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U.S. Department of State

Georgia Report on Human Rights Practices for 1997

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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. In August 1995, Parliament adopted a Constitution that provides for an executive branch that reports to the President, a legislature, and an independent judiciary. In November 1995, Eduard Shevardnadze was elected President, and a new Parliament was selected in elections described by international observers as generally consistent with democratic norms except in the self-governing region of Ajara. The President appoints ministers with the consent of the Parliament. The judiciary is subject to executive pressure.

Internal conflicts in Abkhazia and South Ossetia that erupted in the early 1990's remain unresolved, although cease-fires in both areas are in force. These conflicts, together with problems created by roughly 250,000 internally displaced persons (IDP's), pose the greatest threat to national stability. In 1993 Abkhaz separatists won control of Abkhazia, and most ethnic Georgians, a large plurality of the population, 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, apart from some spontaneous returns to the Gali region of Abkhazia, where the security situation remains unstable. A Russian peacekeeping force has been in South Ossetia since June 1992. Repatriation to South Ossetia has also been slow. The Government has no effective control over either Abkhazia or South Ossetia. There were no large-scale armed hostilities in South Ossetia or Abkhazia in 1997, but the intensity and frequency of partisan warfare in Abkhazia increased. Abkhaz and Georgian armed criminal bands were also active in Abkhazia.

The Ministry of Interior (MVD) and Procuracy have primary responsibility for law enforcement, and the Ministry of State Security (MGB, formerly KGB) plays a significant role in internal security. In times of internal disorder, the Government may call on the army. Reformist, elected, civilian authorities still maintain inadequate control of the law enforcement and security forces. In particular representatives of the MVD and Procuracy committed serious human rights abuses.

The economy continued its turnaround, with a growth rate estimated by the International Monetary Fund (IMF) at 10 percent. The economy is primarily agricultural. Foreign aid remains an essential component of the economy. The country began a second stage of economic reforms to complete the transition to a free market economy, but the ongoing energy crisis remains an obstacle to economic progress. The IMF estimated annual per capita gross domestic product at over \$850.

The Government continued efforts to improve its uneven human rights record, but serious problems remain. Police and security forces routinely abuse and beat prisoners and detainees, force confessions, and fabricate or plant evidence. Inhuman prison conditions, along with abuse, led to deaths in custody. Corrupt and incompetent judges seldom displayed independence from the executive branch, leading to trials that were neither fair nor expeditious. Law enforcement agencies illegally interfered with citizens' right to privacy at times and limited freedom of assembly, violently dispersing peaceful rallies. The Government constrains some press freedoms. Discrimination against women is also a problem.

Senior government officials openly 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 implemented, there was no change in the practices of the law enforcement agencies.

Nevertheless, increased citizen awareness of democratic values, and growth of civil society provided some check on the excesses of law enforcement agencies. The Parliament challenged the law enforcement agencies by forcing the resignation of the Security Minister and by investigating charges of abuse. Parliament passed a Law on the Courts designed to increase judicial competence and independence as well as a new Criminal Procedures Code that puts into effect constitutional protections. Independent newspapers showed greater maturity and a continued willingness to criticize government policies and actions. 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.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Government authorities reported that during the year 92 people died while in prison or pretrial detention, compared with 1996, when 74 people died in prison and 13 died in pretrial detention. All of the 1997 deaths were officially attributed to medical causes, most of them to tuberculosis. According to the International Committee for the Red Cross (ICRC), tuberculosis is endemic in the prison system, in recognition of which the ICRC began a program to reduce its incidence. Physical abuse and torture of prisoners also played a role in the prison mortality rate. Credible sources within the Government report that the death of Zurab Toidze, a leader of the now outlawed paramilitary Mkhedrioni Group, was due to the effects of mistreatment (see Section I.c.). Akaki Iaobashvili, who was detained in July on suspicion of involvement in a kidnaping, died shortly thereafter as the result of falling from the sixth floor of

MVD headquarters while being interrogated. Local human rights monitors reported that he was thrown from the window. An investigation was undertaken, but by year's end had produced no results. A police captain was sentenced to imprisonment for the death of a man he had beaten (see Section 1.c.).

Perpetrators of atrocities and other political killings on the part of individuals on either side of the separatist conflict in Abkhazia are not being investigated, prosecuted, or punished. The United Nations High Commissioner for Human Rights and the Organization for Security and Cooperation in Europe (OSCE) mission established a joint human rights office in Sukhumi, Abkhazia, to investigate security incidents and human rights abuses. President Shevardnadze continued to urge the United Nations to create a body to investigate and punish those guilty of crimes against humanity in Abkhazia.

b. Disappearance

Georgian and Abkhaz commissions on missing persons report that the fate of over 1,000 Georgians and approximately 800 Abkhaz who disappeared as a result of the war in Abkhazia is still unknown. No progress has been made in determining their whereabouts. The two sides to the conflict did cooperate on occasional exchanges of prisoners. The OSCE reported that only six Georgians and two Abkhaz are known to remain in each other's custody. Partisan groups active in Abkhazia periodically take hostages. The Abkhaz authorities periodically round up young Georgian males in the predominantly ethnic Georgian region of Gali and impress them into service in the Abkhaz military.

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

The Constitution forbids the use of torture, but serious abuses occur. Members of security forces continued to beat and abuse prisoners and detainees on a routine basis, usually in order to extract confessions. The most serious incidents of abuse occur in the investigative stage of pretrial detention when suspects are interrogated by police. Zurab Toidze (see Section 1.a.) died in May from an asthmatic seizure brought on by beatings he received while in pretrial detention. A lawsuit has been filed and an investigation begun into the case. Credible sources report that Akaki Kaobashvili was mistreated before his death (see Section 1.a.) 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.). In May security forces beat journalists who were reporting on a rally of Gamsakhurdia supporters (see Section 2.b.).

Government officials continue to claim that a lack of proper training and supervision of investigators and guards often results in cases of abuse. Corruption and criminality also play a role. 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. In July police captain Paata Bezhanishvili was sentenced to 4 years' imprisonment for the December 1996 death of Georgi Amashukeli. Amashukeli, whose car crashed into a police car and died in the hospital after having been beaten by Bezhanishvili.

Members of the Parliamentary 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 Government also named a human rights advisor to the National Security Council to investigate claims of abuse. In November the constitutionally mandated Office of Human Rights Defender, created in 1995, was finally filled. At year's end, the Office was not fully functioning (see Section 1.d.).

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

MVD headquarters and is the facility in which detainees suspected of a serious crime, or whose cases have political overtones, are incarcerated. The individuals arrested in connection with the assassination attempt on President Shevardnadze in August 1995 are held in this facility. According to local human rights observers, despite calls by senior law enforcement officials for investigators to show restraint, virtually every detainee brought to Isolator 5 is beaten. Often the threat of incarceration in this facility is sufficient to induce a confession.

Prison authorities admit that conditions are inhuman in many facilities. They blame inadequate cells, medicine, and food on a lack of resources. For example, in Isolator 5 more than 2,000 inmates are housed in a prison designed for fewer than 1,000. Cells can contain as many as 36 inmates with so few beds that they must sleep in shifts. The lack of proper sanitation, 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 (see Section I.a.). Government plans announced in 1995 to build new facilities remain unfulfilled.

The ICRC had full access to detention facilities in accordance with its customary procedures, which include meetings with detainees without the presence of third-party observers and regular repetition of visits. In June President Shevardnadze issued a decree instructing the Ministers of Security, Interior, and the Procuracy to "take measures for the halting of torture and other cruel, inhuman or degrading treatment." Following this decree, international human rights monitors reported enhanced cooperation on the part of government officials and increased access to prisoners. The OSCE mission and foreign diplomats were granted access to visit prisoners and detainees. However, local human rights groups reported 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

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 I.e.). These safeguards are not yet in force and not observed. 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, but by year's end it was not yet in force (see Section I.e.).

In the absence of the new Criminal Procedures Code, the Criminal Code of the former Georgian Soviet Socialist Republic continues to be used by a law enforcement and court system that is still beginning to adapt to democratic norms. Under Soviet law, prosecutors issued warrants for arrests and searches without court approval. Persons could be legally detained for up to

72 hours without charge. After 72 hours, the prosecutor was required to approve the detention. However, this approval was often a formality since it was normally the prosecutor who initiated the arrest in the first place. The law allowed for a maximum of 18 months of detention before trial.

In practice even these provisions are frequently violated. Virtually no means are available for accused individuals to present their cases to a judge prior to trial. This effectively means that pretrial detention is at the discretion of the prosecutor. Persons detained on suspicion of involvement in the attempted assassination of President Shevardnadze in 1995 were held without trial for 27 months before the trial finally began in December.

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 were often influenced by pressure from the executive branch. This pattern continues, with judicial authorities frequently deferring to the executive b