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U.S. Department of State

Georgia Country Report on Human Rights Practices for 1998

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GEORGIA

Georgia declared independence from the Soviet Union in 1991. Multiparty parliamentary elections followed a short-lived military coup in 1992 that ousted the elected government of Zviad Gamsakhurdia. The 1995 Constitution, as adopted by Parliament, provides for an executive branch that reports to the President and a legislature. In 1995 Eduard Shevardnadze was elected President, and a Parliament was selected in elections described by international observers as generally consistent with democratic norms, except in the autonomous region of Ajara. The President appoints ministers with the consent of the Parliament. The Constitution provides for an independent judiciary; however, it is subject to executive pressure.

Internal conflicts in Abkhazia and South Ossetia that erupted in the early 1990's remain unresolved. Cease-fires are in effect in both areas, although sporadic incidents of violence occur in Abkhazia. These conflicts, together with problems created by roughly 283,000 internally displaced persons (IDP's), pose a significant threat to national stability. In 1993 Abkhaz separatists won control of Abkhazia, and most ethnic Georgians--a large plurality of the population--were expelled or fled the region. In 1994 Russian peacekeeping forces representing the Commonwealth of Independent States (CIS) deployed in the conflict area with the agreement of the Government and the Abkhaz separatists. Despite the presence of peacekeepers, there has been only very limited repatriation of ethnic Georgian IDP's during the year, apart from about 53,000 spontaneous returnees to the Gali region of Abkhazia. However, in May fighting broke out again in Gali, resulting in at least 239 casualties. Abkhaz forces burned an estimated 50 percent of houses in some areas, and 40,000 of the residents of Gali who had fled their homes have not yet returned. A Russian peacekeeping force also has been in South Ossetia since 1992. Repatriation

to South Ossetia also has been slow. The Government has no effective control over Abkhazia or much of South Ossetia.

The Ministry of Interior (MOI) and Procuracy have primary responsibility for law enforcement, and the Ministry of State Security (MSS, formerly the KGB) plays a significant role in internal security. In times of internal disorder, the Government may call on the army. On October 19, army forces put down a small scale mutiny led by Colonel Akaki Eliava, a supporter of deceased former President Gamsakhurdia. The mutiny resulted in the deaths of one soldier and two mutineers and generated almost no popular support. Reformist, elected, civilian authorities maintain inadequate control of the law enforcement and security forces. Members of the security forces committed serious human rights abuses, although slightly fewer than in the previous year.

The economy continued to grow during the year but was affected by the Russian financial crisis, which reduced exports to Russia and the value of ruble-denominated remittances from Georgians working in Russia. Agricultural production and hydropower production suffered from the worst drought in 50 years. These factors, coupled with low government revenues, created a fiscal crisis and pressure on the lari, which was allowed to float on December 7. Key exports are manganese, wine, mineral water, and agricultural products.

The Government continued efforts to improve its uneven human rights record, but serious problems remain. Police and security forces continued to torture, beat, and abuse prisoners and detainees, force confessions, and routinely fabricate or plant evidence. Security force abuses, along with inhuman prison conditions, led to several deaths in custody. However, local human rights groups reported that the extent of such abuse declined slightly. Nonetheless, government promises of reform of prison conditions remained unfulfilled. Authorities continued to use arbitrary arrest and detention. Senior government officials acknowledged serious human rights problems, especially those linked to law enforcement agencies, and sought international advice and assistance on needed reforms. However, while structural reforms designed to improve respect for human rights continued to be passed by the reformist Parliament, law enforcement agencies have been slow to adapt their practices to democratic norms.

The Government delayed implementation of the new Criminal Procedures Code, passed in November 1997, until May 1999. Corrupt and incompetent judges seldom displayed independence from the executive branch, leading to trials that were neither fair nor expeditious. However, the Government began serious implementation of the 1997 Law on the Courts with the first judicial examinations, which are designed to identify and remove corrupt and incompetent judges. Law enforcement agencies and other government bodies illegally interfered with citizens' right to privacy. The Government constrains some press freedoms. The Government limits freedom of assembly, and security forces continued to disperse some peaceful rallies violently. Discrimination and violence against women are also problems.

However, increased citizen awareness of civil rights and democratic values and the continued evolution of civil society provided an increasingly effective check on the excesses of law enforcement agencies. The number, variety, and sophistication of independent nongovernmental organizations (NGO's) grew, as did their ability to speak out for, and defend the rights of, individual citizens. Criticism from the press and the NGO community played an important role in reducing the incidence of prisoner abuse. It also led to the ouster of the corrupt Minister of Communications, who had violated privacy laws routinely.

Independent newspapers continued to criticize government policies and actions.

RESPECT FOR HUMAN RIGHTS

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

Political and Other Extrajudicial Killing

There were no reports of political killings by government agents.

Government authorities reported that 88 persons died while in prison or pretrial detention, compared with 92 deaths in 1997. These deaths were caused in part by physical abuse, torture, and inhuman prison or pretrial detention conditions. Authorities attributed eight such deaths to suicide, including that of Gulchora Dursunova, who in June supposedly threw herself from a sixth floor window in the Ministry of Interior where she was being questioned. A local human rights group filed a lawsuit in the case, noting that this was the fourth instance in the past 2 years in which an individual fell to his or her death from the sixth floor of the MOI building while being interrogated. In none of these cases, including the death of Akaki Iacobashvili in 1997, have any MOI officials been punished. In a case that came to light during the year, another young woman, Eka Tavartkiladze, fell to her death in August 1997 under similar circumstances. Police officers were questioning her in the home of an officer. The police claimed that the woman was a prostitute who had stolen from the officer in question. Officially the police called the death a suicide. They offered no explanation as to why she was interrogated in a home rather than in a police station, and the Procuracy declined to launch an inquiry into the incident. Parliament briefly held hearings on the Tavartkiladze case, but there has been no official investigation. Human rights groups also filed a lawsuit in this case, which asks that three other allegedly wrongful deaths be investigated as well. It has yet to be heard.

In December, following a peaceful sit-down demonstration by supporters of former President Gamsakhurdia, the badly beaten corpse of one of the demonstrators, Nuzgar Levasha, Deputy Energy Minister in Gamsakhurdia's government, was found near the site by his friends. An investigation is underway, with the police claiming that Levasha fell out of a nearby tree. Independent examiners who saw the body say that the wounds were the result of a beating (see Section 1.c.).

Political killings were committed by elements on either side of the separatist conflict in Abkhazia, including by partisan groups and by Abkhaz separatists. The partisan groups in the past have received government support and training. However, the Government claims that it can no longer control the partisans. These killings and other abuses on either side are not being investigated, prosecuted, or punished.

On July 13 five CIS peacekeepers were killed and three were wounded as the result of a remote-controlled bomb explosion in western Gali. Members of either the White Legion or the Forest Brothers, Georgian partisan groups, are believed to have been responsible.

A sweep by opposition Abkhaz forces through southern Gali in May involved the killing of civilians, looting, burning of homes, and killing of livestock on a large scale. While the bulk of the fighting was between Abkhaz militia and partisans, some Georgian MOI units reportedly entered Gali to help returnees get across the Inguri River. According to government authorities, 239 persons, including 25 civilians, were killed in clashes. Some incidents involved kidnaping, others involved gunfire, and still others involved mines or other explosive devices.

As a result of the fighting in this region, Abkhaz militiamen, civilians, and members of the CIS Peacekeeping Force (PKF) have died. The perpetrators included Georgian partisans, criminal gangs, and Abkhaz militiamen. For example in early December, two Abkhaz militiamen were killed by gunfire. Responsibility was attributed to a group that was described in the Georgian press as more criminal than

partisan. (There is collusion and rivalry among Abkhaz officials and criminal gangs, usually Georgian, in the Gali region for control of the lucrative nut and fruit harvests, for which they depend on the labor of those Gali residents who risk returning.) In an incident a few days earlier, a mine wounded six civilians traveling on a minibus. On September 15, seven Abkhaz police officers were killed and five wounded in an ambush in Gali. In an incident in December, CIS PKF fire killed a Georgian militiaman after Abkhaz and Georgian units had exchanged fire. The Georgian Government and the Abkhaz asked the PKF to investigate.

In February between 10 to 15 assailants unsuccessfully attempted to assassinate President Shevardnadze. During the exchange of gunfire, two of his bodyguards and one of the attackers were killed, and four bodyguards were wounded seriously. The police finished their investigation in early December, but the 13 defendants have not been brought to trial. Ten defendants are still at large. Human rights NGO's have not had access to the defendants. The defendants' lawyers were appointed by the State. One lawyer complained of "press interference" with the trial. The trial was expected to begin in February 1999. According to human rights NGO's, there are often delays of several months between the end of an investigation and the beginning of a trial.

According to press reports, in April, apparently as a result of political infighting among supporters of deceased former President Gamsakhurdia, five mourners were killed and eight wounded when gunmen fired on a funeral procession of Gocha Eseba, an opposition leader. Eseba, who took four U.N. officials hostage in March and is believed to have participated in the February assassination attempt on President Shevardnadze, was killed during a shoot-out with police near Zugdidi on March 31.

b. Disappearance

Georgian and Abkhaz commissions on missing persons report that the fate of over 1,000 Georgians and several hundred Abkhaz who disappeared as a result of the war in Abkhazia is still unknown. No progress has been made in determining their whereabouts. Georgian partisan groups active in Abkhazia, which in the past have received government support and training, periodically take hostages, usually to exchange for captured compatriots. The Government has consistently claimed it is unable to control them and asserts that the partisans in reality are bandits and number no more than 20 to 30 individuals.

Hostages occasionally are taken by both sides (and by criminal gangs) for exchanges or simply to raise money. On February 19, approximately 20 terrorists kidnaped 4 members of the U.N. observer mission in Zugdidi. The terrorists claimed to be supporters of former President Gamsakhurdia. All the hostages either escaped or were released unharmed.

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

The Constitution forbids the use of torture, but serious abuses occur. Members of the security forces continued to torture, beat, and abuse prisoners and detainees, usually to extract confessions. However, according to local human rights groups, there was a slight decline in the incidence of such abuse during the year. These groups attributed the reduction to a more open society, increased intolerance of police misconduct, greater public awareness of civil rights, and pressure from the international community. Nonetheless, abuses and police misconduct continue, and corruption and criminality, such as the fabrication or planting of evidence, remain problems. The MOI took as an invitation various statements made by the President in late November and December on the need to crack down on tax evaders and other economic criminals to bear down on all perceived threats to public order (see Section 1.a.). The most serious incidents of abuse occur in the investigative stage of pretrial detention when suspects are interrogated by police. Those who suffer such abuse routinely are held for lengthy periods in pretrial

detention to give their injuries time to heal (see Section 1.e.).

A number of policemen have been arrested or disciplined for physical abuse. However, this action tends to occur only in extreme cases, such as those resulting in death, and even then it is rare (see Section 1.a.). For example police beat Yosef Topiridze following an altercation over an alleged traffic violation. He subsequently went to the headquarters of the traffic police to complain, where he was again beaten, this time by the senior official to whom he complained, Roland Nachkebia, who broke Topiridze's jaw. None of the police officers in this case were disciplined, although Nachkebia was transferred to another position.

Amnesty International reported many cases in which security forces used torture to extract confessions. Methods used included electric current.

In the past, security forces have tortured some defendants in politically sensitive cases, such as members of the former Gamsakhurdia government and members of the paramilitary Mkhedrioni (see Section 1.e.). Local human rights observers report that abuse most commonly occurs in two pretrial detention facilities, Isolator 5 in Tbilisi and the facility in Kutaisi. Isolator 5 is located in the basement of the MSS headquarters and is the facility in which detainees suspected of a serious crime, or whose cases have political overtones, are incarcerated. According to local human rights observers, despite calls by senior law enforcement officials for investigators to show restraint, many persons who are detained in Isolator 5 afterwards report that they were beaten or otherwise abused. Often the threat of incarceration in this facility is sufficient to induce a confession.

According to reliable sources, the defendants arrested on suspicion of trying to assassinate President Shevardnadze in February reportedly were not mistreated, in contrast to those arrested in connection with the 1995 assassination attempt, who suffered torture and beatings (see Section 1.e.).

Government officials acknowledged that members of the security forces in the past have beaten and abused prisoners and detainees on a routine basis. Government officials continue to claim that a lack of proper training, of supervision of investigators and guards, and of equipment often resulted in abuse. For example investigators were trained to obtain confessions rather than use physical evidence to assemble a case. Law enforcement agencies expressed concern that the safeguards contained in the new Criminal Procedures Code (see Section 1.e.) would make it difficult for them to combat crime but promised to take corrective action against abuse.

Members of Parliament's Committee on Human Rights and Ethnic Relations and local human rights groups independently investigate claims of abuse. Despite fear of retaliation, many individuals file claims. The National Security Council's human rights advisor also has a mandate to investigate claims of abuse. In November 1997, the constitutionally mandated Office of Human Rights Defender, or ombudsman, created in 1995, finally was filled. The ombudsman so far has focused his attention on social and economic rights and has not been active in defending individuals from abuse by law enforcement agencies (see Section 4).

Abkhaz authorities beat, detained, and tried a member of Jehovah's Witnesses (see Section 2.c.).

Prison authorities admit that conditions are inhuman in many facilities. They blame inadequate cells, medicine, and food on a lack of resources. Overcrowding has been reduced in Isolators 1 and 5, but there are reliable reports that in other facilities cells contain so many inmates that prisoners and detainees still are required to sleep in shifts. The lack of proper sanitation, exercise, medical care, and food poses a serious threat to the life and health of prisoners. Tuberculosis is a particular problem and

was responsible for many of the deaths of individuals in custody.

Government authorities reported that 88 persons died while in prison or pretrial detention, compared with 92 in 1997. According to local human rights monitors, the prison mortality rate would be higher except that the authorities often release prisoners who are terminally ill. Most of the deaths during the year were attributed officially to medical causes, many of them to tuberculosis. According to the International Committee for the Red Cross (ICRC), tuberculosis is widespread in the prison system, in recognition of which the ICRC continued with the authorities a joint program begun in 1997 to reduce its incidence. However, torture and physical abuse of prisoners also played a role in such deaths in custody.

Government plans announced in 1995 to build new prison facilities remain unfulfilled.

The ICRC had full access to detention facilities, including those in Abkhazia, in accordance with its customary procedures, which include meetings with detainees without the presence of thirdparty observers and regular repetition of visits. The Organization for Security and Cooperation in Europe (OSCE) mission, whose mandate includes prison visits, reported bureaucratic delays but no serious problems in obtaining access to visit prisoners and detainees. However, local human rights groups report that they still encountered obstacles in visiting detainees, especially those whose cases have political overtones.

d. Arbitrary Arrest, Detention, or Exile

The Constitution includes provisions to protect citizens against arbitrary arrest and detention; however, authorities frequently violated these provisions. The Constitution provides for a 9month period of maximum pretrial detention, mandated court approval of detention after 72 hours, and restrictions on the role of the prosecutor (see Section 1.e.). The Soviet criminal code, still in force, was amended to implement these constitutional safeguards in November 1997. These amendments are generally, although not always, observed, as prosecutors continue to maintain undue influence over criminal procedures.

Judges now follow the amendments made to the old Soviet code. They now issue warrants and detention orders, and suspects have to be charged within 3 days. Pretrial investigatory detention is limited to 9 months in accordance with the Constitution, instead of 18 months as allowed by the old Soviet code. Judges may extend pretrial detention at 3-month intervals up to 9 months. Human rights NGO's state that the amendments to the old Soviet code have made the pretrial detention period less arbitrary. As of June 1, there were 8,332 prisoners serving sentences, and 2,016 held in detention. There has not been a noticeable decrease in the number of people held in pretrial detention since the reduction of the limit from 18 to 9 months.

A new Criminal Procedures Code, along with other legislation to implement Constitutional protections and restrict the powers of the Procuracy and the police, was passed by Parliament in November 1997, but implementation was delayed until May 1999 (see Section 1.e.).

According to observers, including the OSCE and the Association of Former Political Prisoners for Human Rights, police continue frequently to treat individuals in their custody with brutality, but correct legal procedures are being observed more often. Authorities often continued to hold prisoners who were tortured and abused in pretrial detentions for lengthy periods in order to give their injuries time to heal (see Sections 1.c. and 1.e.).

There were no cases of forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, but in practice the judiciary often does not exercise independence. Prior to adoption of the Constitution, the courts often were influenced by pressure from the executive branch. This pattern continues, with judicial authorities frequently deferring to the executive branch, particularly at lower levels of the court system. Investigators routinely plant or fabricate evidence and extort confessions in direct violation of the Constitution. Judges generally are reluctant to exclude evidence obtained illegally over the objection of the Procuracy. Local human rights observers also report widespread judicial incompetence and corruption, including the payment of bribes to investigators, prosecutors, and judges, which also leads to denial of justice.

A new Law on the Courts, designed to enhance judicial independence, was passed by Parliament in 1997. Under the new law, the country retains a three-tier court system. Implementation of the law has been slow. At the lowest level are the district courts, which hear both routine criminal and civil cases. However, the next level, the regional courts of appeal, which serve as appellate courts for the district courts, are not yet functioning. Once set up, the regional courts are also to try major criminal and civil cases, review cases, and either confirm verdicts or return cases to the lower courts for retrial. The Supreme Court, the highest level, eventually is to act exclusively as an appellate court, but in the absence of the regional courts, it continues to try major cases.

A separate Constitutional Court was created in 1996. Its mandate includes arbitrating constitutional disputes between the branches of government and ruling on individual claims of human rights violations. The Court chose to interpret this latter function narrowly, agreeing to rule only on cases in which the complaint alleges that the violation was sanctioned by law. The Court rejected numerous complaints that alleged that an illegal violation of human rights had occurred. In addition the Court only considers one case at a time, with the result that since its inception, it has ruled on only 35 cases. However, the Court's rulings have demonstrated judicial independence.

Administration of the court system was moved from the Ministry of Justice to a new Council of Justice in 1997. The Council has 12 members, 4 selected from within each branch of government. The law established a three-part testing procedure for current and prospective judges to be administered by the Council. The testing procedure, which includes a multiple choice section, an essay section, and a character and fitness interview, is designed to reduce judicial incompetence and corruption. The first examination was administered in March, when 34 individuals, (approximately 15 percent of the candidates) passed the examination and are to be sworn in as judges in January 1999. Another examination took place in October when 105 judges passed. However, the Constitutional Court ruled on November 3 that sitting judges could not be removed, thereby hampering the Government's attempts at judicial reform. The Parliament replied with a law stating that judges' terms would not be renewed beyond 2001 if they did not take and pass the examination, thereby observing the decision of the Constitutional Court, yet forcing the judges to qualify themselves through examination. The new judges' salaries are to be raised substantially when the new Criminal Procedures Code goes into effect in April 1999 in order to reduce incentives for corruption.

Supreme Court justices also are required to take the examination, but have resisted the requirement, arguing that it is an infringement on judicial independence and that, since they are confirmed by Parliament, they already are subject to public scrutiny and review. The August appointment of Lado Chanturia, the individual responsible for the testing procedure, as Minister of Justice, was a significant step forward for the advocates of judicial reform.

According to the Constitution, a detainee is presumed innocent and has the right to a public trial. A detainee has the right to demand immediate access to a lawyer and to refuse to make a statement in the absence of counsel. The detaining officer must inform the detainee of his rights and must notify the detainee's family of his location as soon as possible. These rights mark a significant departure from legal practice of the Soviet era, but they are not observed fully. Defense attorneys sometimes have difficulty obtaining permission from investigators to visit clients. Investigators seldom inform individuals of their rights. A local NGO prepared a brochure to explain to detainees their legal rights but to date has not received permission from the Ministry of Interior to distribute the brochure in the detention facilities.

The legislation required to implement constitutional protections was passed by Parliament in 1997. The implementing legislation included a Criminal Procedures Code and a Law on the Procuracy. The laws are designed to create a legal system with adversarial trials by reducing the pervasive powers of the Procuracy, increasing the rights of defense attorneys, and enhancing the independence and authority of the judiciary. However, until the new code is implemented, Soviet law continues in force, although in practice it is not always applied. Under Soviet law, prosecutors are vested with powers greater than those of judges and defense attorneys. Prosecutors direct criminal investigations, supervise some judicial functions, and represent the State in trials. Trials are not conducted in an adversarial manner. Most criminal trials continue to follow the Soviet model and, in many cases, such as the trial of Jaba Joseliani and his codefendants, prosecutors continue to wield disproportionate influence over outcomes.

Under Soviet law, the State must provide legal counsel if the defendant is unable to provide one. In fact the State provided virtually all criminal defense attorneys, who were employees of the State. This system began to break down during the year. Individuals who could afford to pay were able to obtain the attorney of their choice in both criminal and civil cases. In instances where defendants were unable to afford legal counsel, attorneys were assigned to a case by the Office of Legal Assistance, a part of the state-controlled Bar Association upon the recommendation of the Procurator's Office. In certain cases, defendants were pressured to accept a state-appointed attorney, as were the defendants in the Joseliani trial.

The trial of Joseliani, the head of the Mkhedrioni, and 14 other alleged conspirators in the 1995 assassination attempt on President Shevardnadze was characterized by the same violations found in other recent trials with political overtones. The Government consistently violated due process both during the investigation and the trial. Torture, use of forced confessions, fabricated or planted evidence, denial of legal counsel, and expulsion of defendants from the courtroom took place. Ten of the defendants claimed to have been beaten or tortured and coerced to confess during the investigative stage of the case. According to local human rights groups, four of the defendants were tortured seriously, including former Security Service Captain Guram Papukashvili. Despite the claims of torture, the judge in the case allowed the confessions to be entered as evidence. The court-appointed physician who inspected the defendants claimed that too much time had passed to establish whether the defendants had been tortured. The alleged conspirators were held in pretrial detention for 27 months before the trial began, well in excess of even the Soviet legal limit. According to local human rights groups, the delay was meant to give their injuries time to heal, reportedly a common practice on the part of the law enforcement agencies (see Section 1.c.). On November 10, the Supreme Court sentenced Joseliani to 11 years' imprisonment for his role in the attempted assassination of President Shevardnadze. Other defendants received sentences of 7 to 15 years. Former Security Chief Captain Papukashvili received a sentence of 10 years.

International and local human rights groups agree that there are political prisoners but disagree about the number. In 1997 Russian human rights activist Sergei Kovalev visited 17 prisoners and detainees and concluded that all were being held for political reasons. Local observers disagreed with this view, noting that many of these individuals had committed violent acts during the civil war or the period of near

anarchy that followed. Although these individuals--members of the Mkhedrioni, Gamsakhurdia supporters, and MSS personnel--may have had political objectives, they committed criminal acts and were tried and sentenced on criminal grounds. However, according to some local observers, there are several Gamsakhurdia supporters who never took up arms and should be considered political prisoners. One of those individuals, Nugzar Molodinashvili, was pardoned and released from prison in September. However, several other individuals, including Valter Shurgaiia, Zviad Dzidziguri, and Zaur Kobalia, are still in prison. These individuals--political leaders of Gamsakhurdia's movement--were tried and convicted on poorly substantiated charges of treason, banditry, and illegal possession of weapons. They are serving sentences ranging from 7 to 12 years. However, in November President Shevardnadze pardoned Zviadist Viktor Domukhovskiy, who had been held since 1993. There are increasing calls domestically for President Shevardnadze to issue a general amnesty to those convicted for their actions, including those involving violence, during the period of civil war and social chaos from 1991 to 1995.

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

The Constitution forbids the tapping of telephones and other forms of interference in an individual's private life without court approval or legal necessity. However, in practice law enforcement agencies and other government bodies, especially the Ministry of Communications, monitor private telephone conversations without obtaining court orders. Following the February attack on President Shevardnadze, the Ministry of Security requested and received court permission to monitor several telephone numbers. However, then Minister of Communications Pridon Injia illegally authorized the tapping of additional numbers at the same time. State security police and state tax authorities also enter homes and places of work without legal sanction. Police regularly stop and search vehicles without probable cause to extort bribes. The high level of unregulated police misconduct and corruption has undermined public confidence in government, especially the law enforcement agencies.

Georgians still residing in Abkhazia are considered Abkhaz "citizens" and liable for military service.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and the 1991 press law provide for freedom of the press; however, although the independent press increasingly was active, the Government constrained some press freedoms. According to journalists, security and law enforcement authorities attempted to intimidate the press through public comments and private admonitions. There is no law providing public access to government information, and government officials are sometimes unwilling to answer press inquiries. Journalists lack effective legal protection, and this circumstance hinders investigative journalism. The Civil Code and other legislation make it a crime to insult the honor and dignity of an individual and place the burden of proof on the accused. Parliament is considering several draft laws on the media, some of which would further restrict press freedoms, and these bills include truth as a defense against defamation.

Some 200 independent newspapers operate, and the press increasingly serves as a check on government, frequently criticizing the performance of high-level officials. However, no independent newspaper as yet has a large national audience, although several have emerged as serious and reputable sources of information. High printing costs and general poverty, especially in the countryside, limit the circulation of most newspapers to a few hundred or a few thousand. The Government finances and controls two newspapers and a radio and television network, which have a national audience and reflect official viewpoints. Most persons continue to get their news from television. The Government's monopoly on broadcast news was broken when Rustavi2, the Tbilisi member station of the fledgling independent

television network, TNG, successfully resisted government attempts for 2 years to shut it down and emerged this year as an important alternative to state television. Independent newspapers and television stations continued to be harassed by state tax authorities.

In April two journalists from the independent newspaper Orioni reported allegations of homosexuality and sexual harassment in the armed forces that had led to several suicides. Government and military officials reportedly responded by threatening the reporters with arrest, demanding the names of sources, and filing a civil law suit that charged defamation. One of the two journalists, Amiran Meskheli, was detained for allegedly having evaded military service, subsequently was conscripted, and was assigned to the unit on which he had reported. Human rights monitors considered this action a transparent attempt at intimidation and filed a lawsuit to overturn his conscription. The trial has been postponed, and Meskheli is out on bail.

In May the independent newspaper Kavkasioni published allegations of graft and misconduct by the Abkhaz government-in-exile, a quasi-official body that claims to be the genuine government of Abkhazia and to speak for refugees from Abkhazia. In July two members of the Abkhaz government-in-exile filed a defamation suit against Kavkasioni. The trial was still under way at year's end. The newspaper was trying to have the case dismissed.

Academic freedom is respected widely.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right to peaceful assembly without prior permission from the authorities; however, national and local governments restrict the right in practice. A 1997 law on freedom of assembly requires political parties and other organizations to give prior notice and obtain permission from local authorities if they intend to assemble on a public thoroughfare. Members of the local NGO community believe that the law violates the Constitution and are seeking to have it overturned by the Constitutional Court. Most permits for assembly generally are granted without arbitrary restriction or discrimination, although this is not the case for the Zviadists, the supporters of former President Gamsakhurdia. The Zviadists never have accepted any successor to the Gamsakhurdia government as legitimate and frequently hold demonstrations demanding that the present Government resign. The Government views the frequent public rallies of the Zviadists as a threat because of the publicity they generate for themselves and against the Government. The police invariably break up or restrict the rallies, regardless of where they are held. For example, the demonstration on May 26, Georgian Independence Day, again was broken up forcibly by police and troops from the Ministry of the Interior. Two NGO's issued official statements protesting the forcible break-up of the demonstrations, and other human rights groups protested.

A participant in the 1997 rally, Klara Shukvan, who had been arrested for carrying a placard "insulting" President Shevardnadze, was found guilty in late 1997, but her 2-year sentence was suspended. Leila Tsomaia and Tamila Nikoldaze, Zviadists who were arrested, tried, convicted, and incarcerated on charges of civil disorder for attempting to stage a rally in front of Tbilisi University in 1997, were pardoned and released from prison in March.

In June an opposition political party, the Traditionalists, began gathering signatures for a petition that demanded that a referendum be held on whether President Shevardnadze should resign. In July the MOI and the MSS stopped the Traditionalists' campaign by arresting and intimidating party members. The security services claimed the petition drive was a threat to national security. The Procurator General called for a law that would criminalize "insults to the President," like the petition campaign.

In December following a peaceful sit-down demonstration by supporters of former President Gamsakhurdia, the badly beaten corpse of one of the demonstrators, Nuzgar Levasha, Deputy Energy Minister in Gamsakhurdia's government, was found near the site by his friends. An investigation is underway (see Section 1.a.).

The Constitution provides for freedom of association, and the Government respects this right in practice. Authorities grant permits for registration of associations without arbitrary restriction or discrimination.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The country has a tradition of religious tolerance. However, the local police and security officials at times harassed foreign missionaries (see Section 5). The Georgian Orthodox Church has lobbied Parliament and the Government for laws that would grant it special status and restrict the activities of missionaries from "nontraditional" religions. Various draft laws, some modeled on the Russian law on religion, have been rejected by Parliament.

The Catholic Church and the Armenian Orthodox Church have been unable to secure the return of churches closed during the Soviet period, many of which were later given to the Georgian Orthodox Church. A prominent Armenian church in Tbilisi remains closed, and both churches, as is the case with Protestant denominations, have had difficulty obtaining permission to construct new churches, reportedly in part as a result of pressure from the Georgian Orthodox Church.

Abkhaz authorities reportedly detained Maxim Harizia, a local representative of Jehovah's Witnesses, and five other members of Jehovah's Witnesses in April for violating a 1995 decree of Abkhaz president Vladislav Ardzimba that specifically banned Jehovah's Witnesses. They were released in early May after their counsel argued that their detention violated a freedom of conscience clause in the Abkhaz constitution. However, one member of Jehovah's Witnesses, Atgura Ashuba, subsequently was rearrested, beaten, tried, and sentenced to 5 years' imprisonment for deserting the Abkhaz military forces.

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

The Constitution, the 1993 Law on Migration, and other legislation generally provide for these rights and, with some exceptions, the Government respects them in practice. Registration of an individual's place of residence no longer is required, nor are internal passports. However, old Soviet passports bearing "propiskas" (proof of legal residence in a particular locality) were accepted as proof of identity in the November local elections because passports and identity cards were expensive and difficult for many members of the electorate to obtain, especially in the poorer and more remote rural areas.

In principle the Government respects the right of repatriation, although approximately 275,000 Meskhetian "Turks" (primarily Muslim), who were expelled from southern Georgia to Central Asia by Stalin in the 1940's, still face official and public opposition to their return. Many of the Meskhetians later were expelled a second time from Central Asia at the time of the break up of the Soviet Union. They are currently living as stateless persons in southern Russia, Ukraine, and Azerbaijan. In 1996 President Shevardnadze issued a decree authorizing the return of 1,000 Meskhetians per year for 5 years. The decree has never been implemented and, to date, only a few hundred Meskhetians have returned, none as a result of the decree; all came as illegal immigrants. The Government had provided housing for most of them, but because they are to be the subject of a separate law, not yet passed, they were deprived early in the year of their refugee status and consequently, their housing subsidy. They now live

without any regularized status.

In December 1997, Parliament passed a law titled, "Recognizing Georgian Citizens as Political Victims and Social Protection of the Repressed." The law, intended to help rehabilitate victims of the Soviet era, specifically excludes the Meskhetians, whom it identifies as the subject of a possible separate law. Observers believe that the Parliament will adopt such a law in 1999. In September several hundred Meskhetians, some with Georgian citizenship, assembled in front of Parliament to agitate for their return. The demonstration was broken up by the MOI, and the Meskhetians, some without permanent status in Georgia and some with Georgian citizenship, were deported to Russia. Those with Georgian citizenship were allowed to return after a few days; those without Georgian citizenship have not been allowed to return.

The 1994 quadripartite agreement between Russia, Georgia, Abkhazia, and the United Nations High Commissioner for Refugees (UNHCR) on repatriation in Abkhazia called for the free, safe, and dignified return of displaced persons and refugees to their homes. The Abkhaz separatist regime prevented virtually all official repatriation and unilaterally abrogated the agreement in late 1994. In negotiations to end the conflict, the Abkhaz separatists continue to resist the right of Georgian IDP's to return to their homes. Over the past 4 years, the UNHCR estimates that more than 53,000 of the 283,000 IDP's and refugees from Abkhazia returned spontaneously, most to the southern part of the Gali district. However, in May the unstable security situation in Gali deteriorated into open warfare between the Abkhaz militia and Georgian partisans and MOI troops. The partisans were routed and, in the aftermath, almost all of the Georgian returnees fled once again as their homes were burned and looted by the Abkhaz. Reportedly 40,000 remain in and near Zugdidi on a more or less permanent basis. Only a few thousand subsequently have returned, many of them for short stays to look after their property.

The 1992 ethnic conflict in South Ossetia also created tens of thousands of IDP's and refugees. Ethnic Georgians from South Ossetia fled to Georgia proper and Ossetians from South Ossetia and other Georgian regions largely fled to Russia. In 1997 the UNHCR began a program to return the IDP's and refugees to their homes. Both sides have created obstacles that have slowed implementation. To date only a few thousand Ossetian refugees have been returned, all to South Ossetia from Russia. The South Ossetian separatists continue to obstruct the repatriation of ethnic Georgians to South Ossetia. For demographic reasons, they continue to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other Georgian regions. The Government publicly recognized the right of Ossetian refugees to return to their homes in Georgia in 1997, but has taken no action to facilitate their return. Persistent opposition, especially at the local level, over the return of illegally occupied homes has prevented the organized return to Georgia proper of any Ossetian refugees.

There is no effective law concerning the settlement of refugees or the granting of political asylum, including first asylum. Parliament passed an asylum law in March, but it is not fully consistent with international standards as set out in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. According to the UNHCR, only one asylum case was processed in 1997 and none in 1998.

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

The Constitution and the 1995 election law provide citizens with the right peacefully to change their government. Citizens exercised this right in elections in 1992 and 1995. A democratically elected President and Parliament govern most of the country. The 223-member Parliament and President Eduard Shevardnadze were elected in multiparty elections in 1995. Despite some violations, international observers judged these elections to meet international standards. There was no voting in these elections in the separatist regions of Abkhazia and South Ossetia, which were outside of government control.

In a parliamentary by-election in Lagodekhi, East Georgia on June 7 to replace a deceased Member of Parliament, there were widespread allegations of electoral fraud since no identification was required to vote and no record was kept of who had already voted. The Central Election Commission held a revote in two polling stations on June 21. This election was even more contentious than the first vote and was marred by an outbreak of fighting between members of the Citizens' Union Party (CUG) and the Socialist Party.

President Shevardnadze's party won a majority of the seats in Parliament in 1995. Only two other parties qualified for representation in Parliament. However, the parliamentary opposition is active and outspoken, as is the nonparliamentary opposition.

The country's first local elections were held November 15. Elections originally were to have taken place in 1997, but were postponed while the Government and the opposition debated the structure of local government. The opposition criticized the Government and the ruling CUG for retaining the appointment of the mayors of the largest cities and regional chairmen. Local officials appointed by the President are often not from the area they serve, thereby limiting the scope of local self-government. The local governments elected in November were expected to have more authority over how local government is run, though inadequate funding, corruption and the absence of legislative guidelines are expected to make it difficult for locally elected bodies to exercise authority for some time.

One team of international observers evaluated the elections as "not perfect," but constituting a "very positive step in Georgia's nascent election reform movement." Other international observers indicated that the elections demonstrated a need for such improvements as better funding, more voter education, and an improved process for selecting election committee officials at all levels. A Georgian human rights group asserted that there were numerous violations, including incidents of missing ballots, missing seals, ballot-box stuffing, multiple voting, and fraudulent names on voter lists. In one region, elections were suspended because of suspected fraud. The authorities also declined to permit displaced persons from Abkhazia and Ossetia to participate in the November local elections on the grounds that they were not resident in the areas where they had taken refuge, but of Abkhazia or Ossetia, where elections could not be held.

The division of power between the central Government and local governments remains a key issue in the country's transition to democracy. The largely autonomous region of Ajara was at the center of this debate during the year. Ajara's postindependence relationship to the rest of the country still is undefined and, in matters such as elections, Ajara's authorities claim that regional laws take precedence over national laws. Revival, the dominant political party in Ajara, led by Aslan Abashidze, the president of the Autonomous Ajaran Republic, boycotted the national Parliament for much of the year in a dispute with the CUG over the degree of autonomy in Ajara. The Government has been reluctant to challenge illegal and undemocratic activity by the Ajaran authorities, purportedly because it seeks to avoid open separatism in this ethnic Georgian, but historically Muslim, region. Ajara held regional elections in 1996, for which it denied monitoring requests from international as well as Georgian organizations. In addition the most serious violations noted during the 1995 elections occurred in Ajara. The Ajaran government, along with much of the opposition, alleges fraud in the 1995 national elections. It also criticized as undemocratic the Government's refusal to allow directly elected local officials and announced that officials in Ajara would be elected directly. In the November local elections, the mayor of Batumi was elected by a direct vote. The Revival Party won all contests. Observers reported various forms of indirect intimidation rather than outright fraud.

Women are poorly represented in Parliament. Only 16 women were elected to the 223-member Parliament in 1995, and only 2 women hold ministerial posts. National minorities are also poorly represented in Parliament. There are 4 Armenian representatives and 3 Azeris, representing populations

which in 1995 constituted 11 percent and 3.8 percent of the population, respectively.

Local elections were held on March 14 in Abkhazia. Georgian authorities criticized them as having no legal basis since a majority of the population has been expelled.

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

The Government generally respects the right of local and international organizations to monitor human rights but continues to restrict the access of local human rights groups to some prisoners (see Section 1.c.).

There are an increasing number of credible local organizations that monitor human rights. Although there are still some local human rights groups that are extensions of partisan political groups, these groups have little credibility or influence. Local human rights NGO's report that the Government has become more responsive to them during the year. They continue to view the Parliamentary Committee on Human Rights as the most objective of the Government's human rights bodies. The National Security Council's human rights advisor is seen as a government spokesperson on human rights rather than as an independent actor. The constitutionally-mandated Office of Public Human Rights Defender, or ombudsman, created in 1995, has been a disappointment to both local and international human rights groups. David Salaridze, the former head of the State Revenue Service, who was appointed to the position in November 1997, has chosen to focus his office's attention on social and economic issues, especially the status of the country's refugees, rather than on defending political and civil rights. Local human rights groups claim that the ombudsman's agenda is dictated to him by the executive branch. They note that the ombudsman has legal standing with the Constitutional Court and can bring individual violations of human rights to the Court for consideration. However, he has chosen not to do so, and the NGO community now is seeking this status for itself in order to circumvent his inaction. NGO's can, and do, bring suits to courts of the first instance on behalf of persons whose rights have been abused.

In 1997 the UNHCR and the OSCE mission established a joint human rights office in Sukhumi, Abkhazia, to investigate security incidents and human rights abuses. The office, which has operated sporadically because of changing security conditions, provides periodic findings, reports, and recommendations. Its influence appears to be marginal.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution recognizes the equality of all citizens without regard to race, language, sex, religion, skin color, political views, national, ethnic, or social affiliation, origin, social status, land ownership, or place of residence. The Government generally respects these rights. The Constitution provides for Georgian as the state language, but not all minorities prefer to use Georgian. As a practical matter, the approximately 400,000 Armenians and 300,000 Azeris prefer to communicate in their own languages. The Abkhaz, Ossetian, and Russian communities prefer to use Russian. Georgian and Russian both are used for interethnic communication.

Women

According to a poll conducted by the NGO Women for Democracy, younger women reported that spousal abuse occurs with some frequency and, as it is a social taboo to go to the police or otherwise to raise the problem outside the family, it is reported or punished only rarely. Spousal abuse reportedly is one of the leading causes for divorce. Police do not always investigate reports of rape. Women for

Democracy, in conjunction with an international NGO OXFAM, opened a shelter for abused women in the spring. The Government has no support services for abused women. There are no laws concerning trafficking in women. Sexual harassment is reportedly a problem in the workplace and is not investigated.

A number of women's NGO's, including the women's group of the Georgian Young Lawyer's Association and Women for Democracy, promote women's rights. Women for Democracy conducted a poll of women that found a gap between the perceptions of older and younger women. Older women tended to view their place in traditional society as an honored one, but younger women were less sanguine. They reported that although there were no real barriers to a professional life or to a good education, discrimination and harassment in the work place were problems. However, younger women also reported that the economic balance had shifted in their favor with many traditionally male jobs having disappeared as a result of the depressed economy. Nonetheless, women's access to the labor market is improving but remains primarily confined, particularly for older women, to lowpaying and low-skill positions, frequently despite high professional and academic qualifications. Equal pay for equal work generally is respected, but reportedly men are given preference in promotions.

Children

There is no societal pattern of abuse of children, but difficult economic conditions have broken up some families and increased the number of street children.

Government services for children are extremely limited. The 1995 Health Reform Act withdrew free health care for children over the age of 1 year. While education is officially free, many parents are unable to afford books and school supplies, and most parents have to pay for their children's education.

The private voluntary organization, Child and Environment, noted a dramatic rise in homeless children following the collapse of the Soviet Union. It estimates that there are now more than 2,500 street children in Tbilisi due to the inability of orphanages and the Government to provide support. The organization opened a shelter in 1997. The Ministry of Education opened a second shelter in July. However, even together, the two shelters can accommodate only a small number of the street children. The children increasingly survive by turning to criminal activity, narcotics, and prostitution. Despite the cultural tradition of protecting children, the Government has taken little official action to assist street children due to a lack of resources.

People With Disabilities

There is no legislated or otherwise mandated provision requiring accessibility for the disabled. The Law on Labor has a section that includes the provision of special discounts and favorable social policies for those with disabilities, especially disabled veterans.

Many of the state facilities for the disabled that operated in the Soviet period have been closed because of lack of government funding. Most disabled persons are supported by family members or by international humanitarian donations.

Religious Minorities

The Georgian Orthodox Church has argued that foreign Christian missionaries should confine their activities to non-Christian areas. Foreign missionaries continued to report some incidents of harassment in rural areas and small towns on the part of Orthodox priests and their supporters, local police, and

security officials. Jehovah's Witnesses indicate that they have experienced no problems in Tbilisi and only occasional problems in rural areas.

There is no pattern of anti-Semitism. Jewish leaders attribute isolated acts of anti-Semitism, including the publication of anti-Semitic newspaper articles and the destruction of Jewish communal property, to general instability and disorder. In December vandals toppled and shattered 60 gravestones at a Jewish cemetery in Tbilisi. President Shevardnadze made a public statement criticizing that act of vandalism. At year's end, there were no suspects.

The Jewish community also experienced delays in the return of property confiscated during Soviet rule. A former synagogue, rented from the Government by a theater group, was ordered by the courts to be returned to the Jewish community in 1997. The theater group refused to comply and started a publicity campaign with anti-Semitic overtones to justify its continued occupation of the building. In December 1997, President Shevardnadze promised Jewish leaders that the synagogue would be returned before the 2,600-year celebration. However, the President's order was not enforced, and the building remains in the hands of the theater group.

National/Racial/Ethnic Minorities

The Government generally respects the rights of members of ethnic minorities in nonconflict areas but limits self-government in the ethnic Armenian and Azeri enclaves (see Section 3). The Government reportedly provides less funding for schools in these areas than in other parts of the country but allows instruction in non-Georgian languages. Violence in Abkhazia and South Ossetia reflects historic ethnic tensions and the legacy of Soviet policy, which was designed to pit ethnic minorities against one another.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the 1997 Law on Trade Unions provide for the right of citizens to form and join unions. The Law on Collective Agreements was passed in 1997.

The principal trade union is the Amalgamated Trade Unions of Georgia (ATUG). The ATUG is the successor to the official union that existed during the Soviet period. The union broke from the central Soviet labor union in 1989. Its present structure was established in 1992, after the union had resisted efforts first by the Gamsakhurdia government and later by the State Council to bring the union under government control. The ATUG consists of 33 sectoral unions. Representatives to the ATUG congress elected its leadership indirectly for a period of 5 years in 1995. The organization officially claims 850,000 members but acknowledges that the number of active, dues-paying members is considerably lower. The union has no affiliation with the Government and receives no government funding. The union sees its primary role as defending the economic and social interests of workers, a departure from its Soviet predecessor, which was essentially an administrative body concerned with property and finance rather than with worker rights. The ATUG supported public sector strikes by teachers, medical service employees, and energy sector workers. In each case, the issue was unpaid wages. There was no retaliation against workers who participated in strikes. The ATUG also is suing the Interior Ministry for illegally firing 220 employees in the MOI's visa office.

There are no legal prohibitions against affiliation and participation in international organizations. The ATUG works closely with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

The Constitution and the Law on Trade Unions allow workers to organize and bargain collectively, and this right is respected. The law prohibits antiunion discrimination by employers against union members. Employers may be prosecuted for antiunion discrimination and be made to reinstate employees and pay back wages. The Ministry of Labor investigates complaints but is not staffed to conduct effective investigations.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor and provides for sanctions against violators. The Government prohibits forced or bonded labor by Children and there were no reports of its use.

d. Status of Child Labor Practices and Minimum Age for Employment

According to current legislation, the minimum age for employment of children is 16 years; however, in exceptional cases, the minimum age can be 14 years. The Ministry of Labor enforces these laws, and they generally are respected. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The nationally mandated minimum wage was abolished in 1995 and replaced by a wage scale that sets salaries for various grades in the public sector, the lowest of which, according to exchange rate fluctuations, was \$10.40 to \$7.80 (13 lari) per month. There is no state-mandated minimum wage for private sector workers; such wages can be as low as \$7.20 to \$5.40 (9 lari). Salaries and pensions are usually insufficient to meet basic minimum needs for a worker and family. The ATUG has called for a rise in the lowest wage scale to \$13.60 to \$18.36 (17 lari).

The law provides for a 41-hour workweek and for a 24-hour rest period. The government workweek often is shortened during the winter due to the continuing energy crisis. The Labor Code permits higher wages for hazardous work and permits a worker in such fields to refuse duties that could endanger life.

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