remained that under the reformed CPC, part of the criminal justice internal guidelines was not public information. Such lack of public access potentially made it difficult for lawyers to raise procedural points in criminal cases.

By law defendants are presumed innocent. Under the CPC, the prosecution must demonstrate a "high probability" of guilt at the pretrial stage. If the prosecutor cannot meet this burden, the court must dismiss the prosecution's case and release any detained defendant.

On September 24, parliament further amended the CPC. These amendments include changes to the jury deliberation and unanimity standards that mirror European legal traditions that do not require a unanimous jury verdict. The CPC requires a unanimous jury verdict; however, if a unanimous verdict cannot be reached with the first three hours of deliberation, a verdict by a two-thirds majority is now allowed in the next six

hours of deliberation. If after this six hours of deliberation a verdict cannot be reached by a two-thirds majority, the judge will inquire whether any juror is refusing to participate in deliberations or has a private interest in the case that was not disclosed during jury selection. If satisfied that neither of these circumstances exists, the court will then allow three more hours of deliberation. If after that time no verdict is rendered, the court may either dismiss the jury and declare a mistrial, or allow the jury further time to deliberate. If a second jury trial also results in a hung jury and no verdict, then the defendant may not be tried a third time and will be deemed acquitted.

By law a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. Under the reformed CPC, either prosecutors or defendants may initiate plea agreements. Prosecutors are under an obligation to inform the victim of the terms of the plea agreement. The victim can also seek a review of the plea bargain by a senior prosecutor. According to Ministry of Justice statistics, during the year the use of plea bargaining increased significantly. During the year the number of plea agreements was 80.8 percent (15,614) of all judgments as compared with 58.9 percent (10,400) in 2009 and 52 percent (10,608) in 2008.

The majority of plea agreements (which included a proposed sentence) contained a financial penalty along with either a prison term or a suspended sentence. Even proper and viable plea agreements were often perceived as a way for defendants to buy their way out of prison. According to the ICG, critics of the plea bargaining system asserted that the system had "become a revenue source rather than an instrument of justice." Some NGOs reported that the government coerced defendants into accepting plea bargains.

In a December 15 report, TI/Georgia evaluated the strengths and weaknesses of plea bargaining in the country. The report identified a number of benefits of plea bargaining to the country's criminal justice system: Plea bargaining brought greater efficiency and cost-savings to the court process and was a successful tool in fighting corruption, especially in the context of addressing organized crime. TI also noted that fewer persons were sent to prison during the year because plea bargain agreements allowed them to serve suspended sentences. This procedure alleviated overcrowded correctional facilities. However, TI raised significant concerns about the fairness of the plea bargaining system, highlighting the imbalance between the powers of the prosecution and the judiciary and the system's lack of transparency in the application and collection of fines. TI also reported a consensus among interviewed experts that the core problem was not in the law but in the court and justice system.

The reformed CPC enhanced the provisions for due process. Detainees and defendants have the right to be presumed innocent until proven guilty and to receive a speedy, fair, and continuous trial. The code protects the privilege against self-incrimination. The reformed code provided that a defendant may ask that a pretrial investigative confession be suppressed and excluded from the main trial without providing a rationale or requiring any showing of prejudice or any wrongdoing by police. If the defendant does not seek to exclude the confession, no conviction stands if it is based solely on the confession of the defendant. Initial reports by court observers suggested uneven implementation of the reformed CPC as it applies to the protection of defendant rights.

Defendants have the right to a public trial, except where national security, privacy, or protection of a juvenile is involved. On February 23, parliament amended the criminal code and increased the minimum age of criminal responsibility to 14 years of age (from 12 years old). However, the law makes a distinction between criminally responsible adults and juveniles (who are between the ages of 14 and 18 years old).

The reformed CPC provides for the right to a jury trial for aggravated murder cases in Tbilisi the first year and provides for expansion of the trials use for all types of murders and rape in all cities in subsequent years. The law providing for such jury trials under Tbilisi City Court jurisdiction entered into force on October 1. No jury trial had been scheduled at year's end. However, on September 30, a successful mock jury trial was

held including a call for jurors and jury selection. Courts are required to instruct juries that guilt must be established by the prosecutor alone beyond a reasonable doubt. The prosecutor's offices engaged in raising public awareness on criminal justice legislative reforms, including a well-publicized campaign on the introduction of jury trials.

Defendants have the right to be present at their trial and to consult an attorney from the time of their arrest. Nevertheless, for reasons discussed earlier, many defendants in criminal pretrial hearings, where decisions are made on arrest or bail, did not enjoy the benefit of counsel.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. The reformed CPC made the rights of the prosecution and defense to collect and present evidence more equal. By law, defendants and their attorneys have access to the prosecution's evidence relevant to their cases at any point during the investigation and may make copies at their own expense. The prosecution must disclose all evidence to the defendant no later than five days prior to the pretrial hearing. If the prosecution does offer evidence at trial that has not been previously disclosed to the defense, the court is obligated to exclude such evidence. Court observers reported that the prosecution complied with the new discovery rules.

In exigent circumstances (that is, evidence about to be destroyed or tampered with), prosecutors may seize evidence without court approval but, within 12 hours of the warrantless seizure, they must explain the underlying urgency to the court's satisfaction.

A convicted defendant has the right of appeal. The prosecution cannot appeal an acquittal. Once a verdict is rendered, if a prison sentence is given, then it begins immediately regardless of any pending appeals. The reformed CPC establishes a time limit within which all appeals must be resolved. In cases in which the appellant is incarcerated, the time limit for all appeals to be completed is nine months and 12 months for cases in which the appellant is not incarcerated.

The law provides that a verbatim record must be prepared and signed by the secretary and the presiding judge within five days of the conclusion of the court hearing or trial. Only then can the parties receive it. Under the reformed CPC, regardless of whether an arrested person is ultimately convicted, the state must fully reimburse from the state budget the damage caused from an illegal or groundless arrest, as determined by civil legal proceedings.

By law persons charged with crimes can be tried in their absence if they are absent to avoid trial. If persons convicted in their absence appeal their conviction within one month of their arrest or surrender, the law provides for a new trial. Human rights NGOs criticized these provisions because they apply to all crimes; the government's position has been in favor of timely commencement of trial and presentation of evidence and witnesses to prosecute criminal behavior successfully and not to reward those who abscond from their prosecution.

Political Prisoners and Detainees

Several nonparliamentary opposition parties and NGOs alleged that the government continued to hold political prisoners and detainees. Estimates of the number varied; reasonable estimates were in the dozens. The government, NGOs, and opposition leaders disagreed on the definition of a political prisoner. The public defender did not name any political prisoners or detainees in his report for the second half of 2009. According to the PDO, the office did not receive requests for assistance regarding political prisoners during the year. The parliamentary Human Rights Committee, which included a member from the opposition, disagreed with assertions that the government held political prisoners.

According to observers, a majority of cases alleged to have been politically motivated in connection with the spring 2009 opposition protests involved charges of illegal

possession of weapons or drugs against opposition activists. In the majority of such cases, procedural shortcomings were reported. In August 2009 nonparliamentary opposition party representatives gave the Minister of Internal Affairs a list of 48 activists from various opposition parties that they considered to have been arrested on fabricated charges during the April to July 2009 protests. These charges were mainly related to drug and arms possession. The Ministry of Internal Affairs opened an investigation into the allegations and began discussions with the nonparliamentary opposition. Reportedly 10 individuals were released after the initial talks in August 2009, and 16 were released in November 2009. Many of these individuals were released on bail or released after serving short administrative sentences. It was not clear how many of the individuals from the original list of 48 had been released at year's end. In August 2009 two Republican Party opposition activists on the list were sentenced to prison terms by the Gori City Court.

In his report for the first half of 2008, the then public defender identified five political prisoners and, in his report for the second half of 2008, he identified one. Of these individuals, three remain incarcerated, including Merab Ratishvili, Joni Jikia, and Maia Topuria.

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

Regional Human Rights Court Decisions

During the year the ECHR ruled against the government in four cases involving alleged violations of the European Convention on Human Rights, and supported it in 13 cases. The violations occurred from 1997 to 2006. The violations pertained to the right to a fair hearing, property rights, the right to a speedy trial, and the right to life. According to the Ministry of Justice, authorities paid compensation in three of the cases by year's end.

For example, on May 27, the ECHR ruled that the Ministry of Internal Affairs unlawfully deprived former ministry official Batalbi Saghinadze of the right to use a cottage by evicting him in 2004. An IDP, Saghinadze had been living in the cottage since 1994. The ECHR also ruled that the government's decision extending Saghinadze's pretrial detention in 2006 was unlawful because the decision consisted of a template with prewritten findings. The court ordered the government to return the cottage or equivalent lodging to Saghinadze or pay 15,000 euros (\$19,600) in damages.

On June 8, in the case of Khaindrava and Dzamashvili versus Georgia, the ECHR concluded that the state had failed in its obligations to carry out an effective investigation of an alleged assault on the applicant's life (in 1997), and that there had therefore been a violation of article 2 (right to life) of the European Convention in its procedural aspect (the investigation). The court ordered the state to pay 12,000 euros (\$15,700) in damages.

Civil Judicial Procedures and Remedies

The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns about the professionalism of judges and transparency in their adjudication. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including unlawful human rights violations, is entitled to bring a civil action.

Property Restitution

GYLA reported several cases in which it offered legal assistance during the year to groups that claimed the government improperly used eminent domain to seize at unfair prices their property in Tbilisi for public works. In addition GYLA reported that the government was exerting pressure on these groups to accept the offered compensation.

In Abkhazia the de facto law banned de facto courts from considering any property claims filed by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby effectively depriving IDPs of their property in Abkhazia. During the year de facto courts in Abkhazia reportedly did not make efforts to establish facts or administer justice but acted at the direction of prosecutors and law enforcement.

In December South Ossetian de facto authorities issued a decree that invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property held in the Akhagori region. The same decree declared that all property in Akhagori belonged to the de facto authorities until a "citizen's" right to that property was established in accordance with de facto legislation.

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

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

NGOs continued to report that police conducted searches and monitored private telephone conversations without first obtaining court orders; the CPC permits such searches only under limited circumstances. NGOs reported that police often obtained warrants after the fact and many citizens were unaware of their right to delay a search of their home by one hour to summon two objective third-party witnesses to the search. Under the CPC, if authorities conduct a search or seizure without a warrant because of urgency, a court must later approve the warrantless seizure; otherwise, the evidence collected is considered invalid.

During the year some opposition figures reported concerns about government surveillance. An opposition leader alleged that such surveillance included monitoring of the e-mails and cell phones of national and regional opposition leaders by officials of the Ministry of Internal Affairs Constitutional Protection Department.

NGOs and some opposition members contended that tax authorities targeted certain companies and persons for searches for political reasons; they viewed the subsequent fines as a form of "legal extortion" by the government. They asserted that the authorities in some cases used the threat of tax audits as a tool to dissuade businesses from contributing to opposition-linked persons and organizations. Businesses and persons across the political spectrum reported this practice. In a May report, TI/Georgia noted that the tax administration, while improved, failed to apply risk analysis or other auditing mechanisms in selecting businesses to audit. The report noted that this omission allowed for excesses by the financial police who, motivated by budgetary shortfalls and political considerations, used tax audits, as one commentator noted, as a political club.

There were concerns about the lack of due process and respect for the rule of law in a number of developments related to property rights. During the year there were reports that the government sold state-owned land in the municipality of Mestia in the region of Samegrelo-Zemo Svaneti without notifying local residents who had been using it in accordance with customary practice (see section 2.b.).

IDPs and IDP advocates expressed concern that authorities did not fully respect property rights as they removed IDPs from temporary shelters in Tbilisi during the year. The Office of the UN High Commissioner for Refugees (UNHCR) observed that in most cases the evicted IDPs occupied these buildings without the consent of the government or the buildings' rightful owners (see section 2.d.).

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

On January 11, the Tbilisi City Court rendered a verdict in the case of a reported mutiny at the Mukhrovani military base in May 2009. The court acquitted one high-ranking

official, Koba Kobaladze, of mutiny charges. It sentenced Koba Otanadze to 29 years in prison, Levan Amiridze to 28 years, and Shota Gorgiashvili, who at the time was a tank battalion commander, to 19 years. The court handed down other guilty verdicts on lesser charges ranging from the illegal possession of firearms to disobedience, and sentences ranged from three to 15 years. Most of the 41 accused accepted plea bargains from the prosecution. Otanadze, Gorgiashvili, Amiridze, and 14 others appealed their convictions. On October 21, a three-judge panel upheld the prison sentences for all 17 defendants. Otanadze appealed to the Supreme Court, where the proceedings were pending at year's end. Some NGOs had raised concerns about aspects of this case.

Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved, but the security situation stabilized to the point that no overt use of military force was reported in the conflict areas. According to the European Union Monitoring Mission (EUMM), the Georgian Ministries of Defense and Internal Affairs remained in compliance with their Memoranda of Understanding, which limited the government's presence, movements, and armaments in the conflict areas. Russian occupying forces in Abkhazia and South Ossetia and de facto militias refused access to international monitors and conducted numerous unannounced exercises. No international party was able to monitor the extent of their military presence.

In an October 7 report, the Council of Europe's commissioner for human rights, Thomas Hammarberg, highlighted a number of human rights problems following the August 2008 armed conflict in Georgia, including the inability of the majority of ethnic Georgians from South Ossetia and Abkhazia to return to their homes and the failure of the government to grant some persons displaced by the 2008 conflict status as internally displaced persons. Hammarberg also noted progress in removing explosives and other remnants of war of danger to the public and the release of detainees on both sides, although de facto authorities continued to hold six persons in detention in South Ossetia.

HRW reported that despite the passage of more than two years, the government had not effectively investigated international human rights and humanitarian law violations committed during the August 2008 conflict.

While there was little official information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions, many allegations of abuses persisted.

The UNHCR maintained a presence in the region of Abkhazia. During the year de facto authorities allowed the UN Secretary General's Representative, who represents the UN in the Geneva Discussions on the conflict in Georgia, to visit Abkhazia periodically and to send staff members there on a rotating, nonpermanent basis. UNICEF and UNDP representatives also periodically visited Abkhazia. None of these missions had a specific human rights mandate.

The mandate of the OSCE's military monitoring mission in South Ossetia ended in 2009, when Russia's refusal to join consensus in a new mandate led to the closure of the mission after 17 years of work. Subsequent efforts to negotiate an arrangement for a new OSCE presence in South Ossetia and the rest of Georgia were unsuccessful as of year's end.

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

observers to travel in Abkhazia to investigate claims of abuses.

Killings

Attacks in the conflict areas, some lethal, continued during the year; Georgian government officials and de facto authorities accused one another of committing some of these attacks, which occurred in or near South Ossetia and Abkhazia. No suspects or arrests were announced in any of the following cases.

On January 29, one police officer and two villagers were reportedly killed by mines placed near a private home in Chuburkhinji, in Abkhazia; seven others were reportedly injured. De facto authorities speculated that Georgian government forces could have been behind the attack; press reports suggested the incident resulted from tension between Russian and Abkhaz de facto forces.

On May 20, a villager was injured by a grenade reportedly rigged as a booby trap in his yard in Takhtisdziri, a village in undisputed Georgia close to the South Ossetian administrative boundary.

On June 1, an Abkhaz de facto customs official, Gennadiy Kvitsinia, and a colleague were shot and killed in an a reported ambush in Dikhazurga, a village in Abkhazia close to the administrative boundary; one other person was wounded. Two days later a local de facto Abkhaz administrative official in the nearby village of Repi, Dima Katsia, was shot and killed. De facto officials accused Georgian authorities of responsibility for both attacks, but later admitted that the June 1 incident was more likely a criminal affair; they did not offer any evidence for their accusation. Press reports suggested that the attacks were connected to criminal activity related to the extortion of villagers, and the Katsia attack may have been retaliation for the Kvitsinia attack.

On June 15, Anatoliy Kisiev reportedly suffered three gunshots and his 15-year-old son was reportedly beaten in Disevi, a village in South Ossetia and close to the administrative boundary. De facto authorities accused Georgian police of the attack; Georgian officials said any attack would have involved only Ossetians.

On June 23, the Georgian media reported that de facto officials from the Abkhaz "antiterrorist center" arrested three ethnic Georgian brothers in retaliation for the June 1 and 3 killings of de facto administration officials. One brother, Gogita Anjaparidze, died while in custody; de facto officials reported that he died of a heart attack, but Georgian officials alleged he was tortured for three hours and then beaten to death. The other two brothers were also reportedly beaten and then taken to area hospitals. They reportedly were being held in an Abkhaz prison at year's end.

On July 22, five or six Abkhaz police officers were reportedly injured in a roadside bombing in the Gali district of Abkhazia, although other reports suggested no one was seriously injured. De facto officials accused Georgian government of responsibility for the attack; press reports suggested the Abkhaz may have been involved in a dispute with Russian officials or had criminal links.

On December 7, police arrested six men in connection with three explosions that took place in Tbilisi on September 22, October 21, and November 28 (which killed a woman). The Ministry of Internal Affairs publicly alleged that the leader of the suspects, an ethnic Georgian from the occupied region of Abkhazia, was working under the orders of a Russian officer stationed in Abkhazia.

No developments were reported during the year in the following conflict-related killings that occurred in 2009: The January 2009 shooting and killing of a Georgian police officer in Knolevi, near the South Ossetian administrative boundary, in what appeared to be a sniper attack; the March 2009 attack, involving an improvised explosive device that killed a Georgian police officer in Dvani, near the South Ossetian administrative boundary; the April 2009 killing of Elguja Beraia, a Georgian resident of the Abkhaz

village of Nabakevi; the June 2009 attack involving an improvised explosive device that killed the driver of an ambulance in a convoy led by EU monitors in Eritskali, near the Abkhaz administrative boundary line; the July 2009 explosive attack that killed a Georgian resident of Akhagori in South Ossetia in his car as he drove from Akhagori to an IDP settlement in government-controlled territory; and the August 2009 attack, involving an improvised explosive device, that killed two civilians in Gagra in Abkhazia.

Abductions

During the year there continued to be reports of abductions along the administrative boundaries of both occupied regions.

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

The ICRC was unable to close approximately 100 of the 1,100 tracking requests from families and authorities it received during the 2008 conflict. There were no developments, and none were expected, in the 2008 abduction and killing of an elderly woman near Nabakevi.

South Ossetian de facto authorities claimed that several South Ossetians disappeared while in Georgian custody, including in particular Alan Khachirov, Soltan Pliyev, and Alan Khugayev, who were allegedly detained in 2008. The de facto authorities claimed to have evidence, including eyewitness accounts, that these three were held in Georgian facilities; they sought outside assistance in investigating the cases, and the EUMM and Council of Europe became involved. On September 29, Council of Europe Commissioner for Human Rights, Thomas Hammarberg, reported that there were indications that Georgian law enforcement officials had detained the three. He criticized the Georgian investigators for their ineffectiveness and lack of independence. The cases remained unresolved at year's end.

Physical Abuse, Punishment, and Torture

During the year there were no developments, and none were expected, in the reported killing of nine ethnic Georgian women and the rape of two others by South Ossetian irregulars. Investigation of reported rapes was difficult due to chaotic conditions and lack of police in locations where they reportedly occurred, often behind Russian checkpoints where Georgian officials had no access.

There were no further developments, and none were expected, in the investigation into an attack by unknown perpetrators in 2008 on the village of Khurcha on the Abkhaz administrative border. A 2009 UN investigation found that grenades were fired from the Georgian-controlled side of the cease-fire line. Four civilians were injured.

There were no developments, and none were expected, in the looting and burning by South Ossetian militias of five ethnic Georgian villages near Tskhinvali-Tamarasheni, Kekhvi, Kvemo Achari, Zemo Achari, and Kurt during the 2008 conflict. At the time, the Russian online news agency Regnum quoted Eduard Kokoity, South Ossetia's de facto leader, as stating that the Georgian enclaves of Kekhvi and Tamarasheni were "liquidated" as a result of military operations.

There were also no developments, and none expected, in the reported mistreatment of at least five of 32 Ossetians reportedly detained by Georgian forces in 2008 during the armed conflict and the arbitrary detention by South Ossetian forces (sometimes together

with Russian forces) of at least 159 ethnic Georgians. Four of the ethnic Georgians were killed, at least four reportedly tortured, and almost all reportedly exposed to inhuman and degrading treatment and detention conditions prior to their release. In a September 29 report, the Council of Europe's commissioner for human rights, Thomas Hammarberg, reported that the de facto authorities did not cooperate in the investigation of two Georgian soldiers who were captured alive during the conflict, but were reportedly beaten and died while in captivity. Their remains were returned to Georgian authorities.

Other Conflict-related Abuses

Russian border guards began controlling the administrative boundaries of the two regions in 2009 and continued during the year to restrict the free movement of the local population across the administrative boundary line for medical care, pension services, religious services, and school.

During the year working groups at the Geneva talks on the occupied territories focused on such problems as freedom of movement, the supply of water from South Ossetia to other parts of Georgia, and the supply of gas from undisputed Georgia to the South Ossetian region of Akhalkalaki. None of these issues was resolved by year's end.

There are well over 350,000 IDPs as a consequence of the conflicts in Abkhazia and South Ossetia (see section 2.d.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Individuals were generally free to criticize the government publicly and privately without reprisal, although there were some notable exceptions. Some individuals told foreign monitors they were reluctant to discuss, or had stopped discussing, sensitive topics by telephone due to concerns about government eavesdropping. NGOs reported that a climate of widespread impunity for attacks and harassment of human rights defenders had a chilling effect on dissenting voices and watchdog groups, especially outside of Tbilisi. They also asserted that the government used the legal process to silence critical voices. An opposition leader alleged that Ministry of Internal Affairs' Constitutional Protection Department officials filmed some opposition political meetings outside of Tbilisi. There were reports that unknown persons photographed participants at opposition rallies.

Opposition supporters alleged that individuals who had participated in opposition demonstrations had been fired from their jobs. In November 2009 there were reports that representatives of the ruling party in Tbilisi informed a number of individuals that they had evidence of their participation in the spring opposition demonstrations and that they would suffer consequences for their participation. However, NGOs reported no cases of retribution specifically tied to the spring protest participation.

Opposition figures and representatives of the government regularly appeared on the same shows, thereby providing a plurality of views. During the year programming more frequently utilized a debate format. During the municipal elections period in May, the GPB aired various candidate debates including all major candidates for Tbilisi mayor.

The GPB broadcast public policy debates on the weekly television talk show *Accents*, anchored by Eka Kvesitadze. Maestro and Kavkasia also ran political talk shows in a debate format. GPB aired a separate political talk show, *Dialogue*, twice a week. On February 22, the public broadcaster launched Channel 2, a public affairs channel aimed at airing daily nonedited coverage of political parties and parliamentary plenary and

committee sessions. The channel provided access to the media market to representatives from across the political spectrum including airing unedited footage from press events of the nonparliamentary opposition parties. Channel 2 did not have nationwide coverage. Its signal covered about 60 percent of the population, including the country's major cities.

Throughout the year NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of influencing editorial and programming decisions through their personal connections with news directors and media executives and by directing advertising (and through it, advertising income) using their personal connections with business owners. There were reports that business owners were intimidated into not advertising with opposition-leaning media outlets through the threat of lengthy financial audits by government authorities. Kavkasia TV reported that on November 15 that a company cancelled a signed advertising contract after the business owner allegedly received a threat from a government official that his business would be closed should he proceed with the contract.

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

The three largest television broadcasters in the country were the state-owned GPB and the privately owned Rustavi 2 and Imedi TV, the country's two most popular television stations. All three were generally considered to have a progovernment editorial policy. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered local daily news, although most were at a very low professional level.

On January 21, a report by HRW noted a lack of transparency in media ownership and a mixed environment "with diverse print media, but nationwide television broadcasting limited to the state-owned public broadcaster and progovernment Rustavi 2 and Imedi stations." On April 27, Freedom House described the press as "partly free." On May 3, HRW accused government authorities of intimidating journalists and denying them access to public information. Investigative journalists and NGOs particularly complained about access to court information.

In its final report on the May 30 municipal elections issued on September 13, the OSCE's Office of Democratic Institutions and Human Rights (ODIHR) concluded that the GPB, which broadcast two debates, provided the public with balanced coverage of the campaign. However, all other television stations ODIHR monitored lacked such balance, supporting either the government or opposition. The report noted that major broadcasters covered authorities' activities widely and positively, indirectly benefiting progovernment candidates. The report described the main television stations as charging artificially high prices for paid advertisements to limit media use by poorly financed opposition candidates.

The International Research and Exchanges (IREX) Board's media sustainability index report for the year stated that "the ruling elite" exercised significant influence over the primary news companies to "shape the national narrative" and again raised concerns that the majority of media outlets remained split along political fault lines.

On March 13, Imedi TV, a broadcast channel headed by a former senior member of the Saakashvili administration, aired a "mockumentary" of a Russian invasion on Georgia. The program's failure to clarify that the events being portrayed were a dramatization and not real resulted in short-lived panic throughout the country. There were allegations that government officials were directly involved in the production of the program. Audio tapes, posted by an anonymous source on a previously unknown Russian Web site and picked up by pro-opposition journalists and political activists, purportedly demonstrated

that the government was in talks with the Imedi director. On March 15, the Georgian National Communications Commission (GNCC) ordered Imedi to make a primetime apology for the broadcast.

The continued lack of transparency regarding media ownership fueled concerns over the ownership of the country's television stations, which served as the main source of information for most of the public. Throughout the year the PDO and others called for changes in the law on broadcasting to increase the transparency of media outlet ownership, including requiring information to be made publicly available regarding the shareholder structure of license holders and their owners. In its report for the year, IREX raised concerns about a "nested doll"-style media ownership system. However, the ownership of many media outlets, including Imedi and Rustavi-2, remained unclear at year's end.

The IREX Board's Media Sustainability Index for the year noted that national television stations rarely broadcast investigative stories. TI/Georgia's November 2009 report raised similar concerns. Rustavi 2, Imedi, and the GPB did not produce investigative reports.

As noted in TI/Georgia's November 2009 report, the GNCC was not perceived to be a truly independent regulatory body, in that it made politically motivated decisions. The GNCC denied the allegations, claiming it treated all broadcasting channels the same. Since 2008 the GNCC prevented the establishment of any new television and radio stations by delaying the issuance of broadcasting licenses, citing the continuing need to complete a survey. In November it stated that the survey was complete; nevertheless, it had not issued any licenses by year's end.

The GNCC exercised some control over programming by issuing stations content-based licenses rather than all-purpose broadcast licenses. There is a "general license," which allows for news and political programming, and licenses strictly limiting content to "entertainment only." On July 2, parliament approved an amnesty for tax obligations accumulated before March 1, applicable to all television stations, including regional broadcaster Channel 25, which had previously lost a court case challenging a tax levy. Some NGOs, including the GYLA, criticized the government for not including a breakdown of how much of the reported 36 million lari (\$20.3 million) liabilities belonged to each station. Observers believed that the progovernment stations, Imedi and Rustavi 2, were the major beneficiaries of the amnesty. The government justified its refusal to release details by citing the tax code, which categorizes such information as a commercial secret.

There were reports of direct physical attacks, harassment, and intimidation of journalists by government officials.

On January 22, a regional correspondent for the Human Rights Center and editor of a regional newspaper in Shida Kartli was reportedly physically and verbally assaulted by security guards at the regional government administrative building. The journalist was attempting to obtain public financial information about the regional administration for an investigative report when the incident occurred. According to the Human Rights Center, authorities had taken no further action on this case by year's end. According to the Ministry of Justice, an investigation determined that the journalist attempted to enter the building without a proper pass and verbally assaulted security officers when they asked him to follow proper procedures. The ministry also reported that forensic examination revealed no signs of physical injury.

In February an investigative journalist, Vakhtang Komakhidze, sought asylum in Switzerland, citing aggressive threats from government officials against him and his family. Komakhidze claimed that such threats intensified and included death threats after he visited South Ossetia in December 2009 to research a report on the 2008 conflict. The author of many investigative reports critical of the government, Komakhidze headed investigative reporting production studio Reportiori (Reporter). On July 27, Switzerland granted Komakhidze asylum.

On June 25, police officers in Gori (in the Shida Kartli region) allegedly seized the camera of a journalist from Trialeti radio and television station in Gori and erased footage that showed authorities dismantling a controversial statue of Stalin. The journalist alleged that when they seized the camera, the officers pulled him to the ground and kicked him. The journalist's camera was returned later, and he was able to continue filming; however, he claimed that after he publicly reported the incident, a regional police official threatened him by telephone. The journalist filed complaints with the Ministry of Internal Affairs and the PDO. The PDO appealed to the main prosecutor to investigate the case. The PDO had no updated information on the case at year's end. However, according to the Ministry of Justice, authorities terminated the investigation when they determined that police officers had found the camera unattended and had returned the camera to the journalist intact, including the controversial footage. The ministry reported that neither the journalist nor the cameraman had reported any physical assault.

Trialeti reported several other cases of police harassment during the year. The owner of the company alleged that it began after the company signed an agreement with pro-opposition Maestro TV. Trialeti representatives reported that they faced unequal access to government buildings, received anonymous phone threats, were disproportionately stopped for traffic violations, and were under surveillance by unknown persons while covering stories. They also reported that businesses advertising on Trialeti were threatened with financial audits.

On October 7, Trialeti's news director reported that police officers assaulted him when they pulled him over for a traffic violation and then detained him for disobeying police orders. He was fined 400 lari (\$226) by the local court. The PDO requested that the Office of the Chief Prosecutor open an investigation into the police assault allegations, but had no update on the case at year's end. According to the Ministry of Justice, authorities terminated an investigation into the case; a forensic examination determined that the news director had minor injuries on his arms and shoulder, and, while the arm injuries could have been inflicted at the time of arrest, the shoulder injury occurred earlier.

On October 21, private security guards reportedly assaulted Kavkasia Television reporters filming a protest at Lilo Market, and police on the scene took no action. Kavkasia reported that they did not press charges or request an investigation. The PDO issued a statement on November 10 reporting that on November 3 it sent a letter to the prosecutor general demanding a response to the assault allegation. According to the Ministry of Justice, a journalist was questioned; neither the journalist nor anyone else reported any interference into the work of the journalists.

According to a PDO statement issued on November 16, in October and November, an individual named Gela Chvritidze physically assaulted Enri Kobakhidze, the president of the Tanamgzavri television station. The statement indicated that Chvritidze appeared to have a police affiliation. On November 23, the OSCE representative on freedom of the media requested additional information about this case from the foreign minister. According to the PDO, the chief prosecutor launched an investigation on November 15; the investigation was pending at year's end. According to the Ministry of Justice, an investigation determined that the two persons in question got into a fight at a wedding ceremony, the cause of the fight was a private matter, and it had no connection to Kobakhidze's media ownership. Chvritidze was dismissed from the police.

According to the PDO, there was no update in the investigation into the April 2009 alleged physical assault by police on *Versia* newspaper journalists, Ana Khavtasi and Nino Komakhidze, at an opposition protest rally in front of the Public Broadcaster's building.

There were no developments, and none were expected, in the Ministry of Internal Affairs' investigations of November 2009 allegation by Mzia Amaglobeli, publisher of the Batumi newspaper *Batumelebi*, that the local unit of the ministry in Batumi tried to blackmail the head of the newspaper's investigative reporting team into cooperating

with it. According to the Ministry of Internal Affairs, the investigation continued at year's end.

There were no developments, and none were expected, in the investigation by the Ministry of Internal Affairs of death threats reportedly made in 2008 against editor in chief Eter Turadze and a staff member of the *Batumelebi* newspaper, or allegations by two independent journalists, Maka Tsiklauri and Irakli Gogvadze, that the government pressured them on matters related directly to their work in 2008.

There also were reports of attacks on journalists by nongovernmental actors. On May 7, a discussion on Kavkasia Television's program *Barieri* (Barrier) with leaders of two fundamentalist Georgian Orthodox groups and supporters turned into a fistfight. Representatives of the fundamentalist groups, Union of Orthodox Parents and the Public Orthodox Christian Movement, verbally and physically assaulted some of the program's guests and the station's staff, including journalists and the station's director general. Police detained at least eight persons. On August 12, the Tbilisi City Court found eight persons guilty of hooliganism and obstructing the work of journalists and sentenced them to four and one half years in prison.

In April 2009 a journalist and a cameraman from Rustavi 2 alleged that three young persons assaulted them outside of parliament while they were covering nonparliamentary opposition protests. The cameraman, Levan Kalandia, stated that three young persons approached and started to insult journalist Natia Lekishvili, in a confrontation that escalated into a brawl. Video footage, broadcast on television, showed a young man punching the cameraman. According to the PDO, an investigation was launched and continued at year's end.

According to the PDO, the assault on Prime News Agency journalist Teona Managadze by opposition protesters in April 2009 did not amount to a crime, and the PDO did not request an investigation.

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

HRW and Amnesty International reported that on July 24, in Tskhinvali, South Ossetia, as many as 10 assailants, including three members of the de facto South Ossetian "parliament" allegedly attacked an independent journalist and civil society activist, and threatened his colleague. The journalist suffered injuries from punches to his head, face, and body, and required hospitalization. The attack was allegedly in retaliation for his participation in a Georgian-Ossetian civil forum where humanitarian problems were discussed; de facto Ossetian authorities reportedly denounced participants in the forum as traitors. Both victims reportedly left South Ossetia after the attack.

On September 22, Russian and de facto authorities in Abkhazia reportedly dismantled radio and television transmitters located in the Inguri power station. Without the transmitters, ethnic Georgian populations in the Gali region were no longer able to receive Georgian language programming.

Often journalists worked without contracts, which in effect encouraged them to practice self-censorship. Journalists were hesitant to report material that did not reflect the owners' views, since they were afraid of losing their jobs. There were reports of authorities influencing journalists – sometimes through intimidation – into practicing self-censorship. Opposition party representatives and media advocates reported that they believed journalists either did not cover or lightly covered events that showed the government in a negative light on their own volition out of concern that critical pieces would not be aired or could potentially cost them their jobs. An example was a discussion on media freedom hosted on December 22 by the pro-opposition Trialeti television and radio station. Pro-opposition media outlets Maestro and Kavkasia covered this discussion; however, progovernment outlets Rustavi and Imedi did not.

Internet Freedom

Outside of Abkhazia and South Ossetia, there were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. However, according to November amendments to the Law on the Operative-Investigative Activity, communication companies are obligated to provide for the availability of private information for investigations; therefore, law enforcement officials conducting an investigation will have access to private e-mails, chats, open, and closed conversations on the Internet.

Individuals and groups could engage in the expression of views via the Internet, including by e-mail. E-mail access rose slightly during the year but remained centered in Tbilisi and other metropolitan areas. According to International Telecommunication Union statistics for 2009, approximately 31 percent of the country's inhabitants regularly used the Internet.

Insufficient information was available about the situation in the occupied territories.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, there were concerns about provisions in the law. During the year authorities permitted demonstrations; of the few large protests, most, but not all, were held without incident.

The law requires political parties and other organizations to give prior notice and to obtain permission from local authorities to assemble on a public thoroughfare. Permits for assemblies were routinely granted during the year. The law governing administrative offenses prohibits the blocking of streets "artificially" and "deliberately," either by protesters themselves or with "various types of constructions and/or objects." The amended law on police allows the use of nonlethal projectiles, including for riot control. The maximum prison term for a number of administrative offenses increased from 30 to 90 days. In contrast under the CPC, pretrial detention for criminal charges is 60 days.

In October 2009 legal experts of the Venice Commission expressed concern over provisions in the Law on Assembly and Manifestations that restrict freedom of assembly, which they recommended that parliament amend. The experts and some NGOs also expressed concern that parliament enacted the law before receiving the commission's opinion and expressed a desire to comment on two other laws affecting freedom of assembly. At year's end parliament was in discussions with the commission to address their areas of concern.

On September 2, the public defender submitted a constitutional complaint regarding a number of articles in three laws affecting freedom of assembly including, a ban on demonstrations by one person or by a person without Georgian citizenship; a prohibition on demonstrations within 20 meters of certain designated locations; a ban on blocking traffic under certain circumstances; the requirement to notify local officials five days in advance, thereby eliminating the possibility of a spontaneous demonstration; and a ban on defacing public property.

The head of the Tolerance Center within the PDO reported that on May 4, he was hit on the head by a member of a fundamentalist Georgian Orthodox Church group during a rally in support of the publication of a book critical of the church. The rally was reportedly disrupted by extreme Orthodox Christian groups, some of whose members physically assaulted demonstrators. Police reportedly tried to part the conflicting sides

but failed to respond adequately during the rally and failed to bring charges against those involved.

On May 6, police and protesters reportedly suffered some minor injuries during a protest against Police Day. According to reports, a scuffle broke out when protestors tried to cross a police blockade to disrupt a police parade. Protesters threw stones and injured police officers, and police used batons in self-defense. There were no confirmed reports of arrests or excessive use of force by police. Except for this incident, the protest was reportedly conducted peacefully.

The PDO requested an investigation into two aspects of the arrest of Irakli Kakabadze and two others who assembled to advocate the renaming of a Tbilisi street (see sections 1.c. and 1.d.).

On August 19, police arrested two activists for allegedly resisting police orders during a protest of IDP evictions (see section 2.d.). The two were fined 400 lari (\$217) and released the same day. The scuffle with protesters reportedly occurred when police attempted to arrest the protest organizer. However, there was no reported violence on the part of police, and police did not arrest the organizer.

On October 21, vendors at one of Tbilisi's largest outdoor markets, Lilo, went on strike to protest the enforcement of tax regulations. Opposition politicians, accompanied by journalists, decided to enter the market to see the shops and protest their closure but were barred entry by nonuniformed police and private security providers, leading to a scuffle. Journalists said that during the incident security guards assaulted them (see section 2.a.). Police arrested opposition party member Zaza Chakvetadze (National Forum). On October 25, a judge denied bail to Chakvetadze and sent him to pretrial detention pending an investigation. Chakvetadze was charged with resisting arrest. National Forum denied any wrongdoing and stated that the arrest was politically motivated. According to the Ministry of Justice, Chakvetadze attempted to use a firearm. Chakvetadze pled guilty and was sentenced to a two-year suspended sentence and fined 2,000 lari (\$1,130).

Some school directors claimed that the Ministry of Education and Science forced them to resign after students at their schools protested reforms to the national university entrance exams on November 9. Eight directors resigned.

The nonparliamentary opposition organized several large protests in 2009 during which police or nonuniformed assailants reportedly clashed with protesters with little accountability. The nonparliamentary opposition groups held a sustained protest from April to July 2009. Throughout this protest, the opposition parties called for President Saakashvili's resignation. For the most part, authorities allowed the unauthorized rallies (which included prolonged disruptions of traffic and public thoroughfares) to take place unimpeded. However, NGOs and the PDO reported dozens of cases of attacks on participants as they were leaving these protests by unknown assailants wearing masks and carrying blunt instruments.

In May 2009 police detained three young activists, who subsequently asserted that they had been beaten and threatened while in custody. Later during the day of their detention at Tbilisi police headquarters, several nonparliamentary opposition activists and police officers were injured in a confrontation outside the headquarters. According to the PDO, an investigation was launched, but there was no update by year's end.

In June 2009 police and protesters clashed outside a Tbilisi police station. Police reportedly attacked the protesters, journalists, and the PDO representative on the scene, injuring some of them. Police arrested 39 protesters for resisting police orders. Five activists were sentenced to 30 days in prison. The Tbilisi City Court fined the others 400 lari (\$237) and released them. The PDO stated that their requests for information on investigations into allegations of misbehavior against police officers on this occasion remained unanswered at year's end.

In July 2009 police arrested seven activists from a pro-opposition youth group that was rallying outside of parliament. The Ministry of Internal Affairs stated that all of the activists were charged with petty hooliganism, resisting police orders, and blocking the parliament building's entrance. One of the activists was fined 400 lari (\$237); the others received either 12- or 14-day prison sentences for administrative offenses.

According to a Web site, police arrested three opposition youth activists in November 2009, claiming that they had violated the amended law on rallies and resisted arrest. The Tbilisi City Court found the three guilty, despite the reported existence of film footage indicating that they had not violated the law or resisted arrest. GYLA criticized the arrest and the court ruling as a "rough violation" of freedom of assembly. The PDO reported that the three activists did not break any laws, stating that "the constitutionally provided freedom of assembly of Dachi Tsaguria, Jaba Jishkariani, and Irakli Kordzaia has been violated."

In 2007 the Old Tbilisi District Prosecution Office initiated a preliminary investigation into injuries sustained by individuals during demonstrations in November 2007. The Office of the Chief Prosecutor's investigation into the incidents continued at year's end. NGOs, including HRW, continued to report that the Prosecutor's Office had not brought charges against attackers. The PDO had no update at year's end. The Ministry of Internal Affairs stated in 2007 that 11 police officers were dismissed because of inappropriate behavior during the demonstrations.

Freedom of Association

The constitution and law provide for freedom of association; however, the government did not always respect this right in practice. There were some allegations during the year that members of opposition parties not represented in parliament (the nonparliamentary opposition) and their families and associates were selectively targeted for prosecution by law enforcement agencies and were subjected to stricter penalties than other citizens upon conviction. There also were allegations of pressure on opposition figures including surveillance and actual or threatened job loss. The lack of criminal accountability for physical assaults on opposition activists or supporters over the previous five years remained a problem.

On August 31, the president pardoned the son and brother of opposition activist Eka Beselia, as part of a pardon of 240 prisoners. Police arrested them in August 2009 for hooliganism and disobeying police orders. In December 2009 the Batumi City Court sentenced them to 1.5- and 2.5-year prison terms, respectively. Many legal analysts viewed these sentences as particularly harsh in view nature of the charges, although they were within sentencing guidelines. Beselia claimed that the arrests and convictions were due to her political activities.

Regional police arrested opposition and Mestia city council member Neli Naveriani and three of her nephews on July 7 for allegedly extorting money from a Canadian investor building a tourist resort in Mestia. The investigation took five days. Naveriani admitted entering into negotiations with the investor because her family had used the land he was to build on for generations, but denied making any threats. Her family had not legally registered their claim to the land. NGOs, including GYLA, stated that Naveriani was targeted for prosecution because of her opposition role in Mestia and because she made public allegations of election violations by the governor of the Samegrelo-Zemo Svaneti region and the Mestia district executive chief (see section 3). The Zugdidi District Court found Naveriani guilty on November 9 and sentenced her to four years in prison. GYLA reported that she pled guilty on the expectation of a plea bargain, but the prosecutor's office turned down the motion. GYLA lawyers appealed the sentence, and the case was pending at year's end.

Some opposition party figures, and the OSCE/ODIHR in its final report on the May municipal elections, noted that "a pervasive climate of fear exists, such that state employees and their family members are reluctant to associate with the opposition, for fear of losing their jobs."

The Ministry of Internal Affairs made no arrests and did not conclude any investigations into cases reported during the spring 2009 protests, including the assault on four members of the Ratom (Why) movement by 10 to 15 masked assailants who warned them not to attend any more rallies on pain of physical retribution; the reported physical and verbal assault on Shmagi Gelbakhiani, Ivane Gobejishvili, and other members of the youth organization of the nonparliamentary opposition group Alliance for Georgia as they were going to a protest rally outside parliament; and the reported beating of Gocha Sakhltkhutsishvili, a member of the organizational committee of the protest actions, and theft of his car.

In 2009 the PDO published a report with 32 suspected politically motivated assaults on nonparliamentary opposition activists during the protests in April to July 2009. According to the PDO, it forwarded all the information gathered in these cases to the Prosecutor's Office for further investigation. Investigations were continuing at year's end.

There were developments related to 2008 physical assaults reported by the PDO on opposition supporters Mamuka Kvaratskhelia, Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Tavdgiridze, Giorgi Shervashidze, Boris Dzanashvili, Levan Jgarkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili, and Nona Sagareishvili. According to the PDO, in the case of Gvarjaladze, a criminal suspect was found; Jgarkava requested the termination of his case himself in 2008; Dzanashvili's case was also terminated in 2008. According to the PDO, the other cases were not investigated. According to the Ministry of Justice, there was not enough evidence in the case of Dzanashvili to continue the investigation. According to the Ministry of Justice, the investigations regarding Kvaratskhelia, Abuladze, Sazanishvili, Iobashvili, Khutsurauli, Tavdgiridze, Shervashidze, Metreveli, Bortsvadze, Giguashvili, and Sagareishvili were still pending at year's end.

c. Freedom of Religion

For a complete description of religious freedom, please see the Department of State's *2010 International Religious Freedom Report*.

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

The law provides for full freedom of movement within the country, foreign travel, emigration, and repatriation for Georgian citizens, but this freedom was limited in practice by de facto authorities and Russian occupying forces. The government cooperated with UNHCR and other humanitarian organizations in protecting and assisting IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Georgian law imposes limitations on foreigners moving into and out of Abkhazia and South Ossetia. It also imposes special requirements on persons conducting economic activities in the occupied regions. There were no reports the Georgian authorities unduly restricted any international humanitarian organizations in practice. Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia; Russian and South Ossetian de facto authorities blocked virtually all international organizations, including humanitarian organizations, from regular access to South Ossetia.

De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia restricted freedom of movement. Checkpoints operated by Russian border guards and de facto militia often obstructed citizens' movement within these regions and between these regions and areas controlled by the Georgian government. Although Abkhaz de facto authorities maintained that the administrative boundary with the rest of Georgia was officially closed, they allowed limited crossings at the Rukhi Bridge; in July they introduced a permit system that formalized a process of granting permission to cross the boundary for 100 Russian rubles (about \$3) for a single trip. South Ossetian de facto authorities allowed limited crossings in and out of the Akhalkgori region, which is

populated predominantly by ethnic Georgians. International observers were able to gain limited access to Abkhazia, but only a small number gained occasional and extremely restricted access to South Ossetia.

Following the 2008 hostilities, Russian and South Ossetian forces occupied villages outside of the South Ossetian and Abkhazian administrative boundaries. By October 2008 Russian and irregular forces had, to some extent, pulled back to preconflict positions. Major exceptions included an increase in the scale of the Russian presence and expansions into previously unoccupied areas, including a significant new Russian and Ossetian presence in the Akhagori valley and the Upper Kodori Valley in Abkhazia. In October Russian forces withdrew from their checkpoint near Perevi, outside the South Ossetian administrative boundary, which they had maintained since the war.

South Ossetian de facto authorities reportedly exerted pressure on local residents, especially younger residents, to accept South Ossetian authority. On September 24, the media reported that the de facto authorities announced that ethnic Georgians would face restrictions, such as a fee to cross the administrative boundary, unless they obtained South Ossetian "passports." This requirement had not taken effect by year's end.

An Abkhaz "citizenship" law allows dual Russian-Abkhaz, but not dual Georgian-Abkhaz, "citizenship." Ethnic Georgians living in Abkhazia were required to acquire Abkhaz "citizenship" to open businesses, establish bank accounts, vote in elections, travel freely, or own property. While ethnic Georgians in the region could legally apply for Abkhaz "passports," the processing of their applications met with long delays and, in most cases, was never completed. In late December, a de facto Abkhaz and a Russian member of a property rights commission stated that the commission would not consider claims to property in Abkhazia made by ethnic Georgians.

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

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

Internally Displaced Persons

According to the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations, before the 2008 armed conflict there were approximately 235,000 IDPs from the conflicts of 1992 and 1993; the UNHCR estimated this number at 359,716 during the year. The UNHCR estimated that of the approximately 127,000 individuals displaced as a result of the 2008 conflict, 3,472 remained displaced as of January. They had not received a durable solution in undisputed Georgia. In addition as of January, the UNHCR counted 105,715 persons as being in an "IDP-like" situation needing protection and humanitarian assistance; this number included individuals who returned to Abkhazia, South Ossetia, and areas adjacent to the Administrative Boundary Line with both South Ossetia and Abkhazia, as well as those displaced in the 2008 conflict who were subsequently relocated.

By year's end most IDPs displaced in 2008 had received formal IDP status under national legislation; however, IDP status was not established for some individuals who were displaced or claimed to have been displaced in the 2008 conflict. These individuals, described by the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations as "IDP status seekers," include persons who had never been registered with Georgian authorities, such as persons who never underwent birth registration or who were displaced from regions which prior to 2008 were not under Georgian control; persons whose departure from South Ossetia cannot be established as indeed having been caused by the conflict; or persons who cannot prove their former residence in the occupied territories. These include in particular persons who may own property in the Akhagori region of South Ossetia, but may have moved for economic, educational, or

other reasons prior to the conflict. As there was some seasonal movement of persons to and from Akhagori, it was at times difficult to establish where an individual was settled at the time of the conflict. Various agencies including the government, the UNHCR, and NGOs employed different methods in estimating the total number of IDPs.

During the year IDPs from the 2008 conflict continued to receive assistance, including a monthly status-linked cash payment from the government, as well as some benefit from assistance activities of the international donor community. The Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations continued to implement the action plan for the implementation of the State Strategy on IDPs adopted in 2008. The main objectives of the plan were to provide decent living conditions for IDPs and promote their socioeconomic integration while they are displaced and to create conditions for the return of IDPs in safety and dignity. The government took steps during the year to rehabilitate existing collective centers, purchase or build new housing, or offer cash payments in lieu of providing housing to IDPs from the early 1990s and 2008 conflicts. The government made substantial progress on providing housing to IDPs and moved from a reactive approach (getting as much housing built as quickly as possible) to a long-term solution approach (providing durable solutions to IDPs from both conflicts). Most IDPs, primarily those displaced in conflicts in the 1990s, nonetheless continued to endure inadequate living conditions. These were often in dilapidated collective centers occupied in irregular fashion at the time of displacement, which often fail to meet minimum standards for shelter and sanitation, and with insufficient access to services and economic opportunity.

NGOs and international organizations such as the UNHCR and the UN criticized a series of IDP evictions from Tbilisi between June and August. On August 20, the UNHCR and others raised concerns about the transparency of the process. The PDO raised concerns about the conditions of the alternative housing provided. On September 17, the representative of the UN secretary general for the human rights of IDPs, Walter Kaelin, said that while the action plan for IDPs was generally sound, more needed to be done to provide for livelihoods and social support, especially for IDPs relocated from temporary accommodations. He cited the summer's IDP evictions as a matter of particular concern but welcomed the government's willingness to work with the UNHCR and the international community to create eviction procedures that would provide for sufficient notice and support before removals took place. Authorities completed eviction procedures at the end of September, and they were approved by the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodation and by the UNHCR.

In November the PDO released *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*. The report found that the country's laws and regulations on IDPs "do not contradict" international standards, and praised the State Strategy as consistent with international norms. However, the report noted problems in the implementation of the strategy, including lack of sufficient communication between the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations and the IDPs, insufficient participation of civil society, and inadequate coordination within the government in providing housing solutions for IDPs.

On May 27, the ECHR ruled that former ministry of internal affairs official, Batalbi Saghinadze, an IDP from Abkhazia living outside of Tbilisi since 1994, had been unlawfully deprived of the right to use the residence from which he was evicted in 2004 by the Ministry of Internal Affairs, which previously owned it (see section 1.e.).

Abkhaz de facto authorities continued to prevent repatriation of the approximately 235,000 persons displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and the UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 45,000 IDPs, many working as seasonal laborers, have returned to the Gali region of Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia. A property law prevented IDPs living elsewhere in Georgia from reclaiming homes in Abkhazia, especially outside Gali.

On September 7, the UN General Assembly passed a resolution calling for the voluntary, safe, and dignified return of IDPs to and from Abkhazia and South Ossetia; the right of IDPs to the property they left behind in the occupied territories; and the prohibition of a forced demographic change in the regions.

Protection of Refugees

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

UNHCR reported that in June the permanent Martkopi Reception Center for Asylum Seekers officially opened on the outskirts of Tbilisi to improve the overall asylum system and to bring it closer to international standards of protection for asylum seekers. On June 15, the European Commission against Racism and Intolerance (ECRI) reported the government granted two refugees residence permits and travel documents for travel outside the country. The UNHCR reported that the refugee population during the year was 693; 44 persons sought asylum during the year.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were no reports of such returns during the year.

In a 2008 report, the UNHCR expressed concern that law did not fully provide for such rights and recommended additional legislation and procedural safeguards, training for border guards, and a mechanism to speed referral of asylum seekers. During the year the UNHCR observed cases in which asylum seekers were referred to the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations by border guards, and noted improved cooperation on training issues.

On June 15, ECRI reported an improvement in relations between police and Chechen refugees in the Pankisi valley area. During the year the UNHCR declared its mandate fulfilled with respect to the permanent settlement of the Chechen refugee population in the Pankisi valley and closed its suboffice for the region on December 31.

The Russian soldiers who defected to Georgia from South Ossetia in June and December 2009 remained in the country with protected status as asylum seekers at year's end. In both cases the government assisted the asylum applicants with temporary protection while they initiated the process of applying for asylum in the country. Neither asylum case was resolved by year's end.

Stateless Persons

The law provides citizenship at birth if one or both parents are citizens. It also gives citizenship to children of stateless individuals born on the country's territory. Article 26 of the Law on Citizenship provides that an adult may become a citizen by satisfying the following requirements: (a) has been permanently residing on the country's territory during the previous five years; (b) knows the state language; (c) is familiar with its history and laws; (d) has a job or owns real estate on the country's territory, realizes business or owns shares in a Georgian company or industry. However, a person seeking naturalization is expected first to give up any previous citizenship.

According to December government statistics, a total of 1,987 legally stateless persons were identified and registered by the authorities. The UNHCR recorded 1,826. Nevertheless, due to delays in issuing birth certificates and other documentation problems (especially among minority communities), the actual number of stateless persons in the country was likely higher. Among those registered as stateless, documentation was poor. The number of registered stateless persons may include Chechens, who volunteered for repatriation to Russia but were rejected because they were never registered in Russia and did not have documented Georgian citizenship. This

confusion was compounded for persons who lived in the occupied territories.

Children lacking birth certificates were unable to participate in social aid or educational programs. Often children were not registered because their parents had no documentation. In 2008 the Civil Registry Agency (CRA) launched an intensive registration project in Kvemo Kartli to register juveniles and family members who lacked identification documents. Since 2008 approximately 11,000 persons, living in 10 regions throughout the country, were identified through a UNHCR program (implemented by an NGO, the Legal Development and Consultation Group, in close collaboration with the CRA) as lacking necessary documentation. To date over 60 percent of these have received free legal aid, assistance in obtaining documentation to establish their birth, confirmation of their right to Georgian citizenship, and finally receipt of identity papers.

In May 2009 the CRA opened new offices in Khelvachauri and Poti. Two agency offices in Senaki and Gori were restored and refurbished, which (as with all the other agency territorial offices) provided for IDP registration as well as registration and documentation of IDPs lacking documentation due to the destruction of the national archives on the South Ossetian side of the administrative boundary. In 2008 the CRA counted 2,500 IDPs without documentation, out of which approximately 1,700 were assisted through the NGO Legal Development and Consultations Group and the agency. The 2002 census, the latest, reported the number of Roma at 472. Many Romani IDPs from Abkhazia were not entitled to IDP social assistance because they had no documentation to prove their status. CRA officials stated that Roma with out-of-date Soviet passports had no difficulty applying for and receiving Georgian documents but noted that Roma were often reluctant to file official applications for documents.

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

The constitution and law provide citizens with the right to change their government peacefully; however, the government's record in the most recent national elections was mixed. The OSCE/ODHIR noted progress but also significant shortcomings in the May 30 municipal elections.

On October 15, parliament approved a number of amendments to the constitution including provisions that shift some political powers from the president to the prime minister in 2013. The Council of Europe's Venice Commission considered the October 15 constitutional amendments to contain "several important improvements" but concluded that it would be desirable to strengthen the powers of parliament further. The commission also viewed the no confidence procedures as a potential source of instability due to the time frame and potentially cumbersome process. Some civil society activists, opposition leaders, and others had urged the parliament to extend the period for public debate and for parliament's consideration of Venice Commission recommendations.

Elections and Political Participation

According to the OSCE/ODIHR election observation mission, the May 30 municipal elections marked evident progress towards meeting OSCE and Council of Europe commitments. However, significant remaining shortcomings included deficiencies in the legal framework, its implementation, an uneven playing field for candidates, and isolated cases of election-day fraud.

The May elections included the first direct elections of the Tbilisi mayor. In its final report on the election released on September 13, the OSCE/ODIHR mission noted improvements, including in the management of the election administration and in efforts to enhance the quality of voters' lists. The ODIHR assessed voting positively in 96 percent of polling stations visited by observers; however, regional variations pointed to systemic problems in some areas. Observers also reported a variety of procedural violations including 13 instances of likely ballot box stuffing as well as cases of multiple voting, proxy voting, and a series of seemingly identical signatures of voters on voters' lists. The observers also noted procedural violations in one-fifth of the vote counts and

one-fourth of the vote tabulations they monitored. The most widely observed procedural violations related to inking.

Despite reforms enacted in 2009, the OSCE/ODIHR final report also found that inadequacies remained in the electoral code including: limitations on candidacy and voting rights; an election system that does not guarantee the equality of the vote; provisions that allow unlimited campaigning by certain public officials and the use of administrative resources for campaign purposes; and a number of gaps, inconsistencies, and contradictions.

The OSCE/ODIHR mission received allegations of violations from opposition parties and nongovernmental organizations, including reports of pressure on opposition candidates to withdraw. The mission found that 4.5 percent of candidates running for majoritarian seats withdrew after registering, although the reasons for their withdrawals were not reported.

One case reported by NGOs, including GYLA and TI/Georgia, involved the governor of Samegrelo-Zemo Svaneti and the district chief executive of Mestia. On the night of May 3, the governor and the district chief reportedly ordered police to assemble opposition candidates forcibly and bring them to the city administration building. Once inside the building, the governor allegedly pressed the opposition candidates to withdraw from the elections. Four candidates reportedly signed withdrawal documents that night. The government's Interagency Task Force for the elections recommended that the governor take a leave of absence from his office, which he did, but he returned soon after the May 30 elections. As of year's end the local prosecutor's office had not filed criminal charges, and an investigation by the office remained underway. In late October the district chief executive resigned from his position.

An observer from the NGO Public Movement Multinational Georgia (PMMG) took a video of precinct election commission officials stuffing the ballot box in the city of Akhalkalaki; the Central Election Commission annulled the results from the precinct. The chairman of the precinct was charged with election fraud on July 10 and pled guilty.

On June 18, a precinct chairman in Sagarejo, Asan Isakhan Ogli Abdulaev, was charged with breach of ballot secrecy; he pled guilty. Also on June 18, two members of Precinct No. Three in Batumi were charged with illegal interference in an election using violence or threat of violence; they allegedly physically assaulted an election observer; the case continued at year's end. On June 23, Nanuli Chkhikvishvili was charged with election fraud for changing an election protocol; Chkhikvishvili pled guilty. On July 11, Bukhuti Chkhaidze, a police officer in Guria, was charged with illegal interference in an election and suspended from his position. He allegedly pressured a local opposition candidate to withdraw on April 7.

The OSCE/ODIHR election observation report also noted that the distinction between the state and the ruling party was sometimes blurred and that there was not always a clear distinction between the official and party functions of public officials. Previous OSCE/ODIHR election reports also highlighted these concerns.

NGOs reported that government employees were pressured by their supervisors to vote for, and donate to, the ruling party with the implied understanding that failure to do so might result in a loss of employment. The OSCE's final report noted that opposition parties made the same allegation. The OSCE also reported a number of allegations that businesses were reluctant to donate to some opposition parties due to fear of negative consequences.

According to TI/Georgia's final report on the use of administrative resources during the municipal elections (released July 14), in the 31 municipalities that provided information, over 1,300 employees were on leave in April and May, presumably to work on the government's election campaign. The OSCE reported allegations that municipal offices in several places were understaffed during the month before the elections due to "mass leave-taking."

Presidential and parliamentary elections were held in January 2008 and in May 2008, respectively. The OSCE's final report on the presidential election concluded that authorities and other political stakeholders made significant efforts to conduct the 2008 parliamentary elections in a way that was consistent with OSCE and Council of Europe commitments; it noted that, while the election was consistent with most OSCE and Council of Europe standards and presented the first genuinely competitive post independence presidential election, implementation was uneven and incomplete. The campaign was overshadowed by allegations of intimidation and pressure. The distinction between state activities and the ruling party campaign of the ruling party incumbent candidate Mikheil Saakashvili was blurred. The election was marred by other shortcomings in the election process, most notably in the counting and tabulation of the results, the appeals procedures, and management of election complaints.

The OSCE assessed that authorities and other political stakeholders made significant efforts to conduct the 2008 parliamentary elections in line with OSCE and Council of Europe commitments; however, according to the OSCE, a number of problems made this implementation uneven and incomplete. The OSCE report again noted shortcomings in vote counting, tabulation, and election complaints management. The OSCE also reported widespread allegations of intimidation and pressure on opposition activists, public-sector employees, and others, in the presidential and parliamentary elections. There also were credible allegations that businesses were pressured to contribute to the ruling party.

The OSCE's report noted that the election campaign was conducted in a highly polarized environment, compounded by reports of widespread intimidation. The OSCE examined a series of postelection beatings and other violence involving masked men, who attacked a total of 13 opposition activists, many of whom were in the process of taking legal action against alleged election-related irregularities. The OSCE visited seven of the 13 individuals and confirmed that they had been attacked. It noted that some opposition leaders accused the authorities and the ruling party of responsibility for the postelection attacks. The public defender also issued a statement criticizing the attacks and noted that a number of individuals who had been attacked refused to identify themselves due to fear of reprisal.

At year's end no progress was reported, and none was expected, in investigating alleged attacks by unknown assailants on members of the political opposition before and after the 2008 presidential and parliamentary elections. Opposition members accused the government of failing to make a genuine effort to identify, arrest, and try the attackers, many of whom wore masks.

There were no government restrictions on political party formation beyond registration requirements. However, an individual could not run for office without party affiliation. According to the Ministry of Justice's Registration and Licensing Department, there were 206 registered political parties during the year compared with 200 in 2009; however, only approximately 10 parties were regularly active. During the year persons and members of organizations linked to the opposition asserted that they were unduly singled out for prosecution (see sections 1.d. and 1.e.).

There were no developments in the Ministry of Internal Affairs investigation into the August 2009 kidnapping and wounding of well-known karate and wrestling champion Amiran Bitsadze by unknown assailants. Bitsadze, a member of the nonparliamentary opposition party Democratic Movement-United Georgia (DMUG), was found alive with two bullet-like wounds on his back, a broken leg, and a broken arm. The DMUG claimed that the motivation for the attack was Bitsadze's affiliation with the party. According to the Ministry of Internal Affairs, an investigation continued at year's end.

There were eight women in the 150-seat parliament. One of the seven vice speakers was a woman, as was the chair of the parliament's procedural committee. There were three women in the cabinet and six on the Supreme Court.

There were five members of ethnic minority groups in parliament: two ethnic Armenians

and three ethnic Azeris. There were two members of minorities in the cabinet. There were no members of minorities in the Supreme Court. By law the number of seats held by ethnic minorities in municipal councils was commensurate with the ethnic population in each region of the country. Higher-level city managers included ethnic minority leaders among their ranks.

According to the final OSCE/ODIHR report on the May elections, women were underrepresented in leadership positions in the election administration as well as among the candidates for and members of city councils. However, they were well represented in lower-level election commissions. The OSCE/ODIHR mission found that many parties put forward candidates belonging to national minorities and that election materials were made available in minority languages, but not in all areas inhabited by minorities.

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

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. The government implemented these laws effectively against low-level corruption, which decreased because of high-profile reforms led by the president. Additionally, some internationally respected organizations indicated that Georgia made progress in this regard, but some NGOs alleged that senior-level officials engaged in corruption with impunity. The World Bank's worldwide governance indicators reflected that corruption was a problem.

There was a general consensus among public officials and civil society organizations that levels of petty corruption fell after the 2003 Rose Revolution. Observers attributed the improvement to the detention of corrupt public officials, increases in public servants' salaries, and the simplification of administrative procedures.

Several high-ranking officials were indicted on corruption charges during the year.

Police corruption was low at the patrol police level. The relatively high salaries for police officers provided an incentive to refrain from using their positions to extort money from citizens.

High-level corruption remained a concern. Observers considered the official anticorruption campaign too heavily focused on prosecution as opposed to prevention and unstructured rather than systemic and participatory. Areas of concern included democratic institutions, civil society involvement in the planning and execution of public policy, property rights, and elite corruption. NGOs also raised concerns about the government's connection to business and, in particular, corruption in the conduct of bids. There were such cases during the year.

On June 4, the president approved a new national anticorruption strategy. TI/Georgia's report *Monitoring Georgia's Anti-Corruption Commitments* noted that the weakest governance link was the insufficient independence of the judiciary and the civil service. Judicial independence was rated at 71 percent, although its rating was significantly higher when discussing the legal framework than when addressing its practical enforcement and public attitudes toward the system. It also noted deficiencies in terms of the independence, accountability and transparency of civil servants, which received a low overall rating of 50 percent. This was mainly due to the lack of effective mechanisms for enhancing civil service independence and accountability (rated at 38 percent) and the lack of proper training of civil servants (rated at 50 percent).

The Ministry of Justice took some action during the year to curb bribery. According to the ministry, 146 investigations of passive bribery were initiated, (146 persons were prosecuted and 117 convicted; there were 43 investigations of active bribery (87 prosecuted and 67 convicted) and seven cases of trading in influence (three persons prosecuted and convicted.) This compares with 2009's convictions: accepting bribes, 40; giving bribes 47; and trading with influence, three.

Two judges and one prosecutor were convicted during the year of corruption-related charges. The Inspector General's Office of the Ministry of Justice actively enforced internal ethics and disciplinary rules in the Prosecution Service.

For the judiciary, addressing corruption and ensuring a cadre of independent judges involved training, salary adjustments, pensions, benefits, and improving basic work conditions. However, a May GYLA report on the judiciary noted that there were no objective, transparent criteria for determining bonuses for judges.

The law requires public officials to submit yearly declarations of their own and family members' financial incomes and property for tax inspection. The Bureau of Declarations received the financial declarations, and the Prosecutor's Office under the Ministry of Justice investigated government corruption cases.

On May 31, the Ministry of Justice's Inspector General Office conducted a large scale anticorruption operation and arrested a judge of the Tbilisi Court of Appeals, Dimitri Mchedlishvili, for allegedly accepting a bribe of 5,000 lari (\$2,825) in exchange for assisting a defendant on a criminal case. During 2005-07, Mchedlishvili was the Chief of the Judicial Disciplinary Proceedings Department at the High Council of Justice. Also arrested was prosecutor Levan Bochorishvili, who allegedly accepted bribes in the amount of 1,000 and 1,500 lari (\$565 and \$847) for entering into favorable plea agreements for defendants.

On June 11, the Prosecutor General's Office arrested Elizbar Lominadze, the general director of JSC Energy XXI, and Teimuraz Zurmukhtashvili, the history archive director of the Central Archive of Georgia. According to the Prosecutor's Office statement, a preliminary investigation alleged that Lominadze accepted 180,000 lari (\$101,695) in bribes from various companies for concluding contracts with them in the execution of a government-funded project. Zurmukhtashvili allegedly acted as the contact person in arranging the bribes.

On September 16, Koka Pruidze, a former deputy minister of labor, health, and social affairs, was arrested and charged with abuse of official position and bribery. The Prosecutor's Office stated that in 2009 Pruidze used his official position to influence the ministry's decision on a tender for the procurement of vaccine for a state-funded vaccination program. The prosecution stated Pruidze received 25,000 lari (\$14,124) in exchange for the tender in which the company offered the vaccine for three times the regular price. The trial continued at year's end.

In May a court convicted a prosecutor arrested in December 2009 and charged with accepting a 2,000 lari (\$1,130) bribe to secure a favorable sentence for a defendant (see section 1.e.).

In 2007 Mikheil Kareli, the former governor of Shida Kartli region, was charged with bribery and illegal business practices. He fled to France to escape prosecution. The government decided to try Kareli in his absence, and the trial continued at year's end. In 2008 French authorities arrested Kareli and continued reviewing the government's extradition request.

The law provides for public access to government meetings and documents; however, the government sometimes did not provide access. Although the law states that a public agency shall release public information immediately or no later than 10 days after it is requested, the release of requested information could be delayed indefinitely, and requests were sometimes ignored in practice. NGOs noted that a 100 lari (\$56) fee for

court information was restrictive and limited the ability to request information. On May 3, many regional newspapers printed blank front pages to raise awareness about problems in obtaining information from government agencies.

On June 22, TI/Georgia reported the results of field tests of 52 Freedom of Information requests sent to 10 public agencies by four different sets of volunteers between February and May. In 78.8 percent of cases, public agencies provided satisfactory responses. Unsatisfactory responses (21.2 percent) included the absence of any response, oral or written refusals without an acceptable reason, incorrect referrals, and incomplete answers. None of the five requests sent to various institutions for information about public officials' bonuses received a satisfactory reply. The most responsive institutions were the Chamber of Control, the Central Election Commission, the Supreme Court, and parliament. The Prosecutor's Office was the least responsive, replying to only one of four requests. Low response rates were also observed at the Ministry of Defense (50 percent), Ministry of Internal Affairs (50 percent), and Ministry of Justice (25 percent). The type of requester (NGO, journalist, minority citizen, or unaffiliated citizen) had no significant effect on the chances of receiving an adequate response. There were violations of the maximum timeframes within which the information should be provided according to the law.

On July 21, parliament passed an amendment to the freedom of information law restricting third-party access to information about cases involving the government in international courts. NGO Human Rights Center reported that this was the first time the government restricted the country's freedom of information legislation since the 2003 Rose Revolution.

In Abkhazia criminals paid bribes to de facto police, prosecutors, and judges to avoid prosecution.

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

Domestic and international human rights groups in most cases operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs enjoyed close cooperation with the government, and officials were cooperative and responsive to their views; others complained of not having sufficient access to government officials and the government's failure to take into account civil society views. Some NGOs also reported instances in which authorities harassed their organization and staff.

The major human rights problems that caused tensions between the government and NGOs during the year were the alleged mistreatment of prisoners, intimidation and use of government resources during the May municipal elections, harassment of human rights defenders and journalists, the conduct of IDP evictions, and a lack of investigatory conclusions in reported cases against journalists, civil society activists, and nonparliamentary opposition members.

In a January 15 statement, a coalition of 13 NGOs raised concerns about a smear campaign allegedly being conducted against human rights defenders. They reported that several negative stories about them were broadcast in December 2009, including a report by the Georgian Public Broadcaster about the activities of the NGO Human Rights Priority in relation to IDPs conflict victims; a claim broadcast on Rustavi 2 that the release of prisoners detained in South Ossetia was "spoiled" by the Georgian Young Lawyer's Association; and a broadcast on Real Television in which former ombudsman Sozar Subari was accused of protecting only the rights of religious minorities during his time in office.

The NGO Human Rights Center reported that on February 22, the newspaper *Versia* (Version) accused the chairman of the PMMG, Arnold Stepanian, of working with Russian intelligence services. The tax inspection division of the Ministry of Finance closed Stepanian's father's shop twice during the year for inspections, the second time for more

than six months. At a March 10 meeting with members of the diplomatic community, NGOs raised concerns that the closures were part of an effort to discredit and pressure human rights defenders, particularly those working in ethnic minority areas, in the period immediately prior to the May 30 municipal elections.

NGOs continued to view the PDO as the most objective of the government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuse. The office generally operated without government interference and was considered effective. The government funded the PDO, which received 1.5 million lari (\$847,458) during the year.

On July 21, parliament granted the public defender the right to make nonbinding recommendations to law enforcement agencies that they investigate particular cases. Parliament also clarified the public defender's obligation to submit an annual report to it on the human rights situation for the calendar year instead of semiannually and required government offices to respond to all requests for information from the PDO within 10 days, rather than 15. The July 21 amendments also permit the PDO to act as an *amicus curiae*, a professional person or organization not a party to a particular case but permitted by the court advise it on some matter of law that directly affects the case in question. However, the PDO may no longer report on torture unless the victim gives clear consent.

The de facto authorities in the occupied territories did not grant the PDO access to those territories.

The public defender's most recent semiannual report, which covered the second half of 2009, focused mainly on the mistreatment of inmates, poor prison conditions, and other shortcomings in the criminal justice system; these were problems which continued during the year. The report noted that judges continued to fail to provide justifications for their rulings and indicated that instances of police mistreatment of detainees increased during the year.

During the year the PDO published several special reports, including the 2009 *National Preventive Mechanism Report* and a report on IDPs (see sections 1.c., 1.d., and 2.d.). The public defender also submitted a constitutional complaint regarding legislation governing freedom of assembly (see section 2.a.).

The public defender's authority does not include the power to initiate prosecution or other legal actions, but he can recommend action, and the government must respond. The PDO noted that the Law on the Public Defender does not explicitly authorize the NPM to use audio and video equipment. Instead the NPM follows the regulations established by each institution. The PDO noted that prisons and police stations place certain restrictions on this activity.

In June 2009 police assaulted a representative from the PDO while he was monitoring a nonparliamentary opposition protest (see section 2.b.). There were no developments in this case.

The parliamentary Committee on Human Rights and Civil Integration, the Ministry of Internal Affairs' Human Rights Division, and the National Security Council's human rights advisor had mandates to investigate claims of abuse.

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

De facto authorities in Abkhazia allowed some international organizations, including several UN agencies, to operate there on a limited basis, but only the ICRC had a specific human rights mandate. De facto authorities in South Ossetia allowed no international organization except the ICRC to operate there on a regular basis, but a few organizations, including the Council of Europe and the OSCE, gained extremely restricted access on an occasional basis, also without a human rights mandate.

The EUMM facilitated conflict resolution (including conflicts involving human rights problems) among Georgian, Russian, and de facto authorities in the occupied regions by regularly patrolling near the conflict areas and facilitating informal contacts among the sides. However, despite the 2008 ceasefire agreement's provisions, the EUMM was denied access to the occupied regions. Patrols could be conducted only on the undisputed Georgian side of the administrative boundary lines.

On October 28, South Ossetian de facto authorities participated in a meeting on incident prevention and response mechanisms (IPRM) for the first time after a one-year boycott. The Abkhazia IPRM met throughout the year. The Geneva Discussions, which were mandated by the 2008 ceasefire, established one IPRM meeting for each conflict area to facilitate practical and depoliticized discussions of the situation on the ground.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

Rape is illegal, but spousal rape is not specifically addressed by criminal law. Criminal cases of rape generally could be initiated only after a complaint by the victim. A first-time offender may be imprisoned for up to seven years; a repeat offender or perpetrator against multiple victims may receive up to 10 years' imprisonment. If the victim is, or becomes, pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years or, if the victim is a minor, up to 20 years. During the year investigations were initiated in 118 rape cases compared with 136 in the first 11 months of 2009. Observers believed many instances of rape were unreported due to the social stigma for victims and because police did not always investigate reports of rape.

Domestic and other violence against women was a problem. Cases were underreported. According to statistics from the Ministry of Internal Affairs, 2,991 domestic violence cases were reported to the police during the year compared with 1,331 cases in 2009 and 2,576 in 2008.

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

The law allows victims to seek immediate protective orders from courts against abusers, and it authorizes police to issue temporary restrictive orders against persons suspected of abusing a family member. However, restrictive orders were issued in only 182 cases of domestic violence during the year, compared with 176 cases in 2009, and 141 in 2008. The NGO GYLA reported that police did not use restrictive orders during domestic violence calls. A court should approve a restrictive order within 24 hours of a victim's application. It prohibits the abuser from coming within 100 meters (310 feet) of the victim and forbids the perpetrator to use common property, such as a residence or vehicle, for six months. The victim may request an unlimited number of extensions of the protective order. A violation of a restrictive order results in an administrative fine.

The Ministry of Internal Affairs developed a legally required form for police use when issuing restrictive orders; however, some NGOs reported that many police officials did not respond correctly to domestic violence calls and were poorly trained in the use of the national referral system for victims. During the year Tbilisi police patrol inspectors, regional police officers, and prosecutors received domestic violence-related training as did police officers in eight other cities.

The law exempts the payment of state duty on court cases related to protection of and assistance to domestic violence victims; allows a court, either on its own initiative or by request of a party, to hold closed sessions in domestic violence cases; allows a court to consider separation of a child from a violent parent; and limits access to firearms by a domestic violence offender.

Local NGOs and the government jointly operated a hotline and shelters for abused women, although space in shelters was limited. In October the government opened two new state-funded shelters and launched a new national, state-funded domestic violence hotline. Shelters also include crisis centers which also offer domestic violence victims psychological, medical, and legal assistance. The State Fund, an interagency government department that works with NGOs on gender-based issues, reported that during the year 112 consultations were conducted by telephone or in person. The State Fund reported that the shelters hosted 18 women and 16 minor children during the year.

During the year the Interagency Council on gender-based issues, including government agencies and NGOs, initiated a public awareness campaign, including the publicizing of the new domestic violence hotline; coordinated domestic violence training in partnership with the Prosecution Service and Police; and opened two state-run domestic violence shelters.

Kidnapping of women for marriage occurred but was not widespread. It occurred predominantly in ethnic minority areas and communities. Such kidnappings reportedly often were arranged elopements. Police rarely took action in these cases, although the law criminalizes kidnapping.

Sexual harassment and violence against women in the workplace were problems. NGOs stated that discrimination against women in the workplace existed, but instances were not reported. The law prohibits sexual harassment; however, the government did not effectively enforce the law, and authorities rarely investigated complaints. During the year investigations were initiated in 25 cases related to sexual harassment.

Couples and individuals have the legal right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, or violence. According to data from the UN Population Fund (UNFPA) for 2008, the latest available, 47 percent of women used some form of contraception.

The maternal mortality ratio, according to UNFPA statistics, was 48 deaths per 100,000 live births in 2008. According to data from the World Bank and the Population Reference Bureau, 98 percent of births were attended by skilled professionals. In 94 percent of cases, women had at least one prenatal visit. Indicators noted 16 percent of women reported an unmet need for family planning, but there was no further detail. Women and men were equally treated and diagnosed for transmitted infections, including HIV. However, patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited women's reproductive rights.

The law provides for the equality of men and women; however, the law was not always implemented in practice. On March 27, parliament passed a Gender Equality Law that went into effect immediately. According to the UN Development Fund for Women, the legislation provides for the establishment of a national women's council, enhancement of women's security, equality in the labor market, and strengthening of women's political participation. The law also introduces gender-responsive planning and budgeting on the part of the government. NGOs complained about the lack of

implementation since the law's passage in March. During the year the government released the law's definition guidelines.

The speaker of parliament continued to chair a Gender Equity Advisory Council, which included members of parliament as well as representatives from the executive branch, the PDO, and NGOs. The State Commission on Gender Equity, chaired at the deputy state minister level, prepared recommendations on the implementation of international agreements and conventions on gender equity. The PDO monitored gender equality cases.

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

Although some observers noted continuing improvement in women's access to the labor market, women remained primarily confined to low-paying and low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. According to the World Economic Forum's Global Gender Gap Report for the year, women in the country earned 78 percent as much as men engaged in similar work. As a result, many women sought employment abroad.

According to World Bank statistics, the ratio of female to male enrollment in primary, secondary, and tertiary schools was nearly equal. The share of women employed in the nonagricultural was almost 49 percent.

Children

The law provides for acquisition of citizenship by birth on the country's territory. It applies to children of stateless individuals. According to statistics from the UN Children's Fund (UNICEF), 92 percent of births were registered.

The 2002 census, the latest, put the Romani population in Georgia at approximately 472 (less than 1 percent of the population). Romani children were usually born at home, and their parents frequently did not register their births with the government. Since official identification is required to receive medical treatment and other public services, the lack of identification and the reluctance of parents to apply for such services could deprive Romani children of access to medical and other services.

Education was officially free through high school, but in practice, particularly in rural areas, many parents were obliged to contribute to the schools financially to keep them functioning. The quality of education fluctuated greatly between urban and rural areas and between Tbilisi and the regions. The quality of education in the occupied regions of Abkhazia and South Ossetia, outside of the government's control, was reportedly poor. In rural areas, school facilities were often inadequate and lacked heating, libraries, and blackboards.

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

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. Incidents of sexual exploitation of children, particularly girls, were reported. According to the Ministry of Justice, 11 cases of rape,

five cases of sexual abuse involving violence, and one case of coercion into sexual acts involving minors were reported during the year.

On May 31, the Child Referral Mechanism was initiated with the purpose of providing that children suffering from abuse are referred to the relevant community and state services by coordinating the work of multiple interested parties, including the police, schools, and social services agencies. According to the PDO, 33 cases of physical abuse of children, 14 cases of neglect, and 38 cases of emotional abuse were reported during the year.

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

There is an explicit statutory rape provision that makes rape a criminal offense if the victim is a juvenile. Other sexual crimes carry increased levels of punishment if the victim is a juvenile. Another article in the criminal code prohibits sexual intercourse with juveniles under the age of 16, provided the perpetrator is shown to be aware of the age of the victim. In such cases the penalty is a fine and/or incarceration for up to three years.

The number of street children was not considered to be high and has been decreasing yearly. Difficult economic conditions contributed to the problem. A study covering the period 2007-08 by the NGO Save the Children indicated that approximately 1,500 children lived and worked in the streets. The Ministry of Labor, Health, and Social Affairs operated a shelter in Tbilisi and, according to the PDO, hosted 70 children during the year; but the government took little other action to assist street children. The PDO reported a lack of information about street children and inadequate resources were devoted to them. The NGO Child and Environment operated a night center and three day centers during the year and provided support to 350 street children per day countrywide. Nevertheless, the two shelters could accommodate only a small number of the street children.

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

The conflicts in Abkhazia and South Ossetia displaced thousands of children; the numbers increased further because of the 2008 conflict with Russia (see section 2.d.). Even before the conflict, UNICEF reported that health services in both regions were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

Many orphanages were unable to provide adequate food, clothing, education, medical care, or facilities. They often lacked heat, water, and electricity. Staff members reportedly often diverted money and supplies to their personal use. The government approved a policy of deinstitutionalizing children, and, according to government statistics, the number of institutionalized children decreased from 5,000 in 2000 to 1,102 during the year. In February the Ministry of Labor, Health, and Social Affairs began rehabilitating the remaining 24 orphanages. During the year this process included completing assessments of staff and conducting staff training on proper childcare.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

The Jewish community did not report any acts of anti-Semitism during the year.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report*.

Persons with Disabilities

The constitution and law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas; however, the government was not effective in enforcing these provisions. Enforcement was a low priority for the government. Discrimination, including social discrimination, against persons with disabilities was a problem.

During the year 138,614 persons with disabilities were registered compared with 139,354 in 2009. This number included 10,134 children, compared with 8,034 in 2009. These numbers included only those officially registered; the actual number could be higher.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. However, very few public facilities or buildings were accessible, although notably the newly constructed presidential residence and the Ministry of Internal Affairs building were. During the May 30 elections, ballots in Braille were available for voters with visual disabilities.

The CPT noted in a September 21 report that at the institution for persons with mental and physical disabilities in Dzevri, there were no allegations of mistreatment of residents by staff, and that it had a generally positive impression of residents' living conditions.

In the 2009 *National Preventive Mechanism Report* (released during the year), the PDO drew the same conclusions as the CPT. The PDO noted, however, that living conditions were poor, including poor ventilation; lack of heat; lack of access to hygiene products, and poor nutrition. Patients who were admitted voluntarily were not allowed to leave of their own free will.

The Ministry of Labor, Health, and Social Affairs was the lead government agency responsible for policy regarding persons with disabilities. Other ministries were also involved, including the Ministry of Education and Science, which has an inclusive education program, and the Ministry of Sport and Youth Affairs, which runs the Special Olympics program. The PDO monitors the treatment of persons with disabilities through its Center for Disability Rights.

The government took some steps to address the needs of persons with disabilities. On December 3, the International Day of Persons with Disabilities, a forum was held in Tbilisi to raise public awareness on the problems and needs of persons with disabilities. In December 2009 the government approved a national action plan for activities for persons with disabilities, mandating clearly increased budgets and diversified activities across many ministries. The national action plan prioritizes disability classification, access to information, healthcare, access to buildings, education, habilitation and rehabilitation, employment, culture and sports, social protection, data, and legislative improvement. During the year work on the following elements of the action began, including revision of disability classification, creation of a new data system for persons with disabilities, and creation of an inclusive education program. State agencies provided protected work places for persons with disabilities, including the civil registry that employs dozens of persons with disabilities who work from home.

There were nine major committees in the country that evaluated children and assisted with their inclusion, or integration, in schools; approximately 200 schools became

inclusive during the year by providing access ramps and other facilities and specialized teachers with individual approaches to teaching and assessment. During the year standards for day care centers for children with disabilities were developed. All existing day care centers were evaluated based on these standards, and state vouchers were granted to individuals with disabilities, permitting them to be enrolled in quality daycare facilities.

National/Racial/Ethnic Minorities

The law requires that all government officials speak Georgian, the state language; some minorities claimed this excluded them from participating in government. Some government materials distributed to the public were only available in the Georgian language. Authorities asserted the government was not obliged to provide all official materials in minority languages. However, ballots and election materials were available in minority languages during the May 30 municipal elections and the 2008 presidential and parliamentary elections. According to the Ministry of Reintegration, it translated all major legislative acts into Armenian, Azeri, and Russian. The Ministry of Education reported that it provided textbooks translated into Armenian, Azeri, and Russian in schools in minority regions and Tbilisi.

The Ministry of Education provided university textbooks in minority languages. Students were able to take university entrance exams in minority languages. Students were also able to take advantage of a new "one-plus-four program," in which the government offered and funded one year of intensive Georgian language instruction and four years of university education to students who passed the entrance examinations in minority languages. A quota system required that a minimum of 10 percent of all national university seats be allocated to Armenian and Azeri-speaking students who passed the entrance exams. According to government statistics issued during the year, 124 Armenian and 175 Azeri speakers were admitted to the public universities through the quota system. This only represented 1.3 percent of the seats available.

Ethnic Georgians living in the Gali region of Abkhazia had no legal access to education in the Georgian language. In practice, however, instruction in Georgian did occur, but with limitations (see section 5). Teachers who did not speak Abkhaz instructed students in Georgian; however, such teachers were often subjected to harassment and prosecution by Abkhaz de facto authorities.

On February 4, the Ministry of Internal Affairs and the PDO signed a memorandum of cooperation under the government's National Concept and Action Plan and Civil Integration. Under this memorandum on February 11, the PDO gave a lecture at the police academy on ethnic and religious minorities.

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

An NGO in Armenia raised concerns that Vahagn Chakhalian and his relatives had been targeted for prosecution because of his political activity in the country's ethnic Armenian community. The NGO highlighted the timing of the arrest (two years after the alleged incident) and asserted that violations had occurred during the trial. There was also an allegation that Chakhalian was beaten in prison during the year (see section 1.c.). In 2008 Vahagn Chakhalian, Armen Chakhalian, and Ruben Chakhalian, at least one of whom was a member of United Javakh, a local NGO that called for autonomy for ethnic Armenians in the country, were arrested and charged with violating public order, resisting arrest, threatening law enforcement officers, and illegally possessing firearms during an alleged 2006 break-in. In April 2009 Vahagn Chakhalian was found guilty by the

Akhalkalaki District Court on six of 12 charges brought by the public prosecutor. He was convicted of organizing a riot directed against the public order, hooliganism, and the illegal purchase and possession of firearms and sentenced to 10 years in prison. Ruben Chakhalian was convicted of two of four charges, organizing a riot directed against public order and the illegal purchase and possession of firearms. He was fined 5,000 lari (\$2,960). Armen Chakhalian was found guilty of the illegal purchase and possession of firearms and was fined 2,000 lari (\$1,180). A fourth person, Aram Batoian, was charged with organizing group activities that violated public order and the illegal purchase and possession of firearms; there was no update at year's end.

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

The government took several steps to integrate ethnic minority communities through Georgian-language instruction, education, involvement in political dialogue, and improved access to information. The government continued to provide Georgian-language instruction to members of ethnic minorities serving in the armed forces and police, an effort which ECRI noted in its report on June 15.

However, ECRI observed that the challenge persisted of integrating these persons while allowing them to be educated in their mother tongue. It also noted that the government had developed projects to teach tolerance and respect for other ethnic and religious groups among students.

The law permits the repatriation of the Muslim Meskhetian population, a national minority group that Stalin deported in 1944. The legislation was a response to a 1999 commitment the country made to the Council of Europe to provide for the resettlement of the Meskhetians by 2011. Passage of the law allowed the government in 2008 to begin accepting applications for repatriation from Meskhetians with documents that confirmed their deportation. Passage of the law came under heavy criticism from opposition members of parliament and the media, which pointed to the delicate ethnic and demographic balance in areas once inhabited by Meskhetians, but subsequently populated by a sizeable ethnic Armenian community. On June 15, ECRI reported that Meskhetian Turks still suffered from a certain level of hostility among some segments of the country's population, especially those living in the region once inhabited by the Meskhetians. More than 1,700 Meskhetians had filed for repatriation by 2009. More than 150 returned unofficially over the previous three years, quietly settling in Akhaltsikhe and Abastumani. As of year's end, however, there were no official repatriations.

ECRI reported that Roma appeared to suffer from widespread societal prejudice and marginalization. While commending the CRA for registering some ethnic minorities, including Roma, to provide them with identification documents, ECRI noted that the government needed to do more to integrate fully all Roma. During the year the European Center for Minority Issues estimated the Romani population at 1,500, with no more than 300 in any one location. The 2002 census, the latest, reported the number of Roma at 472. Roma were found principally in the Tbilisi, Kutaisi, Kobuleti, Kakheti, and Sukhumi regions. Large numbers of Roma migrated to Zugdidi and Tbilisi from Abkhazia, while additional Muslim Roma arrived from Armenia and Azerbaijan. Internal seasonal migration to the Black Sea coast was noted during the summer.

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

There are no laws that criminalize sexual orientation, male-to-male sex, or female-to-female sex. However, social prejudices against lesbian, gay, bisexual, and transgender (LGBT) behavior were strong. The Georgian Orthodox Church strongly denounced such behavior. Cases during the year included death threats against an LGBT activist and the use of antihomosexual slogans by a candidate in the municipal elections.

There were a few LGBT organizations. However, they could not work exclusively on LGBT issues or work openly as LGBT organizations because of the extensive societal stigma against homosexuality; instead they promoted tolerance more broadly.

On April 8, threats were made against an LGBT activist by an anonymous administrator of a Georgian language Facebook Web page entitled "Death to Homosexuals." The threats were of sufficient concern that the Ministry of Internal Affairs and the Prosecutor's Office opened an investigation. According to the Ministry of Justice, the investigation continued at year's end. Facebook closed the Web page of its own volition.

On May 25, the GYLA filed suit to suspend the candidacy of an opposition candidate in the municipal elections for posting antihomosexual messages on his Facebook Web pages. The NGO claimed that the messages violated the election code which prohibits fostering hatred and enmity. The Tbilisi City Court ruled against GYLA.

In August false rumors of a gay pride parade in Batumi sparked the condemnation of the Georgian Orthodox Church, including a statement from the patriarch on August 20, and led to protests in front of a hotel where organizers were reportedly staying on August 25 and 26.

In December 2009 police searched the office of an NGO that promotes LGBT equality. Reportedly, they used antihomosexual slurs, made unnecessary strip searches, unnecessarily damaged organizational posters, and unnecessarily ransacked offices. The Ministry of Internal Affairs denied that any procedural violations took place and maintained that the profile of the organization was irrelevant in terms of the law. The ministry reported that its General Inspection Office gave one officer a reprimand at the "severe" level in accordance with the police code of ethics, as his actions were determined to be unethical and inappropriate for police officers. Two other officers were also given a reprimand at the "severe" level for not preventing the above-mentioned officer from making the unethical statements.

The public defender stated his priorities included protection of LGBT groups and individuals.

Other Societal Violence or Discrimination

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

Section 7 Worker Rights

a. The Right of Association

The law allows all workers, including government employees, to form and join independent unions of their choice without previous authorization or excessive requirements, and they did so in practice. However, the law restricts the right of employees of law enforcement agencies, medical doctors, firemen, personnel of the Prosecutor General's Office, and the employees of certain ministries (for example, defense) to form and join unions and to strike. Between 12 and 13 percent of the employed population was unionized, a proportion that rose to more than 46 percent if persons categorized as self-employed are excluded.

The principal association of unions is the Georgian Trade Union Confederation (GTUC), which represents unions in 22 sectors with more than 206,345 unionized workers. There were a few small unions for civil servants, agricultural workers, and artists, but they did not participate in the GTUC. Although many employees in large-scale enterprises were unionized, they did not exercise power commensurate with their large membership. Only a minority of the members were active in the labor movement.

Government interference in union activity was reported in at least one area. Some union representatives reported instances of government harassment and intimidation. On June 8, according to the AFL-CIO, Minister of Education Dimitri Shashkini met with regional heads for schools and reportedly issued verbal orders that all school principals refrain from transferring the trade union membership dues of their teachers to their trade union, the Educators and Scientists Free Trade Union of Georgia (ESFTUG). Subsequently, ESFTUG local presidents began to collect trade union dues directly from union members. When the minister learned of this action, he reportedly stated that any school principal who allowed the collection of dues would be held legally responsible. According to a November 30 ministry statement, school administrations were required to have teachers' written consent, as well as a contract signed between schools and trade unions, to transfer membership fees to the union. The ESFTUG reported that it was not able to collect dues consistently even when they have these forms.

The ESFTUG reported that Shashkini refused to meet and enter into dialogue with the ESFTUG's new president, who was elected on October 30. The union also reported that so-called "mandators," whom the ministry hired directly during the year ostensibly to maintain school security, far exceeded their stated mandate, and the ministry was using them to assure that union dues were not collected. The mandators, who were responsible only to the ministry, were reportedly filing official incident reports following their investigations of complaints, that ministry officials were then using as pretexts to dismiss teachers for cause.

Labor unions asserted that certain provisions of the labor code limited the mechanisms available to workers for the exercise of their rights. At least 100 members are needed for a trade union to be registered, a requirement considered unreasonable by the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations.

The AFL-CIO noted that the law permits a court to suspend the activity of a trade union if the union stimulates social conflict, a provision susceptible to being misapplied to suspend legitimate trade union activity.

The law provides for the right to strike; however, according to trade unions, it did not establish a coherent process for undertaking strikes. Strikes were limited to 90 days in duration and were permissible only in cases of conflict of rights, not conflict of interests. Workers generally exercised their right to strike in accordance with the labor code, but strikes were rare. The GTUC asserted that the rarity of strikes was due to restrictive rules and workers' fear of losing their jobs.

b. The Right to Organize and Bargain Collectively

Collective bargaining is recognized by law, and the law provides punishment for those who refuse to take part in negotiations; however, the government did not always protect this right in practice. There were 104 collective agreements that covered approximately 50,000 members. The PDO stated that one of the major deficiencies of the labor code was the absence of a requirement that employers provide a reason to employees in the event of termination of their employment.

The practice of collective bargaining was not widespread. Employers are not obliged to engage in collective bargaining even if a trade union or a group of employees wishes to do so.

The law prohibits employers from discriminating against union members or union-

organizing activities, and employers may be prosecuted for violations and forced to reinstate employees and pay back wages. However, the labor code allows employers to terminate employment at will and without providing a reason, giving them the right to fire employees on discriminatory grounds (that is, gender, political affiliation, or other reasons) or for union activism. The GTUC and its national unions continued to report some cases of management warning staff not to organize trade unions, and the GTUC cited several instances during the year in which employers allegedly threatened union members with dismissal for union activity.

There were continuing reports in both the private and public sectors of employers threatening or intimidating workers engaged in union organizing activities. Affected workers included teachers, employees of various mining, pipeline, and port facilities, and the Tbilisi municipal government. However, the GTUC could not identify any dismissals clearly tied to union affiliation during the year. One reason for this inability was that the duration of workers' contracts in most industries was so short (at times as short as one month) that employers could cite the expiration of a contract as the reason for terminating a particular worker.

In August the management of the state-owned Georgian State Railway unilaterally decreed that it would terminate the collective agreement between the railway and the trade union. The trade union immediately appealed the decree to the Tbilisi City Court. Railway management responded by offering to negotiate and nominating five members to a proposed joint commission. On August 10, the union agreed to negotiate and nominated five union representatives. In November the court ruled against the railroad workers union. The union continued to exist but had many problems with the collection of union dues.

According to the GTUC, none of the nine workers dismissed in 2008 by the management of BEM Textile in Ajara for reasons apparently related to their participation in the creation of a trade union was reinstated as of year's end.

The GTUC reported instances in which employers failed to transfer compulsory union dues they deducted from wages to union bank accounts. In one such case, the company Georgian Post systematically blocked the transfer to the union of dues totaling 38,000 lari (\$22,485) during the year. However, the GTUC reported that, by year's end the Georgian Post had covered all but the last two months of the year's arrears.

In 2007 port authorities in Poti fired union members and sealed their union office because of union activity. After negotiations the port authorities reinstated most workers. A court ruled against the union in a lawsuit filed on behalf of 11 workers who were not reinstated. In May 2009 the GTUC appealed to the ECHR, which accepted the GTUC's application but had not reviewed the case by year's end.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. However, there were reports that men and women were trafficked from and through, but not to, the country for labor. Also see the Department of State's annual *Trafficking in Persons Report*.

NGOs and trade unions objected to a provision in the labor code that permits compulsory labor in instances of emergency and natural disaster but does not require remuneration to persons who are conscripted.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, although the PDO noted that one of the major deficiencies of the labor code was

insufficient attention to the rights of minors. However, with high unemployment resulting in a large pool of adult workers willing to work for low wages, child labor was uncommon. Although official data were not available, a 2007 survey estimated that 77.4 percent of working children were employed intermittently on family farms, while 18.4 percent worked in family enterprises. The International Trade Union Confederation reported that children living in rural areas were slightly more involved in child labor. Children in urban areas were susceptible to trafficking, work in the streets, begging, or selling small items.

Also see the Department of State's annual *Trafficking in Persons Report*.

The most visible form of child labor was street begging in Tbilisi. A 2007-08 study by the NGO Save the Children indicated that the number of street children decreased to approximately 1,500 from 2,500 in 1999. Some experts reported that the number decreased further since that date. Many minors under the age of 16 worked and performed chores on small family-owned farms in rural areas. In most cases this work was not abusive and not categorized as child labor. However, in some ethnic minority areas, family farm obligations were reported to disrupt the ability to attend school. Some observations have suggested that school participation of ethnic minority children was especially low. Many families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there is also a significant ethnic Azeri population) worked on distant pastures for six to nine months a year, meaning that their children seldom attended school. Statistics on such situations were not available through the education or social protection systems.

In most situations, the minimum legal age for employment is 16 years old. In exceptional cases, children may work with parental consent at the ages of 14 and 15. Children under the age of 18 may not engage in unhealthy or underground work, and children between the ages of 16 to 18 are subject to reduced working hours and prohibited from working at night. The labor code permits employment agreements with persons under the age of 14 in sports, arts, cultural activities, and for performing advertising services.

The Ministry of Labor, Health, and Social Affairs is responsible for enforcing laws regulating child labor. The ministry's Department of Social Protection is responsible for determining compliance with labor laws and regulations. It receives complaints and identifies labor violations. There is a subdepartment for Child Protection and Social Programs, whose 12 specialists are responsible for policy issues, including the protection of children from illegal child labor. The subdepartment forwards any information it uncovers to law enforcement agencies for investigation and possible prosecution. The subdepartment reported that during the year it received no complaints about child employment. The policies that are developed by the subdepartment are implemented by social workers in the Social Service Agency under the same ministry. In the event of a violation of child labor laws, the courts have the authority to sanction the employer.

e. Acceptable Conditions of Work

Neither the minimum wage for public employees, 115 lari (\$68) per month, nor the statutory minimum wage for private sector workers, approximately 20 lari (\$12) per month, provided a decent standard of living for a worker and family. The minimum wage was below the average monthly wage in both the private and the government sectors. The official minimum subsistence levels were 149.5 lari (\$88) for a single person and 265 lari (\$151) for a family of four. Income from unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Labor, Health, and Social Affairs is responsible for enforcing the minimum wage. Minimum wage levels had not changed since 2005 (public sector) and the 1990s (private sector); the minimum wage was not enforced and was little known among the public.

The labor code provides for a 41-hour workweek and for a weekly 24-hour rest period unless otherwise provided by a labor contract. The PDO described inadequate attention to the rights of pregnant women as one of the major deficiencies of the labor code; it does not protect them from being dismissed from work while they are on maternity

leave. According to the code, shifts must be at least 12 hours apart. Pregnant women, or women who have recently given birth, are prohibited from working overtime without their consent. Overtime is defined as work that exceeds the work hours addressed in the employment agreement. If the employment agreement does not specify business hours, then overtime is considered to be performance exceeding 41 work hours per week. Terms of overtime labor are defined by agreement between the parties. The employer, as a rule, is not obligated to remunerate for overtime work or to remunerate at an increased rate. The labor code also permits an employer to change the hours of work by 90 minutes without renegotiating the terms of any labor contract. NGOs contended that this provision would effectively require employees to work overtime without compensation, a violation of the constitutional prohibition against compulsory labor.

Two explosions in mines in Tkibuli raised concerns about possible failures in adherence to safety standards. On March 3, four miners were killed and one injured; and on August 27, four miners were killed and six injured.

The government set occupational health and safety standards, but the PDO listed the failure to ensure safe conditions for workers as one of the major deficiencies of labor code implementation. The Ministry of Labor, Health, and Social Affairs monitors adherence to accepted labor standards and drafts proposals for changes as necessary. The parliamentary Committee on Health and Social Welfare has general oversight regarding labor policy and considers labor-related proposals submitted by the ministry.

The government body previously in charge of workplace monitoring, the State Department for Engineering Supervision, was abolished by the prime minister in 2009 due to alleged corruption, leaving no government organization in charge of this task. The Technical and Oversight Inspection Agency had inspection responsibility, but only for occupations codified as hazardous. The law permits higher wages for hazardous work and provides workers the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment. In practice employees rarely, if ever, took advantage of these protections due to fear of dismissal.

[1] Except where otherwise noted, figures and other data do not include the separatist, occupied regions of South Ossetia and Abkhazia.
