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1999 Country Reports on Human Rights Practices

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GEORGIA

Georgia declared independence from the Soviet Union in 1991. Multiparty parliamentary elections followed a military coup in 1992 that ousted the elected government of Zviad Gamsakhurdia and brought Eduard Shevardnadze to power as head of a provisional government. The civil war and separatist wars that followed weakened greatly central government authority, not only in separatist Abkhazia and Ossetia, but also in other areas of the country, and the extent of central authority and control remain in question. The 1995 Constitution 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. Local elections were held for the first time in November 1998. Parliamentary elections were held on October 31, which the Organization for Security and Cooperation in Europe (OSCE) characterized as a "step toward Georgia's compliance with OSCE commitments". 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 are still 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. The Georgian and Abkhaz sides have yet to conclude an agreement on the return of IDP's to the Gali region. A limited number have returned on their own. As a result of fighting in May 1998, almost all of the 53,000 Georgian IDP's who had returned to the Gali region of Abkhazia fled again. Approximately 17,000 Georgian IDP's returned to the Gali region for the harvest during the year, and many are expected to remain. A Russian peacekeeping force also has

been in South Ossetia since 1992. Repatriation to South Ossetia has been slow. The Government has no effective control over Abkhazia or much of South Ossetia. Almost no IDP's have returned to other parts of Abkhazia, although ethnic Svans continue to inhabit the Kodori River valley, part of the former Abkhaz Soviet Socialist Republic that remains under nominal government control.

The Ministry of Internal Affairs (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 MOI or the army. Elected civilian authorities do not maintain adequate control over the law enforcement and security forces. Members of the security forces committed serious human rights abuses, although the number decreased slightly from the previous year.

The Government made efforts to develop a market-based economy. Agriculture represents approximately 30 percent of gross domestic product (GDP). Per capita GDP in 1998 was estimated to be \$3,330. The World Bank estimated that 11 percent of the population were under the poverty level. The economy grew during the year, although at a much lower rate than in the previous year. Monetary policy continued to be tight and the exchange rate was relatively stable. However, there was a growing fiscal deficit, as revenue collection continued to be very low. Government salaries and pensions were still in arrears. Key exports are manganese, wine, mineral water, and agricultural products.

The Government's human rights record was uneven and serious problems remain in some areas. Police and security forces continued to torture, beat, and otherwise abuse prisoners and detainees, force confessions, and fabricate or plant evidence. Several deaths in custody were blamed on security force abuse or prison conditions. Local human rights groups reported that these abuses declined again during the year, continuing a trend begun in 1998; however Human Rights Watch reported no substantial improvement. Authorities allegedly continued to use arbitrary arrest and detention. Corruption was pervasive. Although prison conditions remain inhuman and life threatening, most government promises of reforms remain unfulfilled. The Ministry of Justice gained formal jurisdiction over the prison system from the Ministry of Interior; however the MOI retains a significant role in prison staff and investigations. 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 were passed by Parliament, law enforcement agencies were slow to adapt their practices to democratic norms, and impunity remains a problem.

A new Criminal Code was passed in June. The Criminal Procedures Code, passed in November 1997, underwent substantial amendment in the spring in response to complaints by security forces, and their previous powers--which involved abuse of prisoner rights--essentially were restored. Prolonged pretrial detention remains a problem. The judiciary is subject to pressure and corruption and does not always ensure due process; judicial reform efforts have been aimed at creating a more independent judiciary. There were lengthy delays in trials; however, there were some improvements in the judiciary during the year. As a result of the Law on Common Courts, many corrupt and incompetent judges were removed from the bench and replaced by judges who passed a qualifying exam and vetting process. Law enforcement agencies and other government

bodies illegally interfered with citizens' right to privacy. The press generally was free, but there were instances of government constraint on some press freedoms. The Government limited freedom of assembly for supporters of the political movement founded by former Georgian President Zviad Gamsakhurdia, and security forces continued to disperse some peaceful rallies violently. Government officials and politicians infringed upon freedom of religion. Violence and discrimination against women are problems.

Georgia's accession to the Council of Europe in April led to new legislation giving the Ministry of Justice jurisdiction over the prison system from the Ministry of the Interior, although the latter will continue to staff the facilities.

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 of independent nongovernmental organizations (NGO's) continued to increase, as did their ability to speak out for, and defend the rights of, individual citizens. However, international observers noted that most of this growth is concentrated in Tbilisi and that the regions still have weak NGO communities. Criticism from the press and the NGO community played an important role in reducing the incidence of prisoner abuse.

There was little information available on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government agents.

The Government stated that 57 prisoners died in prison and 9 prisoners died in pretrial detention during the year. Human rights NGO's and press allege physical abuse, torture, and inhuman prison or pretrial detention conditions contributed to deaths in pretrial detention. The authorities attributed the majority of these deaths to illness. Authorities also attributed nine such deaths to suicide, including that of Ivane Kolbaya, who on March 22 fell to his death from a fifth floor window of the Ministry of Interior while being questioned about his alleged involvement in a theft. An international human rights NGO brought this case to the Government's attention, as well as four others, including the 1998 death of Gulchora Dursunova and the 1997 deaths of Akaki Iacobashvili and Eka Tavartkiladze. In May the National Security Council requested that the Procuracy determine the legality of the decisions made in these cases and the Procuracy upheld all the decisions. However, the Procuracy was continuing to investigate Kolbaya's death at year's end. On December 4, Zaza Tsitsilashvili allegedly threw himself to his death from the sixth floor of the Ministry of Interior. The case is under investigation. Family members, however, say his corpse showed evidence of being beaten.

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. The number of incidents decreased from the previous year. Killings and other abuses on either side of the conflict are not being investigated, prosecuted or punished.

Nuzgar Levasha, Deputy Energy Minister in Gamsakhurdia's government was found apparently beaten to death following a peaceful demonstration in December 1998.

Levasha's death was investigated and deemed a suicide by the authorities. b.

Disappearance

On September 28, Manana Gamsakhurdia, the wife of the former president, alleged that she was kidnaped by three men a few days earlier. She returned unharmed. NGO sources claimed that she was escorted from the city to prevent an anticipated demonstration. No investigation has taken place.

In mid-October, gunmen, apparently with criminal motives, seized six U.N. observers and their translator as they were delivering aid in Abkhazia; they were released a few days later. On September 8, a prisoner exchange took place in which the Abkhaz returned 10 Georgians, including 9 fishermen abducted off the coast of Abkhazia on April 3, in exchange for 3 Abkhaz militiamen and 1 resident citizen of Abkhazia.

Georgian and Abkhaz commissions on missing persons reported that the fate of over 1,000 Georgians and several hundred Abkhaz who disappeared as a result of the war in Abkhazia still is unknown. No progress was made in determining their whereabouts. The International Committee of the Red Cross (ICRC) cooperated in the effort through its Red Cross message system. Georgian partisan groups active in Abkhazia periodically took hostages, usually to exchange for captured compatriots. The Government has claimed consistently that it was unable to control them and asserted that the partisans in reality are bandits numbering no more than 20 to 30 individuals.

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

The Constitution forbids the use of torture; however, members of the security forces continued to torture, beat, and abuse prisoners and detainees, usually to extract confessions. According to a local human rights group, there was again a slight decline in the incidence of such abuse. This group attributed the reduction to a more open society, increased intolerance of police misconduct, greater public awareness of civil rights, and increased pressure from the international community. However, one prominent human rights organization claims the authorities are simply better at hiding their abuse. Serious abuses and police misconduct continue and corruption and criminality, such as the fabrication or planting of evidence, remain problems.

The most serious incidents of abuse occur in the investigative stage of pretrial detention when suspects are interrogated by police. According to human rights observers, those who suffer such abuse are held routinely for lengthy periods in pretrial detention to give their injuries time to heal (see Section 1.e.).

Police misconduct was worse outside of Tbilisi, where awareness of laws and citizens' rights is lower and human rights NGO's are less active.

Impunity remains a problem. Although in the past a number of policemen were arrested or

disciplined for physical abuse, none were arrested during the year. Recent changes to the Criminal Procedures Code weakened a detainee's ability to substantiate claims of such abuses (see Section 1.e.). Accountability tended to occur only in extreme cases, such as those resulting in death, and even then it is rare (see Section 1.a.). For example, in January 1998, Giga Shukashvili was detained in the Gldani district police station where allegedly he was beaten severely and coerced into signing false testimony about a theft. The following day, he was transferred to the main police department of Tbilisi and placed in a room with six or more inmates. He claims that these persons were police informers who allegedly beat him over the course of 18 days. Although the Procuracy continues to investigate his case, Shukashvili stated that he was detained again in May in an attempt to intimidate him into withdrawing his complaint.

Domestic human rights advocates reported that the use of torture, such as electric shock, to extract confessions diminished somewhat. However Human Rights Watch reported that mistreatment and physical abuse of detainees continued to be rampant.

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 reported that abuse most commonly occurred in two pretrial detention facilities, Isolator 5 in Tbilisi and the pretrial facility in Kutaisi. Isolator 5, in the basement of the Ministry of the Interior headquarters, was the facility in which detainees suspected of a serious crime or whose cases had political overtones were incarcerated. According to local human rights observers, despite calls by senior law enforcement officials for investigators to show restraint, many persons who were detained in Isolator 5 afterwards reported that they were beaten or otherwise abused. Often the threat of incarceration in this facility was sufficient to induce a confession. In contrast to those arrested in connection with the 1995 assassination attempt on President Shevardnadze, those arrested on May 22 for plotting against the Government and those arrested for the 1998 assassination attempt against President Shevardnadze reportedly were not mistreated. None of the suspects reported any severe physical torture being employed during the investigation. Human rights observers also noted that the Procuracy collected evidence in addition to confessions for use in the court proceedings. The families and state-appointed advocates of the defendants had limited access to them.

Government officials acknowledged that members of the security forces in the past beat and abused prisoners and detainees on a routine basis. Government officials continued to claim that a lack of proper training, poor supervision of investigators and guards, and lack of equipment often resulted in abuse. For example investigators in the past were trained to obtain confessions rather than use physical evidence to assemble a case. After 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, amendments to the code in May and June reinstated many of their powers.

International and local human rights observers expressed concern that corruption is related to the number of police officers nationwide. Although the Government officially employed only approximately 35,000 policemen, these observers estimated that in reality the numbers employed may have reached 80,000. The Government was unable to pay the salaries for the police force. Consequently, police solicited bribes from the general population, especially motorists. The period between an arrest and a bail hearing was

another opportunity for solicitation. Police reportedly approached the suspect's family and offered to drop charges in exchange for a bribe.

Members of Parliament's Committee on Human Rights and Ethnic Relations and local human rights groups independently investigated claims of abuse. Despite fear of retaliation, there was a 100 per cent increase in claims filed; however, fear prevented many from filing claims and not all claimants followed their claims all the way through to trial. The National Security Council's human rights advisor also had a mandate to investigate claims of abuse. In 1995 the Constitution mandated a Human Rights Defender, or ombudsman. The first ombudsman took office in November 1997, but resigned in August to run for Parliament. During his tenure, the ombudsman focused his attention on social and economic rights and was not active in defending individuals from abuse by law enforcement agencies (see Section 4). No replacement has been named.

Members of the security forces beat members of religious minorities (see Section 2.c.).

Prison authorities admitted that conditions are inhuman and life threatening in many facilities. They blamed inadequate cell space, medicine, and food on a lack of resources. The President pardoned 1,500 prisoners in April and 1,700 in October as a means of alleviating overcrowding. Observers still consider the prisons overcrowded. The lack of proper sanitation, exercise, medical care, and food posed a serious threat to the life and health of prisoners.

The prison mortality rate reportedly was high; however, human rights NGO's claim that authorities kept the rates artificially low by releasing prisoners who are terminally ill. Additionally, monitors said that deaths of prisoners without families usually went uncounted. Most of the deaths during the year were attributed officially to medical causes, usually tuberculosis. In one case, a prisoner reportedly weighing just 66 pounds was released from a Rustavi prison; he died within 3 days. Officials determined the cause of illness and death to be tuberculosis. According to the ICRC, tuberculosis is widespread in the prison system. In recognition of this fact, the ICRC continued a joint program with the authorities begun in 1997 to reduce the incidence of the disease. 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 remained unfulfilled.

In accordance with requirements stipulated by the Council of Europe, the Parliament passed a new law on prisons on July 22 that transferred responsibility for the prisons from the Ministry of Interior to the Ministry of Justice. The law was to take effect January 1, 2000. While many human rights observers were optimistic that the division of responsibilities will improve conditions, they also had serious concerns. Although the Ministry of Justice is to be responsible for overall administration of the prison system, an amendment permits the Ministry of Interior's personnel to continue to staff the facilities. Other legislation also permits the Ministry to conduct operative investigations among inmates to gather evidence for trials without judicial approval. Local and international human rights observers claimed that such investigations often employ torture.

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 third-party observers and regular repetition of visits. The 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 reported that they still encountered obstacles in visiting detainees, especially in cases with political overtones. In April a local NGO signed an agreement with the Government granting access to pretrial detention facilities; however, by year's end it had not received such access.

The conflict in the neighboring Russian region of Chechnya affected the situation in Georgia. For example, in August Russian warplanes strayed across the border and dropped cluster bombs on the Georgian village of Zemo Omalo, wounding three persons.

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 9-month 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 was amended to implement these constitutional safeguards and was superseded in 1997 by the Criminal Procedures Code. These amendments were generally, although not always, observed, as prosecutors continued to maintain undue influence over criminal procedures. A new Criminal Code was enacted in June.

Judges issue warrants and detention orders, and suspects must 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 by 3-month intervals up to 9 months. Human rights NGO's stated that the amendments to the old Soviet code made the pretrial detention period less arbitrary. Despite the reduction of the limit from 18 to 9 months, there was a slight increase in the number of individuals in pretrial detention. As of October 15, there were 8,529 prisoners serving sentences, and 2,137 held in pretrial detention.

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 1997, but implementation was delayed until May (see Section 1.e.). Following enactment of the new Criminal Code in June, the Criminal Procedures Code was amended substantially in July. A number of amendments sought to harmonize the Criminal Procedures Code with the new Criminal Code. However, many human rights monitors were concerned that several amendments adversely affected due process. Before these amendments were enacted, a defendant could complain directly to the court prior to a trial regarding abusive actions committed by the police or the Procuracy during a criminal investigation and could request a forensic medical examination. Now a defendant can file a complaint of abusive investigation only with the Procuracy.

According to observers, including the OSCE and the Association of Former Political Prisoners for Human Rights, police continued frequently to treat individuals in their custody with brutality; however, correct legal procedures were observed more often. Police often failed to inform detainees of their rights and prevented access to family members and lawyers. Authorities often held prisoners who were tortured and abused in pretrial detention 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; however, in practice the judiciary often does not exercise full independence. In the past the courts often were subject to pressure and corruption and did not always ensure due process. It is still unclear whether judicial reform altered the deference judicial authorities frequently showed 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. However, several trial attorneys and local NGO's in Tbilisi reported that some cases were being handled in a fairer and more expeditious manner than in 1998. However, progress outside of Tbilisi was not as marked. Caseloads increased and judges' salaries, despite a pay raise, remained inadequate. Pressure from extensive family and clan networks was extensive.

The 1997 Law on the Courts was designed to enhance judicial independence. Under this law, the country established a three tier court system. Implementation of the law was slow and was completed only during the year. At the lowest level are district courts, which hear routine criminal and civil cases. At the next level are regional courts of appeal, which serve as appellate courts for the district courts; they started functioning in May. The regional courts also try major criminal and civil cases, review cases, and either confirm verdicts or return cases to the lower courts for retrial. It was envisioned that the Supreme Court, the highest level, which in the absence of regional courts tried major cases, eventually would act exclusively as a higher appellate court. However, the Supreme Court remains the court of first instance for capital crimes and appeals from the Central Election Commission.

The 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 complainant alleged that the violation was sanctioned by law. The Court only considers one case at a time. Since its inception in September 1996, 118 cases have been filed with the court. Of these cases, 82 were heard, and decisions were reached in approximately 50 percent of the cases, while the remaining 50 percent were dismissed. The Court's rulings demonstrated judicial independence.

Administration of the court system was transferred from the Ministry of Justice to the 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 was designed to reduce judicial incompetence and corruption. The Constitutional Court ruled in November 1998 that sitting judges could not be removed, thereby hampering the Government's attempts at judicial reform. The Parliament responded 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 first judges' examination was administered in March 1998. A total of five examinations were administered as of year's end and some 250 judges passed. Only 13 judges passed the last examination in September. A total of 176 judges passed both the exam and the vetting process and replaced judges who had not.

Supreme Court justices also were required to take the examination, but resisted the requirement, arguing that it was an infringement on judicial independence and that, since they were confirmed by Parliament, they already are subject to public scrutiny and review. The Court's new Chief Justice, the former Minister of Justice, appointed 12 new justices, 10 of whom had passed the judicial exams.

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; however, they are not fully observed in practice. Defense attorneys often have difficulty obtaining permission from investigators to visit clients. Investigators seldom inform individuals of their rights. There were lengthy delays in trials. During the year, the Tbilisi City Council decided to initiate a project with a local NGO that would create a system by which lawyers would be placed in Tbilisi police stations to advise detainees of their rights without charge. However, another organization brought suit to halt the implementation of the project. The suit was thrown out, and the project was being implemented by year's end, although intermittently due to lack of funding. However, participating lawyers complained that there was low public awareness of the program and that local police authorities were limiting their access to detainees. For example, one lawyer witnessed police beating a detainee; when she began to question the police, she was pushed out of the room. When representatives from NGO's and the Government arrived at the station, the police chief denied that any beating had occurred. While the district prosecutor promised to investigate the case, there had been no investigation by year's end. The Parliamentary Committee on Human Rights and National Minorities also created a card listing a citizen's rights in case of arrest. By year's end, it distributed 25,000 or 31,000 printed cards to students, NGO's, and visitors to the Committee.

The legislation required to implement constitutional protections was passed by Parliament in 1997. The implementing legislation included the Criminal Procedures Code and the Law on the Procuracy. These laws were designed to create a legal system with adversarial trials by reducing the powers of the Procuracy, increasing the rights of defense attorneys, and enhancing the independence and authority of the judiciary. However, the amendments to the Criminal Procedures Code adopted this summer weakened many of these provisions. Under Soviet law, prosecutors were vested with powers greater than those of judges and defense attorneys. Prosecutors continued to direct criminal investigations, supervise some judicial functions, and represent the State in trials. Trials were not conducted in an adversarial manner. Most criminal trials continued to follow the Soviet model and, in many cases, prosecutors continued to wield disproportionate influence over outcomes.

The Soviet system of state-employed criminal defense attorneys began to break down in

1998. 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 upon the recommendation of the Procurator's Office by the Office of Legal Assistance, a part of the state-controlled Bar Association. In certain cases, defendants were pressured to accept a state-appointed attorney. The Procuracy not only had control over state-appointed lawyers; it also determined whether a defendant's request to change lawyers was granted.

International and local human rights groups agreed that there were political prisoners but disagree about the number, giving estimates ranging from 10 to 200. A number of these individuals --members of the Mkhedrioni, Gamsakhurdia supporters, and state security personnel--committed criminal acts and were tried and sentenced on criminal grounds, although they may have had political objectives. According to some local observers, there are some Gamsakhurdia supporters who never took up arms and should be considered political prisoners. Several, including Valter Shurgaia, Zviad Dzidziguri, and Zaur Kobalia, were still in prison at year's end. 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. President Shevardnadze pardoned about 10 political prisoners during the year, including former National Guard commander Tengiz Kitovani and Nicholas Kvezereli. The latter was convicted, along with Jaba Ioseliani, of the 1995 assassination attempt on the President. Two others who were imprisoned for attempting to assassinate Shevardnadze also were released. The 1998 trial of Ioseliani, 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.). There were increasing calls domestically for President Shevardnadze to issue a general amnesty for those convicted for their actions, including acts 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, monitored private telephone conversations without obtaining court orders. The Government stated that state security police and state tax authorities sometimes entered homes and places of work without prior legal sanction in emergency

cases as permitted by the Criminal Procedures Code. Police regularly stopped and searched vehicles without probable cause to extort bribes (see Section 1.c.). The high level of unregulated police misconduct and corruption undermined public confidence in Government, especially the law enforcement agencies.

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 and new laws further support this freedom; however, although the independent press was increasingly 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. The new Administrative Code enacted in June contains a freedom of information section that provides for public access to government meetings and documents. Journalists lacked effective legal protection, a circumstance that hindered 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.

Some 200 independent newspapers are in circulation. The press increasingly served as a check on government, frequently criticizing the performance of high-level officials. Increasingly, independent newspapers have been replacing the government-controlled press as the population's source of information; the leading independent daily newspaper, "Alia," has a national circulation nearly 20 percent higher than the government-controlled daily. However, observers report that this seems to be mostly a Tbilisi-based phenomenon and that independent newspapers continue to struggle in the regions. Several newspapers are serious and reputable sources of information. High printing costs and general poverty, especially in the countryside, limited the circulation of most newspapers to a few hundred or a few thousand. The Government finances and controls one newspaper (which also appears in Russian-, Azeri- and Armenian-language versions) and a radio and television network with a national audience; they reflect official viewpoints.

Most persons continued to get their news from television. The Government's monopoly on broadcast news was broken when Rustavi-2, a member of the independent television network TNG, emerged in 1998 as an important alternative to state television after successfully resisting 2 years of government attempts to shut it down. In addition to Rustavi-2, there are seven independent television stations in Tbilisi. An international NGO that works with the press estimated that there were up to 30 regional television stations. While these stations were ostensibly independent, the lack of advertising often forced them to depend on local government officials for support. Some regions, such as Samtskhe-Javakheti and Kutaisi, had a relatively independent press. Rustavi-2 had a network of 15 stations, 5 of which broadcast Rustavi-2's evening news program daily. Independent newspapers and television stations continued to be harassed by state tax authorities. Stations continued to practice self-censorship, especially in regions where local government is strong.

The trial of two journalists from the independent newspaper Orioni who reported in April 1998 allegations of homosexuality and sexual harassment in the armed forces was postponed indefinitely in 1998. At that time, government and military officials reportedly responded by threatening the reporters with arrest, demanding the names of sources, and

filing a civil lawsuit that charged defamation. One of the two journalists, Amiran Meskheli, was detained for allegedly having evaded military service. He subsequently was conscripted and 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. Meskheli remained out on bail at year's end.

In May 1998, 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 1998, two members of the Abkhaz government-in-exile filed a defamation suit against Kavkasioni. The newspaper's appeal against an adverse 1998 decision by the court had not been heard by year's end. 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, both the national Government and local governments restricted 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 sought to have it overturned by the Constitutional Court. However the Court refused to hear the case, explaining that a test case must be brought before it in order for it to consider the challenge, e.g., an individual must prove that he has been harmed by this law. Most permits for assembly are granted without arbitrary restriction or discrimination, although this is not the case for Zviadists, supporters of former President Gamsakhurdia. Extreme Zviadists never have accepted any successor to the Gamsakhurdia Government as legitimate and frequently held demonstrations demanding that the present Government resign. The Government viewed the frequent public rallies of the Zviadists as a threat because of the publicity they generated for themselves and against the Government. The police broke up one of their rallies held in May. A hunger strike involving several hundred people and conducted in the shell of Gamsakhurdia's burnt-out villa in Tbilisi since mid-June was not disturbed and continued at year's end.

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.

Over the course of the year, the police broke up rallies or gatherings held by various evangelical Protestants or watched while others disrupted the rallies. Local authorities several times denied permission to Jehovah's Witnesses to conduct open-air rallies (see Section 2.c.).

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

Freedom of Religion

The Constitution provides for freedom of religion and the Government generally

respected this right in practice. However, local police and security officials harassed foreign missionaries and, in some localities, several evangelical Christian organizations.

The Constitution recognizes the special role of the Georgian Orthodox Church in the country's history without further defining it, but also stipulates the independence of the Church from the State. 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.

Certain members of the Georgian Orthodox Church and the public see Protestant evangelical groups as a threat to the Church and Georgian cultural values, a perception that some politicians played upon during the election campaign. Local police and security officials at times harassed foreign missionaries and non-Georgian Orthodox congregations or did not intervene when others harassed them. For example, on May 29, the police violently broke up a public prayer meeting of the Assembly of God in the Gldani district of Tbilisi, beating a number of members, pushing a 60-year-old woman to the ground and screaming threats of murder. Prior to the subsequent civil trial, Ministry of Interior officials repeatedly harassed the pastor and his adherents. At the trial on August 16, the judge ruled that the police had not violated the individuals' constitutional rights. The group filed an appeal and incurred further harassment from law enforcement authorities. On August 29, a riot allegedly instigated by the police broke out at one of the organization's churches. Some members were beaten and the police confiscated some members' documents, forcing the victims to retrieve them at the police station.

According to press reports, public services by four evangelical Protestant congregations in Tbilisi were brought to a halt in August as a result of hostility from the police and radical Orthodox activists. The churches have not been able to resume public services, because the police confiscated the documentation they needed to rent appropriate premises, although they continue to hold small-scale services in private apartments. The police raided three Tbilisi meeting places in late August, halting services then in progress at two of them. Only two Protestant churches, the Baptist Church, and the World of Life, continue to hold services in Tbilisi.

Local police chiefs in Gori and Kaspi tried to prevent Jehovah's Witnesses from conducting open air meetings in Gori and Kaspi in May and June. However, the meetings took place, in one case because a large crowd already had gathered, and in the other because of the intervention by a central government official.

Customs and security officials impounded six tons of religious materials being imported by Jehovah's Witnesses on April 23. The materials, some damaged, were not released until early July and then only after the intervention of the National Security Council official responsible for human rights. Representatives of Jehovah's Witnesses traveled to where the materials were impounded with a letter authorizing their release in hand. However, local officials and a gathering of demonstrators, including a Georgian Orthodox priest, prevented the release. The representatives returned to Tbilisi. The central Government retrieved the materials and brought them to Tbilisi. On October 17, a Jehovah's Witnesses worship service in the Gldani section of Tbilisi with 120 parishioners was attacked violently by members of a religious sect. The Gldani police refused to intervene. Sixteen persons were injured in the attack. On December 25, the case was

forwarded to the Gldani prosecutor's office for criminal charges.

A nationalist Member of Parliament brought a civil suit in late April to ban Jehovah's Witnesses, arguing that the organization is anti-Orthodox, antistate, and antinational. Appeals by the Jehovah's Witnesses to an appellate court and then to the Supreme Court contending that the suit is groundless were refused. The Supreme Court stated that the lower court first must hear the case. On November 29, the lower court judge remanded the issue to an academic study group to study the literature of Jehovah's Witnesses. An opinion from the group was expected in early 2000.

Two textbooks were refused licenses due to the disapproval of the Georgian Orthodox Church. By law all school textbooks must be approved by the Ministry of Education, in consultation with various ministries and the office of the Patriarch. In one case, the office of the Patriarch vetoed the textbook, and the Ministry of Education therefore refused to grant the license. In the other, the Ministry of Education granted the license, but a committee of concerned Orthodox parents, which the office of the Patriarch publicly acknowledged was its creation, successfully sued the Ministry of Education to rescind the license. The Catholic Church and the Armenian Apostolic Church have been unable to secure the return of churches closed during the Soviet period, many of which later were given to the Georgian Orthodox Church. A prominent Armenian church in Tbilisi remained closed. The Armenian Apostolic Church, the Catholic Church, and Protestant denominations have had difficulty obtaining permission to construct new churches, reportedly in part as a result of pressure from the Georgian Orthodox Church. However, a new Catholic church opened during the year. The tax code grants tax exemptions only for the Orthodox Church and not for any other religion.

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 generally respected them in practice. Registration of an individual's place of residence no longer was required, nor were internal passports. Old Soviet passports bearing "propiskas" (proof of legal residence in a particular locality) were accepted as proof of identity because passports and identify cards are expensive and difficult for many members of the electorate to obtain, especially in poorer and more remote rural areas.

In principle the Government respected the right of repatriation; however, approximately 275,000 Akhiskha or Meskhetians (primarily Muslims) who were expelled from southern Georgia to Central Asia by Stalin in the 1940's still faced both official and public opposition to their return, as many were concerned that the Meskhetians' return to the Samtske-Javakheti region would upset the ethnic balance in this mostly ethnic-Armenian populated region. Many of the Meskhetians were expelled a second time from Central Asia when the Soviet Union broke up.

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 in recent years, none as a result of the decree; all came as illegal immigrants. The Government has provided housing for most of them, but because they were to be the subject of a separate law, not yet passed, they were

deprived early in 1998 of their refugee status and, consequently, of their housing subsidy. Many now live without any regularized status.

In December 1997, Parliament passed a law entitled, "Recognizing Georgian Citizens as Political Victims and Social Protection of the Repressed." This law, intended to rehabilitate victims of the Soviet era, specifically excluded the Meskhetians, whom it identified as the subject of a separate law, not yet drafted. Observers believed that the Parliament would adopt such a law in 1999; however, they failed to do so.

On March 14, a presidential decree was issued to address the Meskhetian issue. It established a State Commission on the Repatriation and Rehabilitation of the Population Deported from Southern Georgia. In connection with its accession to the Council of Europe on April 27, the Government undertook to begin the process of Meskhetian repatriation within 3 years. In July the Government announced that it had granted citizenship to 36 Meskhetians.

The 1994 quadripartite agreement between Russia, Georgia, Abkhazia, and the U.N. High Commissioner for Refugees (UNHCR) on repatriation in Abkhazia called for the free, safe, and dignified return of displaced persons (IDP's) and refugees to their homes. The Abkhaz separatist regime prevented virtually any official repatriation and unilaterally abrogated the agreement in late 1994. From 1994 to May 1998, an estimated 53,000 of the 283,000 IDP's and refugees from Abkhazia returned spontaneously, most to the southern part of the Gali district. In May 1998, 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.

In January the Abkhaz separatists unilaterally invited IDP's to return to Gali starting March 1, but did so in the absence of measures acceptable to the Georgian Government for ensuring their safe return and security. The move did not affect significantly the return of IDP's to Gali, who continued to travel back and forth to Gali to tend their property. An estimated 17,000 IDP's returned to Gali after their expulsion in May 1998.

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 UNHCR began a program to return IDP's and refugees to their homes. Both sides created obstacles that slowed the return. There were about 24,000 Ossetian refugees living in North Ossetia. To date about 370 Ossetian families from Russia have returned, the majority to South Ossetia. The South Ossetian separatists continued to obstruct the repatriation of ethnic Georgians to South Ossetia, although approximately 170 families returned. For political reasons, South Ossetia continued to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other Georgian regions. In 1997 the Government publicly recognized the right of Ossetian refugees to return to their homes in Georgia but took little action to facilitate their return. Persistent opposition by Georgian authorities, especially at the local level, over the return of illegally occupied homes has prevented the organized return of Ossetian refugees to Georgia proper. In the reporting period, approximately 53 Ossetian refugee and IDP families returned to South Ossetia proper.

Following the outbreak of hostilities in Chechnya in September, the country accepted 5,161 registered refugees from that region as of year's end. Most were women and children.

The Government acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, 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 1998, but it is not fully consistent with international standards as set out in the U.N. Convention.

According to the UNHCR, only two asylum cases were processed by the Government during the year, none in 1998 and one in 1997.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution and the 1995 parliamentary and presidential election laws provide citizens with the right peacefully to change their government, and citizens exercised this right in elections in 1992, 1995, and in the fall. A democratically elected president and parliament govern most of the country.

Parliamentary elections were held on October 31. Thirteen electoral blocs and 34 political parties fielded candidates for 150 proportional and 75 majoritarian seats. The Citizens' Union of Georgia (CUG), chaired by President Shevardnadze, won an outright majority.
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