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World Report 2010 - Georgia

Events of 2009

President Mikheil Saakashvili faced a political crisis as thousands of opposition supporters took to the streets in the capital, Tbilisi, in early April 2009 demanding his resignation and early presidential elections. Protests lasted for two months, before opposition unity faded. During the protests, human rights groups documented a suspicious pattern of attacks on opposition activists by unidentified assailants, and police used excessive force against and detained protestors, and attacked journalists.

More than a year after the August 2008 Georgian-Russian conflict over South Ossetia, the government has not investigated comprehensively international human rights and humanitarian law violations committed by the Georgian military. Russia continued to exercise effective control over South Ossetia and another breakaway region, Abkhazia, preventing international observers' access and vetoing international missions working there. A European Union-funded international inquiry into the 2008 conflict highlighted the dramatic lack of accountability.

Freedom of Assembly and Police Violence

Thousands of opposition supporters demanding Saakashvili's resignation blocked Tbilisi streets from April to early June. Although the government tolerated protracted protests, police used excessive force against demonstrators and journalists, and dozens of activists were arrested, some later claiming ill-treatment in custody. Moreover, in a spate of attacks in April and early May, unidentified men in civilian clothes, often armed with rubber truncheons and wearing masks, beat and threatened a number of individual demonstrators leaving protests at night; civil society groups and the ombudsman reported dozens of similar incidents. The authorities opened over 50 individual cases, but failed to meaningfully investigate – suggesting acquiescence or support for such attacks.

On May 6 three young activists, including one minor, were taken into custody on alleged hooliganism charges. All three claimed they were beaten and threatened before being released a day later on bail. Following these activists' detention, an opposition leader illegally entered the Tbilisi police headquarters compound by climbing over a fence. A confrontation between police and opposition supporters ensued. Although some protestors wielded sticks at police, police failed to exhaust less violent crowd control

means before firing rubber bullets without warning into the crowd at close range, resulting in serious head injuries for several demonstrators.

On June 15, police attacked about 50 opposition supporters again gathered outside the police headquarters protesting the detention of youth activists the day before. Without warning, police chased and beat demonstrators with rubber truncheons, resulting in at least 17 demonstrators being injured. Police claimed that opposition supporters blocked the main entrance and road. They detained 38 demonstrators, releasing 33 after imposing fines and sentencing 5 to 30 days' administrative detention. Many of those released reported abuse in police custody. Police also assaulted several journalists and confiscated their cameras; although police later released the equipment, several journalists claimed that video and photo images had been deleted.

Police apologized for impeding the work of the media during the June 15 incident, yet conducted no independent investigation. Several officers (whose identities were not disclosed) received reprimands following an internal inquiry only. No meaningful investigation was conducted into the police use of excessive force.

Apparently in response to the protests, in July parliament adopted regressive amendments to the Administrative Code, increasing administrative detention, including for minor hooliganism and defying police orders, from 30 to 90 days. The measure appears excessive given that pretrial detention for criminal charges is only 60 days. July amendments to the Law on Assemblies and Manifestations banned full or partial blocking of roads during rallies unless the rally cannot be held elsewhere due to the number of participants.

Despite repeated calls from key international actors, the government has refused to launch a comprehensive investigation into events of November 7, 2007, when police used excessive force against largely peaceful political demonstrations in Tbilisi, resulting in at least 500 injured.

Lack of Accountability for Laws of War Violations

Well over a year since the Georgian-Russian conflict over South Ossetia, Georgian authorities have yet to ensure a comprehensive investigation into and accountability for international human rights and humanitarian law violations by their forces (see also Russia chapter).

During the war the Georgian military used indiscriminate force, including firing multiple rocket launchers – an indiscriminate weapon that should not be used in civilian areas. The military also used tanks and machine-guns to fire at buildings in Tskhinvali, the capital of South Ossetia, including at apartment buildings where civilians sheltered; South Ossetian forces had fired on Georgian forces from at least some of these buildings. The military also used cluster munitions against Russian military, including in civilian-populated Georgian territories adjacent to the administrative border with South Ossetia.

Some 20,000 ethnic Georgians from South Ossetia still remain displaced.

Criminal Justice System

Prison overcrowding leading to poor conditions remains a problem, despite construction of new prisons and several presidential pardons and amnesties. Although official statistics showed a decrease in the use of pretrial detention, the total number of prisoners increased to 19,504 by June 2009, a more than 50 percent increase since 2006. The frequent use of consecutive custodial sentencing is largely responsible for this increase. Allegations of deliberate ill-treatment of prisoners continue, including at the newly-built prison near Tbilisi.

In two judgments, the European Court of Human Rights found a violation of the prohibition on torture and inhuman or degrading treatment for the government's failure

to provide adequate conditions or medical care in prisons. In *Ghavidze v. Georgia*, the European Court also concluded that despite logistical and financial problems, Georgia is obliged to ensure dignified conditions in prisons.

The government has failed to conduct a thorough investigation into the March 2006 operation to quell a riot in Tbilisi Prison No. 5, which left seven prisoners dead and dozens injured.

The government maintains the minimum age of criminal responsibility at 12, in defiance of a June 2008 United Nations Committee on the Rights of the Child recommendation to reinstate it at 14. However, the government continued a moratorium on criminal charges against those under 14 until the creation of a separate juvenile justice system, which was planned for mid-2008 but has not been completed.

Media Freedom

The media environment remains mixed, with diverse print media, but nationwide television broadcasting limited to the state-owned public broadcaster and pro-government Rustavi 2 and Imedi stations. Transparency of media ownership remains a concern. On June 15, 2009, two Tbilisi-based pro-opposition television stations, Maestro and Kavkasia, briefly suspended broadcasting after their journalists were attacked and their equipment confiscated during the clash at the police headquarters. On May 30 the local cable network in Rustavi, near Tbilisi, removed Maestro from its lineup, allegedly under pressure from local authorities. In October a local court ordered Channel 25, the only independent regional television station in the Ajara Autonomous Republic, to pay a US\$166,000 tax debt. The station's owners dispute the fine, alleging that it is intended to close the station ahead of upcoming local elections.

Print media outlets, although vibrant, depend on newsstand sales and advertising for revenue. Claims by Tbilisi municipal leaders in September that newsstands tarnish the city's image raised concerns about newsstands' potential removal, a move that would threaten many print outlets' existence.

Several journalists alleged pressure and attacks. Nato Gegelia, a journalist for the regional newspaper *Guria News*, was assaulted in a police station on June 10 in Chokhatauri, in western Georgia, as she investigated an opposition activist's detention.

Key International Actors

The United States and the European Union deepened their engagement and financial backing of Georgia, but failed to make full use of their leverage to ensure meaningful human rights improvements. Meanwhile, Russia continued to occupy Georgia's breakaway regions South Ossetia and Abkhazia, and barred access to international observers. In December 2008 Russia blocked an extension of the mandate of the Organization for Security and Co-operation in Europe mission in Georgia, and in June 2009 vetoed the UN Observer Mission working in Abkhazia.

A 1,129-page report released in September by the EU-funded international inquiry into the August 2008 conflict found that international human rights and humanitarian law violations were committed by all sides, and highlighted a dramatic lack of accountability. The International Criminal Court – to which Georgia is a party – continued to keep under analysis crimes committed by all parties to the conflict.

In May 2009 Georgia signed a Declaration on New Eastern Partnership with the European Union, providing for additional assistance and cooperation. Georgia is already part of the European Neighbourhood Policy (ENP), which pledged over €120 million through 2010 plus an additional €500 million following the August 2008 war. The April 2009 ENP Action Plan progress report commended Georgia for progress in certain areas, but raised concerns about media freedom. The first round of a structured human rights dialogue between the EU and Georgia was held the same month. The EU extended the mandate

of 200 unarmed EU observers in Georgia; Russia continued to block their access to the breakaway regions.

The US and Georgia signed a Charter on Strategic Partnership in January 2009, envisaging increased cooperation, including on strengthening human rights. As part of a US\$1 billion pledge to support Georgia's recovery following the 2008 war, in May the US released US\$53.3 million, including US\$20 million for good governance, civic participation, and election and media reform. In a show of political support, US Vice President Joe Biden visited Tbilisi in July.

The Parliamentary Assembly of the Council of Europe adopted several resolutions on the Humanitarian Consequences of the War between Georgia and Russia, calling on all sides to conduct meaningful investigations into the violations during the conflict. The Council of Europe Human Rights Commissioner issued a report in May on human rights following the conflict, also emphasizing the need for meaningful accountability.

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