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## 2008 Country Reports on Human Rights Practices - Georgia

Bureau of Democracy, Human Rights, and Labor  
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The constitution of the Georgian republic provides for an executive branch that reports to the president, a unicameral Parliament, and an independent judiciary. The country has a population of approximately 4.6 million. President Mikheil Saakashvili was reelected on January 5 in an election that international observers found consistent with most Organization of Security and Cooperation in Europe (OSCE) democratic election commitments; however, they 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 on May 21, which international observers concluded were uneven and incomplete in their adherence to international standards. Civilian authorities generally maintained effective control of the security forces.

The main human rights abuses reported during the year included at least two suspected deaths due to excessive use of force by law enforcement officers, intimidation of suspects, abuse of prisoners, poor conditions in prisons and pretrial detention facilities, police impunity, lack of access for average citizens to defense attorneys, reports of politically motivated detentions, lack of due process in some cases, and reports of government pressure on the judiciary. Respect for freedom of speech and the press lessened, but began to rebound by year's end. Other problems included reports of corruption among senior officials and trafficking in persons.

Repeated violations of a ceasefire by all sides in the separatist region of South Ossetia, including assassinations, bombings, and then exchanges of shelling, escalated tensions. On August 7, senior Georgian government officials reported that Tbilisi was launching an attack to defend against what it reported was a Russian invasion. Georgia launched a military operation into Tskhinvali, the local capital of Georgia's South Ossetian region, and other areas of the separatist region. The situation deteriorated further after Russia launched a military invasion using disproportionate force across the country's internationally recognized borders, responding to what Russian officials reported was Georgia's use of heavy force in Tskhinvali and the killings of Russian peacekeepers. Military operations by Georgian and Russian forces reportedly involved the use of indiscriminate force and resulted in civilian casualties, including of a number of journalists. There were allegations that South Ossetian militias engaged in executions, torture, ethnic attacks, and arson; at least 150,000 Georgian citizens were displaced by the fighting. Russian and South Ossetian forces occupied villages outside of the administrative borders of South Ossetia and Abkhazia, the other separatist region in Georgia. Although by October 10 Russian forces had mostly withdrawn from the regions outside Abkhazia and South Ossetia, they blocked access to both regions for Georgians and international organizations, making it dangerous for residents and difficult to

monitor the regions' conditions with respect to human rights and compliance with humanitarian law. Under the ceasefire, international observers were to monitor Abkhazia, South Ossetia, and the remaining territory in Georgia. European Union observers began patrols October 1, but had not yet been permitted into South Ossetia or Abkhazia at year's end. OSCE monitors also were denied access to South Ossetia. UN Observation Mission in Georgia (UNOMIG) monitors continued to access Abkhazia, although Abkhaz and Russian forces limited their access to the ethnic Georgian areas of Kodori.

The number of dead, wounded, and missing remained uncertain. At year's end, Ministry of Defense and Ministry of Internal Affairs Web sites listed at least 385 soldiers, police, and civilians killed and 2,134 wounded as a result of the August conflict. More than nine military members and six Ministry of Internal Affairs personnel remained missing. Since the ceasefire until year's end, at least 10 Ministry of Internal Affairs members were killed by explosions or in shooting incidents while patrolling areas adjacent to the conflict areas.

Significant human rights achievements during the year included closure of Tbilisi Prison Number 5, known for its substandard conditions, and changes to the law to permit government funding for opposition parties which passed the threshold percentage of 5 percent. By the end of the year, television stations had resumed broadcasting major analytical political talk shows, with opposition and government figures appearing on the same shows and on all channels.

Prior to the August conflict, de facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside the control of the central government. Ceasefires were in effect in both Abkhazia and South Ossetia, although incidents of violence, including deaths, occurred in both areas. Deprivation of life, arbitrary arrest, and detention continued to be serious problems. On August 26, Russia officially recognized the independence of both territories, resulting in Georgia cutting diplomatic ties with Russia; as of December 31, no other country except Nicaragua had recognized the independence of the territories. Except where otherwise noted, figures and other data do not include the separatist regions of South Ossetia and Abkhazia.

The de facto authorities in Abkhazia continued to restrict the rights of citizens to vote and to participate in the political process through a "citizenship" law that forced ethnic Georgians to give up their Georgian citizenship in order to vote in local elections. A 2006 property law prevented internally displaced persons (IDPs) living in other parts of the country from reclaiming homes in Abkhazia. Authorities limited instruction in the Georgian language in the predominantly ethnic Georgian Gali district schools in Abkhazia.

After August 26, South Ossetian de facto authorities announced that Georgians would be allowed to return to South Ossetia only if they renounced their Georgian citizenship and took the "citizenship" of the "Republic of South Ossetia"; in practical terms, this meant accepting a Russian passport.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

The government or its agents did not commit any politically motivated killings; however, there were reports that government use of indiscriminate military force resulted in civilian deaths in the conflict in South Ossetia (see section 1.g.).

On May 8, patrol police officers Vakhtang Abuashvili and Levan Jinikashvili were pursuing a vehicle that was speeding in Tbilisi. At one point, the driver of the car, Giorgi Gamtsemlidze, stopped the car, got out, and began to run. Abuashvili exited his squad car and began pursuit on foot. Abuashvili thought at the time that Gamtsemlidze was

armed and pulled his weapon and fired, hitting Gamtsemlidze in the neck; Gamtsemlidze died from the shot. Later it was determined that Gamtsemlidze was unarmed. Those at the scene stated that Abuashvili did not give a proper verbal warning prior to firing his weapon. The investigation continued at year's end.

On August 14, a representative from Khelvachauri military base called Roin Shavadze, a member of the armed forces, and told him to report to work. The public defender's reports noted that Shavadze did not report due to illness. On August 16, several men came to the Shavadze home and took him away, but later he returned. On August 17, Shavadze left for work. Later that day his wife received a call saying that Shavadze had never arrived at work and was seen being forced into a car near the market, and she contacted local police. In the evening, she received a call to come to the emergency room, where she found her husband dead. Shavadze's body had numerous injuries and bullet wounds. According to Kobuleti district police inspector Mamuka Tkhiliashvili, Shavadze was found dead on the Kobuleti-Kakuti highway. Adjara prosecutor Vasil Roinishvili told Shavadze's widow that he was shot and killed by police while he was fleeing from the scene of a drug-related crime. When Shavadze's widow stated she would press for more details about her husband's case, the prosecutor reportedly threatened her. At year's end there was no information from the prosecutor's office on the status of the case.

In 2006, the Prosecutor General's Office opened an investigation to determine whether law enforcement agents acted in accordance with the law during the prison riot in Tbilisi Prison Number 5 that year. During the riot, seven prisoners were killed and 22 injured; two Special Operation Task Force officers were wounded. The office did not complete the investigation during the year nor offer an explanation for the delay.

In 2006, the Prosecutor General's Office investigated five of 12 deaths cited by nongovernmental organizations (NGOs) as evidence of excessive force used by police that year. In two of the cases, involving Aleksandre Khubulovi and Zurab Vazagashvili, the office concluded that the actions of the police officers were lawful. The investigations of the remaining three cases were terminated in February 2007, when the Ministry of Internal Affairs concluded that police had only returned fire and therefore had acted within the limits of their authority. Lawyers for Zurab Vazagashvili's family alleged that investigators ignored witness statements, pressed witnesses not to testify, and destroyed evidence. NGOs, on behalf of Vazagashvili, appealed the decision to terminate the investigation. On July 4, the court of appeal upheld the lower court judgment that the appellants (the NGOs that had filed on his behalf) were not parties to the case and therefore did not have the right to appeal.

In February 2007, authorities submitted a criminal case to the Kutaisi City Court regarding the 2006 death of Varlam Pkhakadze, who was allegedly shot and beaten by police investigating a break-in. The court found officer Ivane Kapatadze guilty of murder and official negligence and sentenced him to five years in prison. The court convicted three other officers who had been at the scene. Davit Minashvili was charged with official negligence, sentenced to three years in prison, and fined 2,000 lari (approximately \$1,210). The other officers involved, Avalo Gabrichidze and Kakha Bunia, were sentenced to two years in prison and fined the same amount. After the Kutaisi Court of Appeal upheld the decision, the counsel for Minashvili and the victim appealed the decision to the Supreme Court, which had not reached a final judgment at year's end.

In 2006, the prosecutor appealed the 2004 Tbilisi City Court conviction of Roland Minadze, a police officer who was found guilty of falsification and fabrication of evidence in connection with the beating of Khvicha Kvirikashvili and sentenced to four years in prison. The Tbilisi Appellate Court upheld the judgment. Minadze went into hiding but was arrested in January; he subsequently invoked his right under the criminal procedure code and appealed the in-absentia judgment. The case was pending before the Tbilisi Court of Appeal at year's end.

The criminal case against Akaki Bartaia, Kakhaber Azariashvili, and Giorgi Kurdadze for

alleged fabrication of evidence in the 2004 death of Amiran Robakidze was ongoing at year's end.

During the year four deaths and two injuries from landmines were reported; one of the deaths and two of the injuries were in Abkhazia. In some instances media reports attributed deaths to landmines, although observers believed they were more likely due to unexploded ordnance. Lack of access to South Ossetia made it difficult to confirm press reports of landmine-related deaths and injuries.

#### **b. Disappearance**

There were no reports of politically motivated disappearances perpetrated by the government. However, conflict-related disappearances and kidnappings, particularly in areas where Russia was responsible for restoring and maintaining public order as an occupying power beginning in August, were frequent during the year in the separatist regions of Abkhazia and South Ossetia and increased during the August conflict.

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

The constitution and law prohibit such practices; however, there were reports that government officials continued to employ them, and offenders were prosecuted in these instances. During the year five Ministry of Internal Affairs personnel were found guilty of committing torture or degrading treatment. There were reports that government use of indiscriminate military force resulted in civilian injuries in the conflict in South Ossetia (see section 1.g.).

On January 30, Zugdidi police officers Data Gvinjilia and Davit Nadaraia arrested Gocha Ekhvaia in Nabakevi, Gali Region. Police reported making the arrest near the train station for hooliganism, while Ekhvaia alleged that police forcibly took him from his home after questioning him on the whereabouts of a missing person, beat him, and drove him around before testing him for drugs. Ekhvaia was placed in isolation for seven days of court-ordered administrative detention; on February 3, he lost consciousness and was hospitalized. The Zugdidi regional prosecutor's office began an investigation into allegations that police tortured Ekhvaia on February 18. On May 7, Ekhvaia told the Zugdidi court that he would be unable to identify his abusers, and the prosecutor's office was unable to identify the officers who committed the offense. The investigation continued at year's end.

On July 20, Rustavi police detained Teimuraz Gorgisheli, who alleged he was beaten during his arrest. Gorgisheli, who admitted to robbery during interrogation, alleged that police put an electric wire around his legs and threatened to shock him. He asserted that 10 officers witnessed the incident and that he was later transferred to a temporary isolation unit. When a doctor and the ombudsman visited him on July 24, they noted injuries that had not been recorded when Gorgisheli was booked into the police station. On August 8, the Kvemo Kartli prosecutor's office opened a preliminary investigation into the case. Witnesses who worked in the Ministry of Internal Affairs were questioned and the room where the interrogation took place searched. No electric wires were found. A medical evaluation of Gorgisheli recorded light injuries on his eyes, chest, stomach, and arms. Gorgisheli was released on bail; law enforcement authorities were subsequently unable to contact him to continue the investigation.

According to the public defender's office and human rights monitors, abuse in police stations remained low due to ongoing unannounced and random monitoring of stations. According to the public defender's office, instances of abuse at temporary detention facilities were practically eliminated by the end of 2007, but some cases of physical abuse were reported directly to the police stations. On June 26, the public defender reported that incidents of torture had become rare in the country and there had been efforts to improve laws, discuss complaints publicly, and raise awareness. The penalty for torture was changed from five to 15 years in prison. Despite the changes, intimidation of suspects remained a problem.

The public defender's office noted 112 detainees who were admitted at pretrial detention facilities with injuries during the year, of whom eight claimed to have been injured as a result of physical pressure by police. Three detainees claimed that they had been pressured by police officers.

During the year the Human Rights Protection Unit of the Ministry of Justice took steps to address torture and mistreatment by random monitoring of detainees who were in temporary detention cells. The office reported that 132 complaints of police mistreatment of detainees had been filed during the year. Mistreatment included verbal and physical abuse.

During the year there were 39 investigations opened into claims of torture or degrading treatment against Ministry of Internal Affairs personnel. Eight cases were carried over from 2007. Of these, 23 investigations were terminated for lack of cause, two cases went forward to criminal proceedings, and five persons were found guilty. Of the five found guilty, one was given a conditional sentence of five years and fined 10,000 lari (approximately \$6,060), one was sentenced to 18 years in prison, and three were sentenced to 22 years in prison.

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

The public defender's office noted that monitoring groups found no instances in which police officers had incorrectly registered a detainee upon arrival at the police station, which previously had been a means for police officers to conceal abuse. All law enforcement officers and representatives of the prosecutor's office, except for officers of the special police unit, were required to wear identity badges during meetings with detainees and prisoners. Special police units were exempt to protect members' anonymity. NGOs believed this prevented accountability for any abuse by the units.

The Prosecutor General's Office continued to investigate former Chief of the State Audit Agency Sulkhan Molashvili's allegation that he was tortured while in pretrial detention in 2004. Molashvili was pardoned and released on January 6.

In 2007, a presidential decree created an Interagency Anti-torture Council to address torture and mistreatment of those in prisons and closed facilities. The council consisted of representatives from the Public Defender's Office, the Prosecutor General's Office, the Ministries of Justice, Internal Affairs, Education, Foreign Affairs, Health, and Defense, the penitentiary department, domestic NGOs, and three nonvoting international observers. On June 12, a multifaceted action plan proposed by the council was approved by presidential decree; the plan addressed torture, mistreatment, and medical care. Although the plan included multiple ministries responsible for law enforcement, detention, prisons, and closed facilities, the plan lacked concrete milestones and provisions for outlying years. The office that was expected to conduct independent monitoring of all facilities constituted an important piece of the plan. This independent monitoring mechanism was widely assumed to be the Public Defender's Office, but the law had not been amended to reflect this change as of year's end.

#### *Prison and Detention Center Conditions*

Conditions in many prison and pretrial detention facilities generally remained poor and did not meet international standards. The public defender's office, the OSCE, the Committee for the Prevention of Torture (CPT), and many NGOs, including Human Rights Watch (HRW), continued to report inhumane and life-threatening conditions, including

poor facilities, overcrowding, and inadequate health care. Most prison and pretrial detention facilities lacked adequate sanitary facilities.

According to Ministry of Justice data, 94 convicts died in prison during the year, compared with 98 in 2007 and 91 in 2006. The public defender's office reported that it frequently petitioned prison officials to obtain necessary medical treatment for inmates. Attempted suicides and self-mutilation occurred in prisons as protests against poor prison conditions and human rights violations. Human rights monitors, including the public defender, witnessed sporadic prisoner hunger strikes to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the government.

In 2006, Shalva Ramishvili of independent TV 202 filed an application before the European Court of Human Rights (ECHR) challenging the legality of his arrest and treatment in detention. During his incarceration, he was moved from his regular cell to a small disciplinary solitary confinement cell, which he alleged lacked necessary ventilation and sanitary facilities. In July 2007, the ECHR found the application partially admissible, and the case was pending at year's end. The Ministry of Justice noted that the ECHR did not find the act of confinement in itself a violation. At year's end the case was still before the ECHR, and no further action had been taken by the Ministry of Justice.

Many prisons severely lacked medical facilities, including equipment and medicine. At the end of 2007, prison health care was outsourced to a private insurance company. The Medical Monitoring Unit of the Ministry of Justice supervised the provision of medical services. The Medical Monitoring Unit was made up of 21 persons, including the deputy head of the department of prisons, prison directors, the chief doctor of the medical attendance institution for prisoners, and a group of medical experts from the Department of Prisons. While it was hoped that outsourcing would improve prison medical conditions, there was no conclusive data to indicate that this occurred during the year. NGOs cited the failure of the company to provide needed medications to inmates as a serious drawback. The Public Defender's annual report noted that the doctor-to-inmate ratio for penitentiary institutions was very low, and that the list of medical specialties covered under the plan was reduced from 45 to 21. The report also described some doctors as unqualified. The Ministry of Justice asserted that outsourcing had brought some positive results but admitted that some shortcomings had been identified.

According to Ministry of Justice statistics, the overall inmate population at the end of the year was 18,528. The law defines three categories of penitentiaries: common regime, strict regime, and prison. Inmates were assigned to facilities depending on their crime, with first-time offenders and persons convicted of less serious crimes assigned to common regime establishments. Recidivists and those who committed more grave crimes were assigned to strict regime establishments or prisons. The law sets the standard living space per prisoner as 22 square feet in common and strict regime establishments; 27 square feet in prisons; 32 square feet in the women's colony; 27 square feet for juveniles; and 32 square feet in medical facilities. Using these figures as a basis, Ministry of Justice statistics indicated that three out of 12 common and strict regime facilities (including a juvenile education institution and inmate medical institutions), as well as three out of five prisons, were overcrowded. International organizations who monitor prison conditions pointed out that the country's space requirements for prisoners did not meet international standards.

The Presidential Administration sought to use early release of convicts to reduce the high numbers of the prison population. According to Ministry of Justice figures, 2,804 prisoners were pardoned during the year.

On April 23, authorities closed Tbilisi Prison Number 5 and subsequently demolished it; Prison Number 5 had been criticized for poor conditions and abysmal overcrowding.

Decree Number 390 of the minister of justice, from December 2007, established a code of conduct for penitentiary employees modeled after European practices. The working

control unit of the headquarters of the department of prisons was also created in 2007. According to the unit, there were 179 cases of disciplinary violations by officers in various penitentiaries during the year which resulted in the dismissal of 10 officers from their posts and 169 receiving lesser punishments. Possible punishment included notice, reprimand, and severe reprimand and warning.

During the year the Ministry of Justice and donor organizations organized and conducted 12 seminars in which 504 prosecutors and 234 penitentiary representatives and probation officers participated. These training seminars focused on international human rights standards and juvenile justice.

Until October 31, local monitoring councils were appointed to work in eight penitentiaries to monitor conditions, develop recommendations, and submit quarterly reports. Council members were selected on the basis of their desire to work, qualifications, and reputation, and were approved by the minister of justice. Critics questioned the objectivity of the councils. NGOs also pointed out that over half the councils existed only on paper and had stopped functioning because members' terms had expired and they had not been replaced. Council members also had difficulty getting passes to enter prisons. After their mandate expired on November 1, the councils could not continue their work. Since a minister for probation, penitentiary, and legal services had not been named, the work of the councils lapsed for the rest of the year.

The International Committee of the Red Cross (ICRC) had full access to detention facilities throughout the country, including the regions under the de facto control of Abkhazian and South Ossetian authorities, to monitor conditions of detention and treatment of all detainees. The ICRC reopened its office in Tskhinvali on August 20 to provide the necessary assistance to the civilian population affected by the August war. In addition, the ICRC continued with its support to Georgian detention authorities to carry out health needs assessments in places of detention and continued its support within the framework of joint tuberculosis control in prisons.

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

#### **d. Arbitrary Arrest or Detention**

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

##### *Role of the Police and Security Apparatus*

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

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

In October 2007, the UN Human Rights Committee expressed its regret about the persistence of reports involving police abuse, in particular during the arrest of suspects, and deaths allegedly resulting from the use of excessive force by police.

A number of 2007 allegations from the public defender's office and NGOs that police planted evidence, used excessive force, engaged in inhumane and degrading treatment, abused official authority, and exceeded the limits of official authority were not investigated by year's end. During the year, 31 police officers were detained on criminal



charges of taking bribes, using drugs, committing forgery/fraud, or abusing their authority. There were 401 police officers who received administrative punishment for misconduct, over 300 who were dismissed, and five who were demoted.

In February 2007, officials from the Ministry of Internal Affairs arrested Lasha Khorguiani, Gocha Mildiani, and Khvicha Mildiani, planted drugs on them, unlawfully detained them, and tortured Khorguiani. The arrests were made allegedly at the behest of Irakli Kodua, the head of the ministry's Special Operations Department, who was angry about an incident involving a cell phone. Gocha and Khvicha Mildiani were released later that month. Khorguiani was released after two months detention and a 5,000 lari (approximately \$3,200) fine. No charges were brought against Ministry of Internal Affairs officials, and there were no new developments as of year's end.

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

The Prosecutor General's Office was in charge of all criminal investigations into allegations of torture and mistreatment. Prosecutors were required to investigate police use of force when a detainee with injuries sustained during arrest was registered. The law required the office to open an investigation when it received information about a possible violation, even if from an anonymous source. If prosecutors concluded after investigation that charges were not warranted, the decision could be appealed to a higher level within the office. Any person subjected to abuse was able to pursue a civil action against the abuser.

Konstantine Chrelashvili alleged that Ministry of Internal Affairs officials tortured him in order to force a confession from him in 2004. In 2006, a criminal case was opened to investigate the accused officials, B. Khvhistani, K. Sopromadze, and J. Jankhoteli, who were found guilty and sentenced to imprisonment. During the year a civil case was filed against the Ministry of Internal Affairs requesting compensation for the victim from those who committed the crime. At year's end the case was pending before the Tbilisi City Court.

The Prosecutor General's Office opened investigations into allegations of torture or abuse by police, but in some cases continued them indefinitely without issuing any findings or, if concluded, in most cases affirmed the reasonable use of force by police.

A 2006 police code of ethics obliges police officers to uphold the human rights of all persons and to use force only when strictly necessary for the performance of their duty; the Ministry of Internal Affairs and prosecutor general's office are responsible for implementing the code. The General Inspection Service of the Ministry of Internal Affairs investigates cases of suspected duty infractions of police officers, receiving complaints from citizens who call in on the ministry hot line, from the public defender, or from the main unit of the Human Rights and Monitoring Department of the ministry. Infractions may be addressed to the police officer's supervisor, who can also initiate an inquiry. Disciplinary measures may be one of seven types: 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 policeman is suspended from his post, and if the allegations are confirmed, the inquiry materials are transferred to the prosecutor general's office, where the case becomes a criminal investigation.

During the year the Police Academy included training on human rights in the basic course for patrol police and conducted additional specialized training on human rights in

cooperation with international partners such as the Council of Europe. The Police Academy curriculum for 1,287 patrol, regional inspectors, and junior police officers included training on the legal basis for the use of coercive force, tactical training on negotiation skills for managing critical situations with the goal of using coercive force as a last resort, and role-playing to illustrate these points.

#### *Arrest and Detention*

Police, investigators, and prosecutors may arrest a person upon suspicion and without a warrant, but the law stipulates that detainees must be brought before a magistrate judge within 72 hours. Those not charged within this period must be released. The Prosecutor General's Office is the only body authorized to engage directly with the courts. At year's end, there were no reported cases of detainees kept longer than 72 hours without being charged.

During the year, the public defender and NGOs working on human rights problems reported a number of cases in which law enforcement officers planted drugs or weapons in order to arrest and charge individuals in criminal cases.

In May 2007, the law was amended to lower from 14 to 12 years the minimum age at which children may be held criminally responsible for certain violent crimes, such as first degree murder and rape. HRW and others criticized the change. The criminal code states that, as of July 1, juveniles who commit violent crimes will be fined until the government opens a juvenile correction facility that meets international standards. There were no plans to build such a facility at year's end.

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

In September 2007, former defense minister Irakli Okruashvili gave a televised press conference in which he declared his opposition to the government and accused President Saakashvili of several serious crimes, including ordering him to kill prominent businessman Badri Patarkatsishvili. Police arrested Okruashvili and charged him with corruption later that month. Opposition leaders expressed concern that Okruashvili's arrest was politically motivated, constituted an attempt to intimidate the political opposition, and was part of a series of attacks on human rights by the government. Okruashvili was released on bail in October 2007 after making a videotaped confession to some of the charges against him and retracted his charges against Saakashvili. Okruashvili left the country in November 2007 and, in subsequent interviews from abroad, stated that his confession, retraction, and departure from the country had been forced. In November 2007, Okruashvili was arrested in Germany, and later returned to France, his original entry point into Europe. On March 28, Okruashvili was tried in absentia in Tbilisi, found guilty of large-scale extortion, and sentenced to 11 years in prison. On April 23, he was granted political asylum in France. On September 12, the French appellate court ruled against Okruashvili's extradition to Georgia. During the year members of Okruashvili's political party alleged that close associates or family members of associates were arrested for their party affiliation.

Human rights NGOs claimed the government detained 60 to 100 soldiers after the armed conflict in August. Some attributed the detentions to failure to report to their units during the war. Others maintained that the detentions were for drug use or some other charge. The press reported that soldiers were arrested for speaking out against the government. By year's end many had been released on bail or pardoned; the number remaining in detention was unknown.

Defense counsel has the right to meet persons accused of a crime without hindrance,

supervision, or undue restriction; however, some attorneys alleged that audio and video equipment in police stations, which was intended to record interrogations of suspects by law enforcement or investigators, was used improperly sometimes to monitor privileged attorney/client conversations.

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

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

Under the code of criminal procedure, pretrial measures of restraint include detention, release on bail, and personal guarantee. The amendments eliminated alternatives such as house arrest and police supervision. Since January 2007, the judiciary sought to use bail rather than pretrial detention. NGOs noted that, due to economic hardship, some defendants were not able to pay bail even when it was granted and ended up in pretrial detention. According to statistics for the first 11 months of the year, bail was used in 53.7 percent of cases, compared with 54.9 percent for the same period in 2007. The minimum amount of bail was 2,000 lari (approximately \$1,210). Pretrial detention for the same period during the year was used in 45.1 percent of cases as opposed to 43.9 percent for the same period in 2007. A property bond is also permitted.

Under the law and in practice, the overall time limit for trial and exhaustion of appeals is 12 months. A person who is arrested must be charged within 72 hours or released. They can be held for a maximum of nine months before the court of the first instance renders a verdict. Once the verdict is rendered, the prison sentence begins immediately regardless of any appeal process underway. There is a maximum three-month appeal process for the appellate court and a maximum of six months for the Cassation Court in the Supreme Court. If all appeals are exhausted, a prisoner can be held for a maximum of 18 months. There are no time constraints once the trial begins for the first instance court to render a verdict.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary. However, reports persisted that the executive branch continued to pressure judicial authorities. Many NGOs complained that judicial authorities continued to act as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. NGOs also expressed concern that recent judicial appointees lacked the experience and training to act independently. The high number of vacancies at the trial court level resulted in long delays scheduling trials.

Following constitutional amendments in 2006, the High Council of Justice, the body that disciplines judges, operated as an independent institution with a majority of its members from the judiciary. In June 2007, Parliament passed further changes to the law on common courts, reorganizing the High Council of Justice and removing the minister of justice as a member, the last such executive branch official. Eight judicial members whom the Conference of Judges elected and the chairman of the Supreme Court constitute the majority of the High Council of Justice. Two members of the council are appointed by the president and three members are elected by Parliament. The head of the legal committee of Parliament, currently a member of the ruling party, is an ex officio member of the High Council of Justice. A July amendment required that one of the three members elected by Parliament must be from an opposition party.

Following the constitutional amendments, the authority to appoint or dismiss judges was moved from the president to the High Council of Justice, and the chairman of the Supreme Court was made chairman of the council in order to increase the transparency

of the judicial appointment process. 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.

In July 2007, Parliament passed legislation on ex parte communications, prohibiting prosecutors, defendants, investigators, and any interested third parties from contacting judges outside the courtroom during cases to sway their judgments. The legislation, which went into effect in August 2007, also repealed Soviet-era laws that punished judges, both criminally and administratively, for making incorrect rulings, provisions that many observers believed the government could use to limit judicial independence. The law requires judges to immediately report in writing any ex parte communication to the chairman of the court, who must review the report within 14 days and can impose a fine up to 2,000 lari (approximately \$1,210) or forward the matter to the secretary of the Council of Justice. The secretary then has one month to review the report and forward it to the appropriate regulatory body, such as the prosecutor general for prosecutors, the Georgian Bar Association for defense attorneys, or the relevant agency heads for investigators for disciplinary action. The High Council of Justice may appeal a decision of the regulatory bodies not to impose a disciplinary sanction according to the general rule for appealing administrative rulings.

Since the adoption of the law on ex parte communication, there have been four violations, three of which did not appear to involve public officials, reported to the High Council of Justice.

On September 3, a Zestaponi District judge received a telephone call from a person who introduced himself as a minister of justice and asked him to consider ruling in favor of a party on a civil case, who was his friend. The judge reported this communication to the chairman of the court, who forwarded this report to the law enforcement agencies. A preliminary investigation was ongoing at year's end to determine the identity of the caller.

The Prosecutor's Office is responsible for disciplinary action for violations of the ethics code for prosecutors adopted in 2006. The Office of the Prosecutor General conducts an inquiry into such facts and presents this information to the prosecutor general with a recommendation for disciplinary action. The code was actively implemented during the year, with 21 prosecutors receiving disciplinary actions ranging from notice to reprimand and strict reprimand. Of these 21 cases, three were ethics violations. Twenty-four criminal cases against prosecutors were ongoing during the year, 11 of which were carried over from previous years. Two prosecutors were convicted in criminal cases during the year but used plea bargaining and did not serve jail time.

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

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

Both torture and the extortion of evidence represent criminal offenses under the criminal code. Article 30 of the criminal procedural code sets aside a general rule, based

on which persons who have suffered property damage, physical, or moral injuries from crime have the right to file a civil claim either in the criminal court that is trying the case or in a civil court to demand compensation. The compensation for physical injuries covers the costs of burials, medical treatment, prosthetic devices and medicine, insurance, the compensation of financial aid, and pension. Compensation for moral injuries can be monetary. The general rule of seeking compensation and redress for the injuries received as a result of crime through civil action equally applies to all crimes, including torture, extortion of testimony, and illegal arrest.

The High Council of Justice administered a three-tiered court system composed of regional (city) courts, appellate courts, and the Supreme Court. Regional (city) courts hear routine criminal, civil, and administrative law cases. The Supreme Court acts as the court of final appeal.

According to Supreme Court data, in the first 11 months of the year, the Supreme Court's Chamber for Administrative and Other Cases issued judgments in favor of the government in 44.5 percent of the cases and in favor of private individuals or companies in 55.2 percent of the cases. The remaining cases were resolved by mutual settlement. The government continued setting up a system of magistrates to hear specific cases, such as misdemeanors; when completed, the system will have 21 enlarged district (city) courts with 46 magistrate judges specialized to hear cases in civil, criminal, and administrative categories. By midyear five enlarged district courts had been created, and eight magistrate judges had been appointed and were working in Ninotsminda, Kaspi, Akhlagori, Dusheti, Tianeti, Khazbegi, Chiatura, and Kareli.

In June 2007, in cooperation with the Council of Europe, the High School of Justice established a curriculum for training judges. In 2007, the school began training judges, many of whom were expected to serve as magistrate judges, and continued in 2008. During the year the monthly salaries of judges at all levels continued to rise, reducing the incentive for corruption. Judicial salaries were 4,299 lari (approximately \$2,610) for Supreme Court judges, 2,300 lari (\$1,390) for appellate-level judges and 2,100 lari (\$1,270) for lower court judges.

In October 2007, the Conference of Judges adopted a code of ethics for judges that defines rules of judicial ethics to strengthen the independence, impartiality, and integrity of the judiciary. The Disciplinary Collegium of judges of common courts discussed 22 disciplinary cases against 17 judges during the year. The collegium recognized violations and imposed disciplinary sanctions on 10 judges. Of these, one case involved an ethics violation.

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

#### *Trial Procedures*

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

Defendants have the right to be present at their trial and to consult an attorney; however, access to defense attorneys for indigent defendants was limited in practice. The majority of criminal defendants went to trial without benefit of counsel. In June 2007 Parliament established a system to provide persons accused of crimes with free legal assistance in the first 48 hours, regardless of their financial status. The budget was increased more than 1,280,000 lari (approximately \$776,000) to begin the two-year process of implementing the new law.

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

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

Since 2007, persons charged with crimes could be tried in absentia if they are absent to avoid trial. The same law permits persons convicted in absentia to appeal their conviction within one month of their arrest or surrender, which guarantees a new trial.

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

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. Although the prosecutor general's office reported that the majority of plea bargaining cases supported ongoing investigations into drug trafficking, NGOs criticized plea bargaining. There were widespread reports that such agreements (some on issues much wider than drug trafficking) required a person to pay money, but the agreement was not used to obtain information on other criminal activity. Some plea bargaining agreements reportedly included a tacit understanding that the person accused would not pursue complaints of abuse or mistreatment against law enforcement authorities and would support their version of events in order to avoid negative publicity.

The use of plea bargaining continued to increase. In the first 11 months of the year, 10,085 defendants were offered plea bargains, compared with 9,048 defendants in the same period in 2007, an increase of 11.5 percent. Plea bargains accounted for 53.4 percent of all court cases during the period.

In January 2007, a new article in the criminal procedure code went into force that allows a person to appeal an arrest as unlawful, even if he or she had been released within a short time following the arrest without charges.

On September 12, Parliament passed a constitutional amendment that merged the Office of the Prosecutor General into the Ministry of Justice. The minister of justice heads the merged entity. Due to the merger, the government decided that the Penitentiary Department and Probation Service could no longer be part of the Ministry of Justice and would be established as a separate ministry. It also determined that the Legal Aid Office could no longer be considered part of the Ministry of Justice due to the inherent conflict between that office and the prosecutor's office. On December 30, Parliament amended the law to place the office under the Ministry of Penitentiary, Probation, and Legal Aid Services. The amendment also limits free legal aid to those who qualify as indigent under the law beginning January 1, 2009.

Human rights activists were concerned that the merger did not allow the prosecutor's office sufficient independence from the Ministry of Justice and did not allow for a direct parliamentary vote on the chief prosecutor's nomination. The law noted that the president and the prime minister do not have the authority to annul decisions of the minister of justice and prosecutors who are serving their prosecutorial functions.

As part of the merger, the criminal justice guidelines were made confidential, potentially making it difficult for lawyers to raise procedural points in criminal cases, as

this information, even the general principles, were not shared as public information. To ensure the independence, transparency, and effectiveness of the Legal Aid Service, the authorities established a supervisory body consisting of a Supreme Court judge, a member of the Georgian Bar Association, NGOs, members of Parliament, and the Ministry of Penitentiary and Probation staff. The Legal Aid Service's budget could not be reduced without approval from its supervisory board. Despite these precautions, legal NGOs noted that inclusion of the Legal Aid Service within the Ministry of Penitentiary and Probation would not encourage independence. In addition to an annual state budget, the Legal Aid Service can be funded by donations and grants from outside services. According to statistics published by Legal Aid Service, 97 percent or 2,871,000 lari (approximately \$1,715,000) of its budget was state funded.

#### *Political Prisoners and Detainees*

The public defender's office identified five political prisoners: Merab Ratishvili, Joseph Jandieri, Ilia Tsurtsunia, Joni Jikia, and Dimitri Godabrelidze. They were convicted in connection to their participation in antigovernment rallies in November 2007. Local NGOs alleged there were political prisoners but often could not agree on how they defined political prisoner or on the number of persons who qualified. The parliamentary Human Rights Committee claimed that there were no political prisoners in the country.

According to the prosecutor's office, Ratishvili, and Jikia both were arrested on charges of drug possession. The court found them guilty and sentenced them to nine- and seven-year prison terms, respectively. Tsurtsunia was arrested on charges of resisting a police officer so as to impede the protection of public order, found guilty, and sentenced to three years' imprisonment. The prosecutor's office stated that criminal cases were only pursued when they met relevant evidentiary standards.

During 2007, there were two high-profile cases involving charges of treason: Irakli Batiashvili and former state security minister Igor Giorgadze's 14 associates, including Maia Topuria. During the year Batiashvili was released on presidential clemency, and the guilty verdict for Igor Giorgadze's associates was upheld on appeal. In both instances cases were filed in the ECHR: Batiashvili's in January 2007 and Maia Topuria's in March 2007.

In October 2007, the opposition published a manifesto containing several demands, including the release of unspecified political prisoners. The manifesto referred to Irakli Okruashvili and Irakli Batiashvili. In November 2007 the opposition compiled a list of 42 persons whom it considered political prisoners and presented the list to the government. Thirty-four persons on the list were released by year's end; two of them, Batiashvili and Jandieri, were pardoned. At year's end, 14 persons on the list remained in custody.

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

#### *Civil Judicial Procedures and Remedies*

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

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

police, prosecutors, and judges to avoid prosecution.

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

The law prohibits such actions without court approval or legal necessity and also prohibits police from searching a residence or conducting undercover or monitoring operations without a warrant. Charges against some opposition leaders after video and/or audio surveillance raised concerns among some NGOs and international observers about this practice. In its December 2007 report, the International Crisis Group stated that civil society activists complained telephone taps had become widespread and were used to implicate opposition or public figures and businessmen.

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

There were concerns about the lack of due process and respect for the rule of law in a number of developments on property rights. A law passed in June 2007 required old leases to be reregistered with the government. The law also gave the government the right to evict illegal tenants with five days notice. In 2007 there were protests over the law and widespread concern among citizens over its ramifications. After the November 2007 events and elections during the year, the government relaxed its stance on illegal constructions and allowed legalization of illegally erected constructions or acquired property, and public concerns died down.

Parliament passed a resolution in November 2007 instructing state agencies, including law enforcement bodies, to cease probes into disputed properties where the harm to the citizen exceeded the substantial benefits of the decree.

In 2007, various ministries and cities gave notice affecting 1,950 different properties before the deadline. The government stated that cases would be reviewed and that not all the properties would be divested from their owners.

In April 2007, according to HRW, restaurant owners in Tbilisi and a neighboring town complained that officials pressured them into handing over their property by threatening them with criminal charges for allegedly purchasing their property through corrupt business transactions during the Shevardnadze era. The government contended that these were cases of property with expired or ambiguous leases or were obtained through fraudulent transactions or bribery linked to corruption. Domestic and international observers expressed concern that the government had not sufficiently respected due process and the rule of law. The public defender was investigating 10 such cases at year's end, although there were reportedly more. The public defender mentioned this concern in his December 30 remarks to the Parliament.

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

Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved and were exacerbated during the August 7-12 armed conflict between Georgia and Russia.

Incidents of violence occurred in Abkhazia, particularly in the predominantly ethnic Georgian Gali region, and in South Ossetia. After the armed conflict began August 7, the government lost control over Abkhazia and South Ossetia.

There was little information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions. In March 2007 Abkhaz de facto authorities agreed to permit a UN human rights officer's presence and the deployment of



three UN civilian police in the Gali Sector headquarters.

On August 11, the Abkhaz de facto Ministry of Defense recommended that UNOMIG withdraw its observers from Kodori gorge. By year's end UNOMIG military observers could access the area only under Russian military escort. The UN mandate was extended through February 15, 2009.

On August 26, the Russian government recognized Abkhazia and South Ossetia as independent states; on September 17, the Russian government signed agreements with the de facto authorities that included provisions to allow Russian military presence in the territories. On August 27, the Georgian prime minister signed a decree formally terminating Russian peacekeeping operations in Georgia. Formerly, agreements permitted Commonwealth of Independent States' peacekeeping forces in both Abkhazia and South Ossetia. On August 28, the country's Parliament passed a resolution declaring Abkhazia and South Ossetia to be Russian-occupied territories.

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

After the conflict began on August 7, South Ossetian separatists reportedly committed killings, engaged in looting, systematically attacked ethnic Georgian villages, and blocked international observers from viewing events first hand. Russian military forces and de facto militias did not permit observers into South Ossetia and occupied areas to investigate claims of abuses.

### *Killings*

Before the conflict began on August 7, Georgian government officials and de facto authorities accused one another of committing arbitrary and unlawful killings in the separatist areas of South Ossetia and Abkhazia, including intensified shelling of ethnic Georgian villages in South Ossetia. HRW reported that during the August conflict Georgian, Russian, and South Ossetian forces committed numerous violations of the law of war in the conflict, causing many civilian deaths and injuries and widespread destruction of civilian property. HRW stated that Georgian and Russian forces used indiscriminate and disproportionate force. They concluded that Georgian forces carried out indiscriminate attacks by their extensive use in civilian areas of multiple-rocket launching systems, which cannot be targeted with sufficient precision to distinguish between civilian and military objects. The rockets, known as Grad, were believed to have been used by Russian forces as well. HRW also reported that the South Ossetian forces conducted a campaign of deliberate and systematic destruction of certain ethnic Georgian villages in South Ossetia. HRW concluded that South Ossetian forces attempted to ethnically cleanse villages and egregiously violated multiple obligations under humanitarian law for which there must be individual criminal accountability and prosecution for war crimes where appropriate. Amnesty International documented many instances of looting, killings, home burning, and systematic ethnic persecution of Georgians in both territories and found that Russian forces failed to protect civilian populations by refusing to intervene when South Ossetian separatists attacked Georgian villagers. HRW noted that Russian forces failed to ensure, as far as possible, public order and safety in areas under its effective control.

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

scattered in and along South Ossetian roads, especially antiarmor submunitions.

After the conflict, violent attacks continued along the administrative boundaries of Abkhazia and South Ossetia. International monitors were generally unable to identify the perpetrators, but in most cases found that the attacks originated from the Abkhazian and the South Ossetian sides of the boundaries. The government announced that 10 members of the Ministry of the Interior were killed in such incidents despite the ceasefire, in some cases by sniper fire. On November 10, two officers were killed and three wounded by explosive devices connected to a South Ossetian flag placed outside the South Ossetian administrative boundary. Some attacks may have originated outside the territories. On November 17, South Ossetian press reported a villager was shot and killed by a sniper while driving his car inside South Ossetia.

At year's end, there were no final figures for the total number of civilians killed during the August conflict; HRW estimated that hundreds of civilians were killed.

#### *Abductions*

The February 2007 abduction of David Sigua, an ethnic Georgian serving as de facto election commission chair in the Abkhaz-controlled Gali district, remained unsolved. The Georgian government denied Abkhaz accusations that it was involved in the disappearance, and both sides agreed to a joint investigation, which the UN was conducting at year's end. Sigua's whereabouts remained unknown.

Government and Abkhaz commissions on missing persons reported that nearly 2,000 Georgians and Abkhaz remained missing as a result of the 1992-93 war in Abkhazia. The South Ossetia de facto authorities reported 116 persons still missing since conflicts in 1991 and 2004. The ICRC continued its efforts to assist the authorities concerned to fulfill their obligations to provide the information to the families of the missing persons. Most of the missing persons from the 1992-93 war were believed to have gone missing in the region of Abkhazia. During the year no exhumation of those believed dead during the 1992-93 conflict took place, according to the ICRC. Since the beginning of the August conflict, the ICRC received more than 1,100 tracking requests from families and authorities. To date, almost 1,000 of these have been closed, and 108 remain open. After the August conflict, reports of abductions for ransom became more common, in particular of ethnic Georgians in the Gali region of Abkhazia. Although in most cases abductees were quickly and swiftly returned, some suffered beatings and even death. In early December the beaten body of an elderly woman who had been missing for some days was found in the woods near her house in Nabakevi; local villagers alleged that Abkhaz men had abducted her and demanded ransom.

#### *Child Soldiers*

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

#### *Other Conflict-related Abuses*

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

According to civil.ge, a June Studio Monitor investigative documentary into an attack in the village of Khurcha on the Abkhaz administrative border on May 21, the date of parliamentary elections, reported that, contrary to assertions by the government, the attack was committed by Georgians. An investigation by the UN into the attack found that grenades were fired from the Georgian-controlled side of the ceasefire line. A preliminary report could not identify the perpetrators but noted inconsistencies in the circumstances surrounding the incident, in particular the fact that the incident was filmed in such a way as to suggest that events were anticipated rather than simply recorded as they were happening. Four civilians were injured.

During the August conflict in and around South Ossetia, HRW researchers and others witnessed South Ossetian militias looting and burning ethnic Georgian villages. According to HRW, satellite images strongly indicated that the majority of the destruction in five Georgian villages around Tskhinvali – Tamarasheni, Kekhvi, Kvemo Achabeti, Zemo Achabeti, and Kurt – were caused by intentional burning. The damage shown was massive and concentrated. On August 12, HRW researchers spoke with several members of the Ossetian militias who openly admitted that their associates were burning the houses, explaining that the objective was to ensure that displaced ethnic Georgians would not have houses to which to return.

On August 22, Russian online news agency Regnum quoted Eduard Kokoity, South Ossetia's de facto leader, as saying that the Georgian enclaves of Kekhvi and Tamarasheni were "liquidated" as a result of military operations.

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

Other abuses related to the August conflict, according to HRW, included South Ossetian forces arbitrarily detaining (sometimes together with Russian forces) at least 159 ethnic Georgians, killing at least one detainee, torturing at least four Georgian prisoners of war (POWs), executing at least three, and exposing almost all detainees to inhuman and degrading treatment and detention conditions.

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

A 2006 Abkhaz law on citizenship, which excludes the possibility of dual Abkhaz-Georgian citizenship but allows dual Abkhaz-Russian citizenship, limited the rights of the ethnic Georgian population in Abkhazia to participate in the electoral process and to have representation in the de facto parliament, as well as in local de facto bodies. After the August hostilities, de facto authorities stated that persons wishing to return to South Ossetia could do so but would be required to take Ossetian citizenship, which meant accepting Russian passports. Georgian engineers who worked at the Enguri dam powerplant, which straddles the administrative boundary with Abkhazia, were told they must take "Abkhaz citizenship" to continue their work.

## **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, especially after the May parliamentary elections. Some of these restrictions were eased by year's end.

In general individuals criticized the government publicly and privately without reprisal. However, some individuals told foreign monitors they were reluctant to discuss sensitive issues by telephone due to concerns about government eavesdropping. Beginning in the fall and for the first time since mid-2007, opposition figures and representatives of the government regularly appeared on the same shows, thereby providing a plurality of views.

There were approximately 200 independent newspapers, although most were local and with extremely limited circulation or influence. During the year print media frequently criticized senior government officials. However, few editorially independent newspapers were commercially viable. Patrons in politics and business typically subsidized newspapers, which were subject to their influence.

Throughout the year, NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of exercising some influence over editorial and programming decisions through their personal connections with news directors and media executives. There were allegations of the forced transfer of two national television stations, Rustavi 2 (in 2004) and Imedi (during the year). The opposition lost control of Imedi Television, which had been the sole remaining national independent television station. There were scattered reported incidents of actual or incited physical abuse of journalists by local government officials and opposition politicians.

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

After the May 21 parliamentary elections, there was a noticeable weakening in freedom of the media. While media executives claimed this was due to limited revenues and a weak advertising market, the net effect was to diminish the presentation of alternate views, especially on television, and to substitute entertainment for news and talk shows. Until the late fall, there was a marked decline in the diversity of independent media, with the exception of the Tbilisi-based Kavkasia television station. Most alternative voices were greatly diminished, and the remaining media concentrated on reporting the government's activities and positions. Freedom House reported that there was a significant decline in investigative reporting since the 2003 Rose Revolution.

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

After Patarkatsishvili's sudden death in February, Imedi remained off the air until April and did not broadcast news until August. Ownership of the station remained contested, with Patarkatsishvili's widow filing a notice of arbitration against the government December 10. Gogi Jaoshvili, one of the former registered owners of Imedi TV, announced at a December 10 press conference that he had transferred Imedi holding shares to Joseph Kay and resigned from the position of the Chairman of the Supervisory Board of I-media under psychological pressure exerted against him by Georgian law enforcement officers. Jaoshvili left the country several hours after making this public statement.

Rustavi-2's founder and former owner, Erosi Kitsmarishvili, alleged on November 26 that authorities seized the television station from him in 2004 and announced his intention to

regain his shares of the station by filing a lawsuit against President Saakashvili. By year's end, no lawsuit had been filed. On December 1, the next Rustavi-2 owner Kibar Kalvaski filed a letter of complaint with the prosecutor's office alleging he was forced to give up ownership of the station under pressure from government officials. He sent a similar letter to the Parliament, but at year's end there was no reaction to either letter.

Public television station Georgian Public Broadcasting (GPB) was the scene of opposition protests after the January presidential election. Opposition supporters, including the United Opposition presidential candidate Levan Gachechiladze, assaulted 20 GPB journalists and demanded that the authorities change the GPB director and the board. These changes were made in February after negotiations between the government and the opposition. The opposition parties chose four of the nine member board, including the board chairman, Irakli Tripolski. A new, more neutral director was chosen with the agreement of the opposition. GPB broadcast a new talk show, Seven Days, staffed by former Imedi journalists who were at times critical of government policies.

On May 26, the opposition held a three-hour rally to protest the conduct and results of the parliamentary elections and demanded that the rally be broadcast live. The GPB and other stations featured extensive reports on the rally, although none broadcast it live in its entirety. The opposition-named chairman of the GPB board resigned when his demand to broadcast the entire rally was not met and claimed that the GPB was biased.

In a December letter, the public defender noted that Georgian television had not broadcast independent investigative films for several years.

By the end of June, most news coverage was cut back to eliminate all talk shows and analytical programs. NGOs asserted that news programming was cut due to government pressure on the media. Programs cut included Shvidi Dris (Seven Days). Mze, a progovernment national channel that had 2 percent of the market, also ceased its news operations on financial grounds in June. Although Mze was generally seen as progovernment, many opposition figures decried their decision to stop broadcasting news, pointing out that Mze had broadcast the events of November 7, 2007, live, unlike progovernment Rustavi 2. Also in June, Radio Imedi's director was replaced with a former government spokesman. A group of almost 100 journalists issued a statement on June 3 that labeled this action as pressure on the free media. After the closing of Imedi television as an independent voice earlier in the year, Radio Imedi had remained the only national media outlet that provided access to opposition views. While they continued to allow opposition access, there was a general decrease in news coverage on Radio Imedi. In September, Rustavi 2 announced that it would not renew the popular talk show, Prime Time, which it suspended in June. Despite suggestions that the program might return to the air, Rustavi-2 had not resumed broadcasting Prime Time by year's end. By the end of the year, talk shows had reappeared on all of the country's television channels: Public Broadcaster's Channel One, Imedi, Kavkasia, and Maestro.

In June, Mamuka Glonti, the head of the cable television station Maestro Media, formed the Committee to Protect Journalists in the country. A handful of respected journalists were involved in the group, but they were largely inactive.

Maestro applied for a change of license in November 2007 to allow the broadcast of a political talk show but was not granted a license. The station continued to broadcast a political show, but as a voice-over to music videos. In March, the Georgian National Communication Commission (GNCC) formally warned the station that it did not have a license to air political programs. The station complied with the ruling and suspended political programming, applied for the appropriate license, but was refused due to its earlier violation of the law. The station brought the case to court, and in late September the Tbilisi city court upheld the original ruling by the GNCC. On October 10, government spokesmen indicated that Maestro cable station's license would be amended to permit it to broadcast political talk shows. Maestro received its license and went on the air in December with two political talk shows, No Comment and Profesia Reportiori (Profession Reporter).

Kavkasia TV experienced two transmission interruptions in September, allegedly due to technical issues. Kavkasia's director suspected the interruption coincided with the station's criticism of the government's actions during the August conflict on September 1. On that date all other Georgian TV channels were broadcasting live the national Live Chain for Peace in protest over Russia's behavior during the conflict. Kavkasia's director also alleged that in June financial police exerted pressure on companies buying advertising from the station. As a result, several companies interrupted the contracts with the station, and others decided not to extend the contracts after they expired in July. Kavkasia's director kept the names confidential.

In August, the outbreak of the conflict between Georgia and Russia became the primary focus of media attention. Russian forces did not allow journalists to enter separatist regions or undisputed Georgian territory located behind Russian checkpoints. After the ceasefire, only journalists accredited by Russia were permitted in the separatist region areas. On August 12, eight civilians and one Dutch journalist were killed as a result of a Russian cluster bomb strike in the center of Gori. During the conflict three other journalists were killed, and 14 were wounded. Other journalists were robbed, kidnapped, or taken hostage. Journalists attributed these attacks to Russian soldiers or irregulars operating under Russian acquiescence.

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

Most people received news from broadcast media. There were eight privately owned television stations in Tbilisi and one public station, Channel 1. Four of the Tbilisi-based stations, Channel 1, Rustavi-2, Imedi, and Mze, claimed nationwide coverage. Imedi and Rustavi-2 were the most viewed stations, though Imedi was off the air until April and did not begin airing news broadcasts until August. A fifth channel, Batumi-based Ajara Television, also broadcast nationwide. 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 was at a very low professional level and largely represented the views of local authorities.

Two independent journalists, Maka Tsiklauri and Irakli Gogvadze, from online video magazine Presa.ge, noted four separate incidents of perceived government pressure related directly to their work. On May 21, Gogvadze was observing parliamentary elections in Iormuganlo (Kakheti) when several local activists physically abused him twice and seized his tape and video camera. On August 13, Gogvadze was shooting an 'IDP protest rally on Rustaveli Avenue in Tbilisi when several unidentified persons snapped a battery from his video camera and fled. On August 24 in Tkviavi (Shida Kartli), Tsiklauri and Gogvadze were shooting video when they were attacked and Gogvadze's camera and videotapes were seized. On December 22 in Tbilisi, several unidentified men tried to force Gogvadze into a car after he was asked to show his identification card. In December 2007, both journalists complained of government pressure due to a documentary video they had made about recent developments in the country.

The public defender sent a letter describing the incidents to the Ministry of Justice's head of the chief prosecutor's legal department calling for an investigation of the incidents. At year's end there was no word from the prosecutor's office as to the status of the case.

On April 15, Madona Batiashvili, the chief of the Signnaghi Bureau of Radio Hereti, a small independent regional radio station, sent a statement to the Office of the Public Defender in which she alleged pressure from Levan Bezhashvili, the president's representative in the Kakheti region, to prepare positive news reports and to stop reporting on him and his friends. At year's end there was no response from the prosecutor's office on the status of the case.

In mid-July, the newspaper Batumelebi received an e-mail message threatening to kill

the editor in chief Eter Turadze and a staffer of the same newspaper. Batumelebi went public with the story and informed the prosecutor's and ombudsman's offices about the threat. Soon, Batumelebi received a second e-mail containing a threatening message. The Ajara Prosecutor's Office started an investigation shortly after the incident. An investigator visited and interviewed Batumelebi staff, but at year's end there was no information available on the progress of the case.

On December 9, Tamara Okruashvili, a correspondent for Khalkhis Gazeti, stopped to take pictures and talk to IDPs from South Ossetia who were near the Gori Municipal Building. Some of them were complaining about their living conditions. Seeing this, Gori City Council Chairman David Khmiadashvili told Okruashvili that she should leave. Heated remarks ensued, resulting in the chairman striking Okruashvili, knocking her camera out of her hand, and breaking it. Okruashvili filed a complaint with police. The following day, the chairman apologized to her personally and formally in Resonani newspaper. Khmiadashvili also sent her a new camera. Okruashvili withdrew her complaint.

In March 2007, Elisio Janashia, editor of Tavisupali Sitkhva (Free Word), claimed the spokesman for the governor of Samegrelo-Upper Svaneti verbally abused and threatened her after she published an article about harassment of a journalist from another newspaper. In the same month, the public defender requested that the Zugdidi Internal Affairs Ministry investigate the allegations. The investigation noted that acts committed by the governor of Samegrelo-Upper Svaneti did not constitute interference into journalistic activities, as the disputed conversation took place after the publication of Janashia's article. On October 25, the investigation was closed.

Throughout the year the public defender and others called for changes in the law on broadcasting to increase the transparency of media outlet ownership. On December 19, Parliament adopted amendments to the Law on Broadcasting allowing the parliamentary minority to nominate one member for the Georgian National Communications Commission (GNCC). The parliamentary majority group also is eligible to nominate one GNCC member. At year's end the commission was composed of five members each serving a six-year term. The amendment envisages pre-term suspension of the authority.

By year's end many media ownership questions remained unclear. No information was available as to the ownership of the GeoMedia Group, registered in the Marshall Islands, whose shares of Rustavi-2 declined from 55 to 40 percent on November 7. Rustavi-2's founder and former owner Kitsmarishvili alleged in November that President Saakashvili was behind the GeoMedia Group.

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

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

#### *Internet Freedom*

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by electronic mail. E-mail access rose slightly during the year but remained centered in Tbilisi and major metropolitan areas. Estimates were that no more than 11 percent of the population used e-mail. During the August conflict, Russian cyber attacks defaced or took official Georgian Web sites offline and jammed the mobile telephone network. The government blocked access to Russian cable television news reporting and access to Russian Internet news sites when hostilities began in August. On October 21, authorities restored access to Russian Internet news sites but continued to block Russian cable news, which could still be accessed by satellite.

### *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, and the government respected this right during the year in practice. The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Permits for assemblies were routinely granted during the year.

Following the September 2007 arrest of former defense minister Irakli Okruashvili, a number of political parties joined to form the United Opposition Council, which began protests in October 2007 in Zugdidi, Kutaisi, and other regions, culminating in a series of large-scale protests in Tbilisi.

During the year authorities permitted demonstrations.

On June 6, several hundred protesters gathered outside Parliament. The rally was called by the eight-party opposition coalition after the official announcement that the newly elected Parliament's inaugural session would be held on June 7.

On November 7, an estimated 10,000 to 15,000 opposition supporters held a protest rally to mark the first-year anniversary of the police break up of a November 2007 rally. The protesters, carrying banners with slogans, including Stop Russia, Stop Misha, marched towards the presidential residence and then dispersed peacefully.

On November 23, a group of opposition parties and politicians held a protest rally outside the Imedi television station demanding Imedi's return to what they called its legal owner. The rally was joined by Sozar Subari, the public defender

On December 30, Subari, as he was delivering his biannual report on human rights, claimed he had proof that senior officials, including Interior Minister Vano Merabishvili, deliberately planned to use excessive force on November 7, 2007. Subari demanded creation of a parliamentary ad-hoc commission to investigate his claims.

In November 2007, the Old Tbilisi District Prosecution Office initiated a preliminary investigation into the bodily injuries sustained by individuals during the November 7 demonstrations. There was no further information on the ongoing investigation by year's end. Subari's report for January through July pointed out that the prosecutor's office had not brought any charges against attackers. The Ministry of Internal Affairs noted that 11 policemen were dismissed due to inappropriate behavior during the demonstration.

### *Freedom of Association*

The constitution and law provide for freedom of association, and the government generally respected this right.

Authorities granted permits for registration of associations without arbitrary restriction or discrimination. Unknown assailants attacked members of the political opposition before and after the January 5 presidential and May 18 parliamentary elections; opposition members accused the government of not earnestly attempting to identify, arrest, and try the attackers, many of whom wore masks.

The OSCE's final report on the May 21 parliamentary elections noted that the election campaign was conducted in a highly polarized environment, which was compounded by



reports of widespread intimidation of opposition candidates, party activists, and state employees in many regions. Of the numerous specific allegations the OSCE election observation mission examined, it found several to be credible. The OSCE examined a series of post-election-day beatings and other violence when masked men attacked 13 opposition activists, many of whom were taking legal action against alleged cases of election-related irregularities. The OSCE visited seven of the 13 individuals and confirmed that they had been attacked. It noted that some opposition leaders accused the authorities and the ruling party of responsibility for the post-election attacks. The public defender also issued a statement criticizing the attacks and noting that a number of individuals who had been attacked refused to identify themselves out of fear.

Unknown assailants also physically assaulted opposition figures at other times during the year. For example, in June General Gia Sehrvashidze, one of the leaders of the Christian Democratic Alliance, was hospitalized after being attacked by four masked individuals. The public defender's January-July report mentioned the following as opposition supporters who were attacked, but stated the prosecutor's office had not investigated the incidents: Mamuka Kvaratskhelia, Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Tavdgiridze, Giorgi Shervashidze, Boris Dzanashvili, Levan Jgarkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili, and Nona Sagareishvili. Criminal cases were opened into all of the incidents and were being pursued at year's end. In one incident, the victim refused to give testimony to law enforcement officials on the subject matter of the case.

### **c. Freedom of Religion**

The constitution provides for freedom of religion and the government generally respected this right in practice.

The constitution recognizes the special role of the Georgian Orthodox Church (GOC) in the country's history under its own patriarch but stipulates the separation of church and state. A concordat (constitutional agreement) signed by the president and the Orthodox patriarch gives the church legal status. The concordat contains several controversial provisions that give the patriarch legal immunity, grant the church the exclusive right to staff the military chaplaincy, exempt church clergymen from military service, and give the church a unique consultative role in government, particularly in the area of education. However, these provisions were not in force, due to lack of implementing legislation. The tax code exempts the GOC from paying value-added tax (VAT) for the importation of some religious items (crosses, candles, icons, books, and calendars used exclusively for religious purposes) but requires other religious groups to pay VAT and file for reimbursement.

Any religious group may register as a noncommercial legal entity. The registration application should include the name of the organization, the place of its location, the purpose of its activities, information on the founder(s), information on the governing body of the organization, and the decision-making process of the governing body. Registration is a function of the tax department under the Ministry of Finance, which must grant or deny registration within three days of application; a refusal may be appealed in court.

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

Ministry of Finance must reimburse the VAT.

The separation of state schools and religious teaching further narrowed the interpretation of the government concordat with the Orthodox Church on teaching Orthodoxy as an elective part of the school curriculum. The law states that Orthodox teaching may only take place after school hours and cannot be controlled by the school or teachers. Outsiders, including clergy, cannot regularly attend or direct student extracurricular activities, student clubs, or their meetings. Lay theologians, rather than priests, led such activities. Religious minorities broadly welcomed the change to school religious education, although they observed along with NGOs that practice did not always keep pace with the law. For example, implementation of the law was flawed, especially as applied to prayer and displays of crucifixes and other religious objects.

Public schools offered students the opportunity to take an elective course on religion in society, which covered the history of major religions. Parents complained teachers focused solely on the Orthodox Church, as did the primary textbook. At midyear the Ministry of Education suspended work on a new curriculum that was to have addressed the public complaints. The curriculum was abandoned principally because the group could not agree on a curriculum, and there were not enough incentives offered to teachers who would have to teach the course. History and geography courses introduced in upper grades provided some coverage of world religions.

Delays in obtaining permits to build kingdom halls required Jehovah's Witness congregations to continue meeting in private homes in at least three localities. In May 2007, the ECHR ruled against the government for failing to protect the group from violent harassment in 1999.

At year's end there were five cases pending before the ECHR on the alleged violation of rights against members of Jehovah's Witnesses, some filed during the administration of previous governments. One of these cases contested a 2001 Supreme Court ruling that revoked the group's registration. However, in May 2007 the organization was registered under the new registration law. This status allowed them to import materials, rent venues, and conduct other transactions as a legal entity.

The RCC and the AAC were unable to secure the return of churches closed or given to the GOC during the Soviet period. In 2007, the Ministry of Justice adopted plans to rely on disinterested expert opinion for assessment of future ownership disputes, instead of a now inactive commission that had included a GOC participant. Controversy continued to surround the disposition of the Norashen Church, claimed by both AAC and GOC. On November 16, Father Taniel Sikinchelashvili, a Georgian Orthodox Priest, brought a bulldozer into the common churchyard, which a Georgian church shared with Norashen church, to clear the grounds of rubbish. Father Taniel claimed that the passage was too narrow for the bulldozer to pass, so he removed, and later replaced, several Armenian headstones in the yard. Upon seeing this, Armenian clergy were indignant, and called this action disrespectful to the Armenian remains buried there. At year's end, rubble still sat atop some of the Armenian graves, as beautification efforts continued. The Armenian president visited the Norashen church in December, and although there was discussion of organizing a commission to resolve outstanding church building issues, at year's end the commission had not yet been established.

No action was taken on the return of five churches to the RCC, and due to direction by the Vatican, the RCC stopped all litigation. RCC was hampered in constructing new churches in Kutaisi and Akhaltsikhe. Although the GOC has proposed the creation of a commission to study the origins of the disputed churches, the AAC and the RCC have not heard of a group of experts working on the ownership issues. The AAC has not requested construction of new churches. Its main concern remains the return of five churches in Tbilisi and one church in Akhaltsikhe.

#### *Societal Abuses and Discrimination*

Judaism is practiced in a number of communities throughout the country, particularly in

the largest cities, Tbilisi and Kutaisi. There were an estimated 8,000 to 10,000 Jews in the country. The Jewish community reported one incident of anti-Semitic vandalism during the year. On April 1, an anti-Semitic leaflet by the political movement Axali Sitkva was distributed in Tbilisi metro stations; Tbilisi Jewish leaders saw the leaflet as an effort to manipulate nationalist sentiment prior to the May parliamentary elections.

According to the Jewish community, the Ministry of Economy transferred another synagogue in Tbilisi to the Jewish community on a 25-year lease.

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

During the year there were five attacks on religious minorities. Police were quick to respond to incidents of abuse but slower in their follow-up to crimes they viewed as minor "hooliganism," defined as actions that violate public order or demonstrate open contempt towards society by using violence or threats of violence.

During the year the government investigated several cases of interference, threats, intimidation, or violence. The Prosecutor General's Office elected to exercise prosecutorial discretion to emphasize cases arising after 2003, given its limited investigative and prosecutorial resources. Investigations prior to 2003 were scheduled to continue where feasible, but priority was given to new cases. Religious minority groups pointed out that this could lead to the eventual elimination of cases that could be investigated under law predating 2003.

There were no developments reported in the investigation of two instances of violence directed against members of the Jehovah's Witnesses in June 2007. During the year there were 15 individual attacks on them. In Tbilisi, unidentified persons threw rocks at the Jehovah's Witnesses building and, on the same day, threw a bottle at Marina Kinkladze, when the latter was cleaning the entrance of the building. A criminal case was opened on the grounds of damage to the Jehovah's Witnesses' property.

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

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

The Russian Holy Synod passed a resolution officially recognizing GOC jurisdiction over Abkhazia and South Ossetia during the year. On November 4, a GOC delegation traveled to Russia at the invitation of the Russian Orthodox Church. Talks focused on jurisdiction issues.

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

allowed to operate in the region, the GOC reported that it was unable to do so.

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

For a more detailed discussion, see the [2008 International Religious Freedom Report](#).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Following the August hostilities, Russian and South Ossetian forces occupied villages outside of the South Ossetian and Abkhazian administrative boundaries. By October 10, Russian and irregular forces had, for the most part, pulled back to pre-conflict positions. Major exceptions included a Russian checkpoint outside the village of Perevi and a significant Russian and Ossetian presence in the Akhalgori valley. The valley, which the Georgian government had governed since 1991, is populated predominantly by ethnic Georgians. Russian forces severely limited movement in and out of the valley; international observers were generally unable to gain access. Ossetian authorities reportedly exerted pressure on local residents, especially younger ones, to accept Ossetian authority and Russian passports or leave.

On October 7, Parliament passed the Law on Occupied Territories, which put limits on the movement of foreigners in and out of Abkhazia and South Ossetia. It also imposed special requirements on those conducting economic activities in the territories. At year's end, there were no reports of any international humanitarian organizations being unduly restricted by the law.

An Abkhaz "citizenship" law allows dual Russian-Abkhaz citizenship but not dual Georgian-Abkhaz citizenship, although this law was not strictly enforced. Abkhaz efforts to compel the acceptance of a different (usually Russian) passport did not center on the Gali region. Most IDPs who returned retained their Georgian citizenship. However, ethnic Georgians living in Abkhazia were required to acquire Abkhaz citizenship to open businesses, bank accounts, vote in elections, and own property.

Abkhaz de facto militia conducted searches of local populations and erected arbitrary checkpoints. Money and valuables were extorted from ethnic Georgians accused of violating the identity document requirements.

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

#### *Internally Displaced Persons (IDPs)*

According to the Ministry for Refugees and Accommodation, before the August armed conflict there were approximately 235,000 IDPs from earlier conflicts in 1992 and 1993. According to UNHCR, approximately 134,597 persons were displaced or affected during

the August conflict.

In South Ossetia, de facto authorities obstructed the return of approximately 37,500 ethnic Georgians to the region following the August conflict. South Ossetian de facto authorities insisted that IDPs could only return to the region if they renounced Georgian citizenship, took South Ossetian citizenship, and had not participated in the conflict.

At year's end, 102,800 IDPs had returned to their homes in the areas adjacent to the conflict areas, leaving approximately 30,552 persons in collective centers or with host families who were unable to return due to the outcome of the fighting in August. At year's end the government had constructed or repaired 5,400 houses and flats in Mtskheta, Shida Kartli, and Kvemo Kartli regions; 18,000 IDPs had been assigned durable housing, and 14,000 had moved. By year's end, 1,000 IDPs had applied for cash reimbursements as an alternative to housing assignments. Total government assistance was 242.75 million lari (approximately \$145.7 million).

In a December 16 report, the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, expressed serious concern that despite the international community's substantial assistance, the government had not provided adequate living conditions and support to a number of those displaced by the August conflict.

Abkhaz de facto authorities continued to prevent repatriation of the approximately 235,000 IDPs displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and the UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 40,000 IDPs, many working as seasonal laborers, returned to the Gali region of Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia.

#### *Protection of Refugees*

The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. However, in its November report, the UN Human Rights Committee expressed concern that current legislation did not fully ensure respect for non-refoulement and recommended additional legislation and procedural safeguards, training for border guards, and a mechanism to speed referral of asylum seekers. The government granted refugee status and asylum.

There were approximately 1,000 registered refugees from Chechnya settled in the Pankisi valley in the eastern part of the country. International humanitarian organizations' assistance to refugees in the Pankisi valley was sporadic, with UNHCR taking the lead to assist with the integration of the remaining refugees into Georgian society. During the year, there were no instances of refoulement.

The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

#### *Stateless Persons*

According to UNHCR, there were 1,544 registered stateless persons in the country at the end of the year, most of whom resided in Tbilisi. Among those registered as stateless documentation was poor. The number of registered stateless persons may include Chechens who volunteered for repatriation to Russia but were denied because they had never been registered in Russia and did not have documented Georgian citizenship. This confusion was compounded by persons who lived in the unrecognized, separatist regions.

The law allows for acquisition of citizenship by birth, including for children of stateless individuals born on Georgian territory. For persons born on foreign territory, the law

allows the acquisition of citizenship through a naturalization process that requires 10 years of continuous residence in the country, demonstrated command of the Georgian or Abkhaz languages and Georgian history, and demonstrated permanent employment or possession of real property.

Children lacking birth certificates were unable to participate in social aid or educational programs. Often children were not registered because their parents had no documentation. Beginning July 1, the Civil Registry Agency (CRA) launched an intensive registration project in Kvemo Kartli to register juveniles and family members who lacked identification documents. Birth registration and identification documents were to be issued free of cost 'enduring the year. The CRA started with the Kvemo Kartli region because research indicated that it had the largest number of unregistered residents.

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

Russian recognition of Abkhazia and South Ossetia further complicated rules concerning citizenship. Prior to August 26, a de facto Abkhaz citizenship law did not allow dual Georgian-Abkhaz citizenship. As a result, ethnic Georgians in the separatist region had to relinquish their Georgian citizenship in order to vote or participate in the political process. Many ethnic Abkhaz relinquished Georgian citizenship to acquire Russian citizenship for political or economic reasons, or in many instances, under pressure.

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

The law provides citizens with the right to change their government peacefully; however, the government's record during the year was mixed.

Controversial 2004 constitutional amendments that strengthened presidential powers remained in force during the year. They gave the president the ability to dismiss Parliament in two circumstances: if the Parliament does not approve the president's cabinet nominations after three attempts, the president can dismiss the Parliament and appoint the prime minister and cabinet unilaterally; or if the Parliament does not pass the budget on time, the president can approve the budget by decree. In both instances newly elected parliaments could not vote on the cabinet or the budget.

#### *Elections and Political Participation*

Presidential and parliamentary elections were held on January 5 and May 21, respectively.

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

The May 21 parliamentary elections originally scheduled for later in the year were

brought forward following a plebiscite held simultaneously with the January 5 presidential election. The OSCE assessed that authorities and other political stakeholders made significant efforts to conduct these elections in line with OSCE and Council of Europe commitments; however, according to the OSCE, a number of problems made this implementation uneven and incomplete. The OSCE's final report noted shortcomings in vote counting, tabulation, and in the handling of election complaints. The OSCE also reported widespread allegations of intimidation and pressure on opposition activists, public-sector employees, and others in the presidential and parliamentary elections. There also were credible allegations that there was pressure on businesses to contribute to ruling party election campaigns.

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

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

There were no government restrictions on political party formation beyond registration requirements; according to the Ministry of Justice's Registration and Licensing Department, there were 189 registered political parties, of which 179 were active. However, some members of the political opposition were subjected to beatings after the May 21 parliamentary elections. There were reports that politically active persons who were not members of the ruling party experienced problems such as selective prosecution for corruption. On July 15, Parliament passed an amendment to the election law that denied six opposition parties state funding based on their refusal to take their seats after the parliamentary elections. Some opposition political members stated they were being punished by the government for their failure to participate in the new Parliament. On December 30, Parliament restored political party funding to opposition parties and endowed a foundation that will provide funding to all political parties for research and training.

On July 8, the ECHR ruled there had been a violation of the Labor Party's right to stand for election under protocols of the European Convention on Human Rights in the 2004 parliamentary elections. The ECHR called for the government to award the Labor Party 1,043 euros (approximately \$1,460) for costs and damages. The court stated that the exclusion of two electoral districts, Kobuleti and Khulo, from the general election

process in 2004 had failed to comply with a number of rule-of-law requisites and resulted in what was effectively a disfranchisement of a significant section of the population, about 60,000 voters. As of January 16, the Ministry of Finance claimed they had paid the Labor Party this judgment via electronic transfer.

At year's end the government had not determined the identity and the whereabouts of the persons who in 2005 severely beat Valeri Gelashvili, then an opposition member of Parliament. Opposition parties alleged that the authorities retaliated against Gelashvili's criticism of President Saakashvili and his family.

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

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

#### *Government Corruption and Transparency*

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

There was a general consensus among public officials and civil society organizations that levels of petty corruption fell after the 2003 Rose Revolution. In spite of this, high-level corruption remained a persistent concern, and observers considered the official anticorruption campaign too heavily focused on prosecution as opposed to prevention and too ad hoc rather than systemic and participatory in nature.

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

On July 30, the Ministry of Internal Affairs' Constitutional Security Department arrested the deputy economic development minister, Beka Okrostsvardize, and deputy head of the Ministry of Economic Development's Privatization Department, Lasha Moistsrapishvili, on charges of taking bribes. In connection with the case, Tamaz Machaladze was arrested for bribing the officials in an attempt to purchase state-owned land and buildings along the Rustavi-Tbilisi highway. The investigation was still underway at year's end.

In September 2007, Mikheil Kareli, the former mayor of Shida Kartli region, was arrested and charged with bribery and illegal business practices. Earlier several officials from the local administration, including Gori Governor Vasil Makharashvili, Deputy Chairman of the City Council Nugza Papunashvili, and Gaioz Dzanadia, were reported arrested on corruption charges. Kareli was released on bail later that month. In November 2007, the prosecution filed four additional charges against Kareli. Kareli failed to appear to face charges, and a warrant was issued for his arrest. On April 29, the courts filed an indictment to try Kareli in absentia in Gori district; the trial was ongoing at year's end. On July 23, French authorities arrested Kareli in France, and Georgian authorities requested his extradition to Tbilisi. At year's end French authorities had released Kareli on his own recognizance and were reviewing the extradition request. The press reported that Kareli had requested political asylum.

In 2006, the Ministry of Internal Affairs opened a criminal case that involved the company Colizeum Ltd. and Kutaisi public officials. The ministry charged the deputy mayor of Kutaisi, the acting head of the Service of Territorial Administration, and



fifteen members of the Kutaisi mayor's office with neglect of official duty and exceeding the limits of official authority. All were accused of forging documents that paid Colizeum Ltd. more than 553,392 lari (approximately \$335,000) above the actual price for reroofing damaged houses in the city. In October 2007 all persons charged in the investigation were found guilty, fined, and released on probation. They also were denied the right to hold public office for three years.

In May 2007, David Kekua, the deputy head of the general inspection department of the Ministry of Internal Affairs, was charged with planting evidence during a high-profile murder investigation and held in pretrial detention. In October 2007 he was found dead in his cell in Tbilisi Prison Number 7. Observers were concerned that at year's end the investigation into his death was still pending.

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

#### **4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights**

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

The major human rights problems that caused tensions between the government and NGOs during the year were the mistreatment of prisoners, inconsistency of the bail system, intimidation and use of government resources during the presidential and parliamentary campaigns, violence against opposition figures with no accountability, violations of rights to property, politically motivated arrests, and lack of accountability for the use of excessive force by the police in November 2007.

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

Some NGOs continued to view the Office of the Public Defender as the most objective of the government's human rights bodies. Public Defender Subari began to align himself with the opposition in the middle of the year and participated in several rallies with them. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuse. The office generally operated without government interference and was considered effective, with some exceptions. While the government continued to fund the office, it did not increase its funding during the year.

There were no developments reported during the year in the office of the prosecutor's criminal investigation into Public Defender Subari's allegation that Ministry of Internal Affairs' special operations unit members beat and injured him when he tried to prevent an altercation between demonstrators and unit members during the November 2007 protests in Tbilisi.

As required by law, Public Defender Subari submitted biannual reports to Parliament. However, his presentation to Parliament, originally scheduled for December 2007, was postponed at least twice. Subari maintained that authorities delayed his report because the contents were critical of government actions against protestors in November 2007. On July 15, Subari presented a report to Parliament that covered 2007 and focused on

the excessive use of violence by the police against protesters in November 2007; declining freedom of the press and respect for the right to assemble; decreased respect for rule of law with regard to property rights; and the importance of settling disputes between the Armenian and Georgian churches. His December 30 presentation covered the first six months of the year and focused on similar themes but addressed perceived political persecution of opposition candidates and allegations of electoral fraud. Subari reiterated that the government had still not properly investigated beatings that occurred in 2007.

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

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

The parliamentary Committee on Human Rights and Civil Integration, the Ministry of Internal Affairs' Human Rights Division, and the National Security Council's human rights advisor had mandates to investigate claims of abuse. By law the prosecutor general is charged with protection of human rights and fundamental freedoms; the prosecutor general's human rights protection unit is the reporting and monitoring arm of the legal department and has no independent investigative powers. The human rights unit focused on curbing abuses by law enforcement officials.

The UN human rights office in Sukhumi continued to monitor respect for human rights in Abkhazia and to visit detention facilities in the region. In 2007, Abkhaz de facto authorities agreed to permit a UN human rights officer's presence and the deployment of three UN civilian police in the Gali sector headquarters; these deployments subsequently occurred. The OSCE human rights officer was not allowed access into South Ossetia for monitoring after the August conflict.

## **5. Discrimination, Societal Abuse, and Trafficking in Persons**

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

### *Women*

Rape is illegal, but spousal rape is not specifically addressed by criminal law. Criminal cases of rape generally could only be initiated following a complaint by the victim. A first-time offender may be imprisoned for up to seven years; a repeat offender or perpetrator against multiple victims may receive up to 10 years. If the victim becomes pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years or, if the victim is a minor, up to 20 years. During the year, 100 rape cases were registered, of which 66 cases were investigated and 22 were sent to court. Observers believed many instances of rape were unreported due to the social stigma for victims and because police did not always investigate reports of rape.

Domestic and other violence against women was a problem. According to Ministry of Internal Affairs statistics, police responded to 2,576 cases of family conflicts during the year, compared to 2,056 cases in 2007.

Domestic violence is legally defined as a violation of the constitutional rights and liberties of one member of a family by another through physical, psychological, economic, or sexual violence or coercion; however, domestic violence is not specifically

criminalized. Perpetrators of domestic violence were prosecuted under existing criminal provisions, such as battery or rape. The law allows victims to file immediate protective orders against abusers and police to issue temporary restrictive orders against persons suspected of abusing a family member. Restrictive orders were issued in 141 cases during the year. The temporary order is approved by a court within 24 hours and becomes a protective order that prohibits the abuser from coming within 310 feet of the victim and from using common property, such as a residence or vehicle, for six months. The victim may ask authorities to extend the protective order indefinitely. The Ministry of Internal Affairs has developed the form required by law for police to issue restrictive orders, but training for police in this area was lacking outside of Tbilisi.

A local NGO operated a hot line and a shelter for abused women, although services were limited due to a lack of funding and facilities.

On December 26, Presidential Decree 625 directed the establishment of an interagency council to address domestic violence and coordinate the activities of ministries and NGOs to combat the problem.

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

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

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

The law provides for the equality of men and women; however, in practice this was not enforced. NGOs stated that discrimination against women in the workplace existed but instances were never reported. The speaker of Parliament continued to chair a Gender Equity Advisory Council, which included members of Parliament as well as representatives from the executive branch, the public defender's office, and NGOs. The State Commission on Gender Equity was chaired at the deputy state minister level and prepared recommendations on the implementation of international agreements and conventions on gender equity. Within the public defender's office, there is a special group dedicated to women's and children's issues.

Women's access to the labor market improved; however, women remained primarily confined to low-paying and low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. As a result, many women sought employment abroad. According to the UN Development Program, employers frequently withheld benefits for pregnancy and childbirth.

### *Children*

The law provides for the protection of children's rights and welfare, but the government provided limited services.

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

Education was officially free through high school, but in practice a lack of resources inhibited schools' functioning and affected the quality of education in some areas,

especially in the separatist regions of Abkhazia and South Ossetia. In some areas school facilities were inadequate and lacked heating, libraries, and blackboards. Most parents were obliged to pay some form of tuition to support the schools. Many parents were unable to afford books and school supplies, and in some cases students were forced to drop out due to an inability or unwillingness to pay tuition. According to the Ministry of Education, the situation in schools improved in terms of heating, though school inventories of such supplies as blackboards remained problematic in some schools. Approximately 55 schools were damaged during the August conflict. IDP shelters were established in 165 schools, 169 kindergartens, and nine higher education institutions. Some continued to be housed there, which delayed the fall opening of schools in Tbilisi and Gori.

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

Difficult economic conditions contributed to the number of street children. During the year the NGO Save the Children estimated that there were 1,600 street children in four major cities, of whom 800 were in Tbilisi. The NGO Child and Environment and the Ministry of Education each operated a shelter in Tbilisi, but the two shelters could accommodate only a small number of street children. The government took little other action to assist street children. According to a 2006 UN-sponsored report prepared by the Minnesota Advocates for Human Rights, the Education Ministry viewed street children as a local issue that should be addressed by municipalities, not the ministry.

There were unconfirmed reports of police violence against street children, but the patrol police routinely transferred street children to a 24-hour care center or orphanage. The center lacked resources for treatment and rehabilitation of the children, many of whom were substance abusers or suffered from mental disorders.

Ongoing conflicts in Abkhazia and South Ossetia kept thousands of children displaced; following the August conflict with Russia, these numbers became even more acute. Even before the conflict, the UN Children's Fund reported that health services in both regions were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

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

### *Trafficking in Persons*

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

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

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

Some reports indicated that IDPs were a particular target of traffickers. Following the August conflict with Russia, there was concern that the 30,000 newly displaced persons could be vulnerable to trafficking; however, there was no evidence of increased trafficking activity involving IDPs at year's end.

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

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

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

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

As of year's end, the courts had opened 16 new criminal trafficking investigations. During the year the courts rendered seven judgments against 10 perpetrators; one of the cases involved trafficking in minors. The sentences of those convicted ranged from nine to 10 years in prison. None of the cases involved government officials or international organization employees.

An interagency antitrafficking coordination council served as the overall coordination mechanism for antitrafficking measures by state agencies. National NGOs and international organizations were actively involved in the work of the council, which met quarterly. In July 2007, the council approved a strategy for rehabilitating and reintegrating trafficking victims into society. The strategy was the final document in a series providing the framework for assistance to, and protection of, trafficking victims. The prosecutor general's office, the State Fund, international organizations, and local NGOs jointly implemented the strategy, which called for individual victims to receive a specific rehabilitation plan according to their needs. The State Fund for Victim Protection and Assistance oversees the design and implementation of individual plans.

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

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

See also the State Department's [2008 Trafficking in Persons Report](#).

### *Persons with Disabilities*

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

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

According to official data for the year, the country had 160,638 persons with disabilities. Data from 2007 indicated that there were 11,024 children with disabilities in the country, although the actual number was thought to be higher.

### *National/Racial/Ethnic Minorities*

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

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

In the ethnic Armenian-dominated region of Akhalkalaki, many ethnic Armenians asserted that the government should allow Armenian to have provincial language status, as very few persons there spoke Georgian and were therefore unable to conduct daily affairs in Georgian. They also complained that the government did not provide Georgian language instruction. Ethnic Azeris had similar complaints in the ethnic Azeri-dominated region of Kvemo Kartli.

On July 22, Vaagan Chakhalian and Ruben Chakhaliani, both members of United Javakh, a local NGO that calls for autonomy for ethnic Armenians in the country, were charged with violating public order, resisting arrest, threatening law enforcement officers, and illegally possessing firearms. In 2006, the men attempted to break into the Akhalkalaki municipal building, wounding police in the process. A third person was also at the scene; a criminal case against him was ongoing at year's end, although he had not been officially charged or arrested.

Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian in the areas where they are the dominant ethnic group. The law requires that ethnic minority students learn Georgian as

a second language, and the government funded over 200 primary and secondary Russian, Azeri, and Armenian language schools for persons whose first language was not Georgian. The Zurab Zhvania School of Public Administration based in Kutaisi provided courses specifically for students from minority areas. The school also facilitated integration of future public servants from minority areas into Georgian society at large. In Tbilisi, a large majority of ethnic minority groups communicated in Georgian in their daily affairs.

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

In July 2007, Parliament approved a law on the repatriation of the Muslim Meskhetian population, a national minority group that Stalin deported in 1944. The legislation was a response to commitments that the country made to the Council of Europe in 1999 to provide for the resettlement of the Meskhetians by 2011. Passage of the law allowed the government on January 1 to begin accepting applications for repatriation from Meskhetians with documents that confirm their deportation. Passage of the law came under heavy criticism from opposition members of Parliament and the media, which pointed to the delicate ethnic and demographic balance in areas once inhabited by Meskhetians but which have become populated by a sizeable ethnic Armenian community. More than 1,700 Meskhetians had filed for repatriation by year's end. Unofficially, more than 150 returned over the last three years, quietly settling in Akhaltsikhe and Abastumani. On December 26, Parliament voted to extend the application period until July 1, 2009.

#### *Other Societal Abuses and Discrimination*

While there are no laws that criminalize homosexual behavior, it was not widely accepted in society.

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

## **6. Worker Rights**

### **a. The Right of Association**

The law allows all workers, including government employees, to form and join independent unions of their choice, and they did so in practice. However, the law restricts the right of employees of law enforcement agencies and the prosecutor general's office to form and join unions. Labor unions stated that provisions of the labor code limit the mechanisms available for them to exercise their rights. Labor unions' most frequent demand was for the creation of an eight-hour workday with double pay for overtime. The labor code stipulates an eight-hour day unless the employee and employer agree to other arrangements. Critics asserted that this gave too much power to employers, since there was a shortage of jobs in the country. They also cited as unreasonable the requirement that 100 employees are needed in order to form a sectoral union.

The principal association of unions is the Georgian Trade Union Confederation (GTUC), which represented unions in 26 sectors with over 261,750 unionized workers, according to GTUC information. There were a few small unions for civil servants, agricultural workers, and artists, but they did not participate in GTUC. Although many employees in

large-scale enterprises were unionized, their power was not commensurate with their large membership. Only a minority of the members were active in the labor movement. Critics believed that this gave management a free hand.

The law allows unions to conduct their activities without interference. The law provides for the right to strike; however, the law limits the maximum length of strikes to 90 days. In general workers exercised their right to strike in accordance with the labor code. Employers must sanction the strikes, and strikers must provide written notification three days in advance and a one-hour warning before the strike. In practice, strikes were rare. 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 punishments for those who refuse to take part in negotiations; however, the government did not always protect this right in practice. The ombudsman's office noted the fact that employers were not required to provide notice to employees in the event of termination of the labor relationship as one of the major deficiencies of the labor code. The practice of collective bargaining was not widespread. During the year the GTUC administered approximately 115 collective bargaining agreements as well as three sector-level agreements. Poor management and leadership, as well as a general lack of familiarity with the collective bargaining process, limited its scope.

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. Despite this law, the GTUC and its national unions continued to report some cases of management warning staff not to organize trade unions.

During the year GTUC alleged several instances in employers threatened union members with dismissal for union activity. In December 2007, union members were fired from their jobs in Poti for union activity and their union office sealed. After negotiations between the port authorities and the union, most workers were reinstated, and the office reopened. Eleven workers were not reinstated, and the union filed a lawsuit, which it lost in court. There were continuing reports that some workers complained of being intimidated or threatened by employers, including public sector employers, for union organizing activity. Affected workers included teachers; employees of various mining, pipeline, and port facilities; and the Tbilisi municipal government. According to the GTUC, there were 70 dismissals during the year that could clearly be attributed to trade union membership. In other cases, it was not possible to prove that the ground for dismissal was GTUC membership, as contracts in most industries were short term (as short as one month) and expiration of contract could be cited as the reason for termination of employment. There were a few cases of employers failing to transfer compulsory union dues, deducted from wages, to union bank accounts, but the disputes were resolved after discussions between the unions and employers.

There are no export processing zones.

#### **c. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor; however, there were reports that women and children were trafficked from and through the country for commercial sexual exploitation and men were trafficked for labor (see section 5).

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. Also, the labor code provides that an employer may change hours of work by 90 minutes without renegotiating the terms of any labor contract. NGOs stated that this provision would effectively require employees to work overtime without compensation in violation of the prohibition against



compulsory labor in the constitution.

#### **d. Prohibition of Child Labor and Minimum Age for Employment**

There are laws and policies to protect children from exploitation in the workplace; however, there were reports that children were sometimes trafficked for commercial sexual exploitation.

The public defender's office noted that one of the major deficiencies of the labor code was insufficient attention to the rights of minors. With high unemployment resulting in a large pool of adult workers willing to work for low wages, child labor was uncommon in the country. The Ministry of Health, Labor, and Social Affairs is responsible for enforcing laws regulating child labor. Although official data was not available, child labor was not generally considered a serious problem. In one survey conducted in 2007, approximately 77.4 percent of working children were employed intermittently on family farms, while 18.4 percent worked in family enterprises.

During the year the government, employers union, and trade union confederation signed a long-awaited tripartite agreement, which was seen as a positive development. The agreement, however, had yet to be implemented at year's end.

The minimum legal age for employment is 16. In exceptional cases, children may work with parental consent at ages 14 and 15. Children under age 18 may not engage in unhealthy or underground work and children ages 16 to 18 are subject to reduced working hours and are prohibited from working at night. The labor code permits employment agreements with persons under the age of 14 in sports, arts, and cultural activities and for the performance of advertising services. The Department of Social Protection in the Ministry of Health and Social Security is charged with identifying labor violations, receiving complaints, and determining compliance with labor laws and regulations. The Department of Social Protection had only two office employees and one labor inspector working on labor-related issues nationwide. It generally responded only to job-related accidents. In addition, one deputy minister and a special advisor to the minister focused on labor problems. The ministry monitors adherence to accepted labor standards and drafts proposals as necessary. The parliamentary Committee on Health and Social Security has general oversight over labor policy and considers labor-related proposals submitted by the ministry.

#### **e. Acceptable Conditions of Work**

Neither the minimum wage for public employees, 115 lari per month (approximately \$70), nor the statutory minimum wage for private sector workers, approximately 20 lari per month (approximately \$12), 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 at year's end were 130 lari (\$79) for a single person and 230 lari (\$139) for a family of four. Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Labor, Health, and Social Affairs is responsible for enforcing the minimum wage. The GTUC had its own inspector to monitor compliance.

The labor code provides for a 41-hour workweek and for a weekly 24-hour rest period, unless otherwise provided by a labor contract. The public defender's office noted inadequate attention to the rights of pregnant women as one of the major deficiencies of the labor code. The code does not protect pregnant women from being dismissed from work while they are on maternity leave. The labor code provides that, unless otherwise addressed by an employment agreement, the duration of the business day is determined by the employer but should not exceed 41 hours a week. Break and leave are not included in the work time. Duration of leave between workdays (shifts) should not last fewer than 12 hours. The labor code provides that to avoid natural disasters or prevent industrial accidents or to resolve the consequences of either event, employees must work overtime without compensation. 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 the parties.

The government set occupational health and safety standards, but the public defender's office listed failure to ensure safe conditions for workers as one of the major deficiencies of the labor code. 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.

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