

GEORGIA 2012 HUMAN RIGHTS REPORT

Note: Except where otherwise noted, figures and other data do not include the occupied regions of South Ossetia and Abkhazia.

EXECUTIVE SUMMARY

The constitution of Georgia provides for an executive branch that reports to the president, a unicameral parliament, and a separate judiciary. Observers from the Organization for Security and Cooperation in Europe (OSCE) and Council of Europe found parliamentary elections held on October 1 to be an important step in consolidating democratic elections consistent with most democratic election commitments, but noted concerns. They reported the election was competitive, with active citizen participation throughout the campaign, including in peaceful rallies; however, they found the preelection environment polarized, tense, and characterized by the use of harsh rhetoric and a few instances of violence. The campaign was marred by harassment and intimidation of party activists and supporters, often ending with detentions or fines of mostly opposition-affiliated campaigners. The distinction between government resources and activities and the ruling United National Movement's (UNM) campaign was blurred at times. The elections led to the first peaceful, democratic transfer of power since the country's independence in 1992. Following the elections, which produced a majority in parliament for the opposition Georgian Dream (GD) coalition, its representatives assumed the prime ministerial and all other cabinet positions on October 25. The president remains in power until the next presidential election. Security forces reported to civilian authorities.

The most important human rights problems reported during the year were:

Torture and abuse of prisoners, detainees, and others by government corrections and law enforcement officials before the October change in government, as well as dangerously substandard prison conditions.

Shortfalls in the rule of law, such as lack of judicial independence and a lack of objective judicial scrutiny of executive actions, resulting in an uneven application of due process protections, which intensified in the campaign period before the October parliamentary elections.

Impediments to the exercise of the fundamental freedoms of association, assembly, and expression, particularly for members of the political opposition, combined with obstacles to political participation.

Other problems reported during the year included allegations of property transfers to the government under duress and improper government use of eminent domain to seize private property. A number of individuals reported being subjected to arbitrary harassment, job loss, and arrest that they alleged were related to the political activities of family members supporting the opposition GD coalition. Although parliament adopted a law requiring cable providers to offer all major news networks during the electoral campaign, during June and July the government seized satellite dishes that would have provided wider access to information outside the capital. Some journalists reported physical and verbal assaults by police and intimidation by government officials due to their reporting. Many internally displaced persons (IDPs) continued to live in substandard or squalid conditions. There were reports of irregularities in the parliamentary election campaign, including a blurring of the distinction between government resources and activities and the ruling party's campaign, and multiple instances of the misuse of government institutional resources. After the parliamentary elections approximately 35 UNM mayors and city council chairs resigned, some allegedly under pressure. High-level government corruption was alleged. There were reportedly high rates of domestic violence. Georgia was primarily a source country, but also a transit country, for trafficking in persons. The government interfered with workers' fundamental freedom of association in several areas, including arbitrary dismissals, interference with collection of dues, and harassment and intimidation of labor activists, largely before the October elections.

Although the government took some steps to prosecute and punish officials who committed human rights abuses, the preelection government frequently terminated or delayed investigations into such allegations, contributing to an atmosphere of impunity. However, after the parliamentary elections, more than 25 high-level former government officials were indicted on torture, abuse of power, and corruption-related charges.

De facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside the control of the central government. These authorities continued to be supported by several thousand Russian troops and border guards occupying the areas since the 2008 armed conflict between Russia and Georgia. A cease-fire remained in effect in both Abkhazia and South Ossetia, although incidents of violence occurred in both areas. Russian border guards restricted the

movement of the local populations. While there was little official information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions, many allegations of abuse persisted. De facto authorities continued to restrict the rights, primarily of ethnic Georgians, to vote or otherwise participate in the political process, own property, register businesses, and travel. The de facto South Ossetian authorities refused to permit most ethnic Georgians driven out during and after the 2008 conflict to return to South Ossetia. With the exception of the International Committee of the Red Cross (ICRC), de facto authorities did not allow international organizations regular access to South Ossetia to provide humanitarian assistance.

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

a. Arbitrary or Unlawful Deprivation of Life

There were unconfirmed reports that the government or its agents committed arbitrary or unlawful killings. In one case nongovernment organizations (NGOs) raised concerns regarding the February 27 death of Solomon Kimeridze, who died at the Khashuri police station where he was being interrogated as a suspect for theft. The Ministry of Internal Affairs initially termed the death accidental and stated that Kimeridze fell four floors due to a faulty stair railing. The Khashuri police chief was dismissed for failure to enforce safety norms. In November the Prosecutor's Office reopened the case, and the investigation continued.

On November 28, Prosecutor General Archil Kbilashvili announced a resumption of the investigation into the September 2011 death in detention of military officer Sergo Tetradze. The prosecutor general attributed Tetradze's death to torture rather than heart attack.

On October 25, the Ministry of Justice reopened the investigation of the high-profile 2006 death of Sandro Girgvliani. In 2011 the European Court of Human Rights (ECHR) ruled that senior officials not only failed to conduct an effective investigation of his death but that the different branches of government power--including the Ministry of the Interior, prosecutors, the judiciary, and the president--"acted in concert in preventing justice from being done."

After the elections officials reopened a broad investigation of the events of the May 2011 protests, including the deaths of two men who allegedly died of accidental electrocution near the site of the protest. These investigations continued.

Media reported a landmine in the South Ossetia region killed a local man in November, and the NGO HALO Trust reported one child was injured handling a landmine in a private home in the Abkhazia region.

Human Rights Watch reported that more than four years after the 2008 conflict, the government had not effectively investigated international human rights law violations committed during the conflict.

b. Disappearance

No politically motivated disappearances in unoccupied Georgia or connected to the conflict in Abkhazia or South Ossetia were reported during the year. Reliable information from the separatist regions, which were outside government control, remained difficult to obtain. There continued to be reports of abductions along the administrative boundaries of both occupied regions.

Government and Abkhaz commissions on missing persons reported nearly 2,000 Georgians and Abkhaz remained missing as a result of the 1992-93 war in Abkhazia. The ICRC chaired a new coordination mechanism during the year between Georgian and Abkhaz participants to clarify the fate of these individuals. South Ossetian de facto authorities reported that 116 persons were still missing from conflicts in 1991 and 2008. The ICRC continued to assist authorities to inform the families of the whereabouts of missing relatives.

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

While the constitution and law prohibit such practices, there were reports that government officials continued to employ them with no accountability before the October parliamentary elections.

During the year NGOs and the public defender documented several cases of police officers mistreating detainees, beating them, denying them access to sanitation, or withholding permission to contact a lawyer. The European Instrument for Democracy and Human Rights (EIDHR) reported that excessive use of force at arrest was still a problem. The public defender reported that physical injuries were observed very frequently on individuals upon admission to police detention facilities.

For example, on June 3, Senaki police allegedly beat Zurab Labakhua while detaining him for alleged purchase and possession of drugs. Labakhua alleged that police continued to beat him after he was placed in the temporary detention cell at the police station. A medical examination performed on June 4 confirmed that Labakhua showed bruising of his right eye, over his left kidney area, and on both knees as well as bruising and swelling of the left ankle. Police stated Labakhua sustained minor injuries when he fell while being arrested. The prosecutor's investigation determined there was inadequate evidence of a crime committed by police officers and closed the investigation October 17.

The EIDHR stated that the main source of mistreatment shifted from the police to the penitentiary system. In the *2011 National Preventive Mechanism Report* (released in spring 2012), the Public Defender's Office noted frequent instances of prison employees mistreating detained and imprisoned individuals. During the year such cases were particularly prevalent in Gldani Prison No. 8 (one of the country's largest prisons and the main center of incarceration for pretrial detainees), Kutaisi Prison No. 2, Ksani Prison No. 15 (the country's largest prison), and the Medical Institution for Convicted and Indicted Persons. The Public Defender's Office stated that investigations into allegations of mistreatment were inadequate and that abuse likely occurred with the consent of senior officials of those institutions. According to some rule of law experts, systemic abuse at Gldani was part of an official strategy to coerce confessions, facilitating convictions in criminal cases.

On September 18, media sources aired a series of graphic videos depicting prison officials assaulting, abusing, humiliating, and sodomizing inmates in Gldani Prison No. 8. A former prison guard allegedly filmed these videos. One video showed a number of prison officers, some of them high ranking, beating newly arrived prisoners in what was characterized as a routine "welcome" beating to which prison officials allegedly subjected new prison detainees as a tone-setting initiative. Another video depicted two prisoners tied to a door being sodomized with a baton and broomstick. One of the videos showed a police official beating a detainee and forcing him to give written testimony. A video released on September 19 depicted the abuse and threatened sodomization of a juvenile.

The release of the videos provoked widespread protests and the resignations of the minister of corrections and legal assistance, Khatuna Kalmakeladze, and minister of internal affairs (and former minister of corrections from 2005-08), Bachana Akhalaia, who was subsequently charged with torture and abuse of power on November 7 in a separate case. In response to the videos, the government arrested

19 officials from the penitentiary system, fired 84, and investigated 81. With the change in government after October 1, the newly appointed chief prosecutor and Ministry of Justice continued to investigate prisoner abuse in the penitentiary system and established a special task force within the Prosecutor's Office to manage the prison abuse investigations.

In June and again in September, inmates held in the Ksani Prison No. 15 submitted a collective complaint to the public defender alleging they were regularly subjected to abuse, such as beatings, being cuffed to a heating pipe, given electric shocks, and subjected to threats of rape. The prosecutor's criminal investigation continued at the end of the year.

On August 8, a riot broke out at the Avchala penitentiary establishment No. 11 for boys. Juvenile inmates reported to the public defender that the riot was in response to increasingly frequent abuse by prison officials. The prison sustained substantial damage during the riot and closed for renovation. All inmates were transferred to other adult facilities where they were housed separately from other adult inmates. The Prosecutor's Office charged 11 juveniles with instigating the riot and transferred them to the Gldani pretrial detention facility. According to Georgian Center for Rehabilitation of Torture Victims, the 11 juveniles charged with instigating the riot were interrogated without their lawyers present, and prison officials coerced their confessions.

In November the Prosecutor General's Office charged several high-level officials with abuse of soldiers in three separate cases. In September 2011 former minister of defense Bachana Akhalaia, former chief of joint staff Brigadier General Giorgi Kalandadze, and former head of penitentiary department Davit Tchakua allegedly tied up an individual, beat him with a chair, and threatened to kill him. They later transported him to a private home where they held him against his will for more than 12 hours. In October 2011 Akhalaia, Kalandadze, and the commander of the 4th Infantry Brigade, Lieutenant Colonel Zurab Shamatava, allegedly beat six servicemen in Akhalaia's office and again at the Vaziani military base in front of other servicemen. One serviceman reported that Akhalaia hit him in the head with the blunt side of a knife. In 2010 Akhalaia and Kalandadze allegedly beat 17 servicemen and then locked them in a bathroom without heat or food for 36 hours.

In November the Prosecutor's Office charged Davit Akhalaia, former head of the Constitutional Security Protection Department of the Ministry of Internal Affairs, and his former deputy, Soso Topuridze, with torture for allegedly beating several

police officers in 2005. Data Akhalaia and Topuridze were charged in absentia because they left the country after the October elections.

The Public Defender's Office's annual *Situation of Human Rights and Freedoms in Georgia* report for 2011 (released in March) stated that accountability for torture and other inhuman treatment remained a problem and that the Prosecution Service dealt with "almost all cases" superficially, terminating or delaying investigations and failing to conduct forensic medical examinations or postponing examinations until a victim's injuries were untraceable. The report noted that this served to encourage similar crimes. In addition officials who conducted investigations into allegations of torture often characterized such acts as abuse of official power, which carried a far lighter sanction.

According to the Ministry of Justice, authorities initiated 23 investigations into allegations of torture, 105 into inhuman treatment, and five into the use of duress to compel evidence during the year, compared with 20 allegations of torture and nine of inhuman or degrading treatment in 2011. During the year the Supreme Court reported 15 cases were terminated, and judgments were rendered against three persons (two for torture and one for inhumane treatment).

NGOs and the Public Defender's Office reported that victims often failed to report abuse due to fear of retribution. NGOs also continued to claim that close ties between the Prosecutor General's Office and police hindered the ability of NGOs to substantiate police misconduct and that the judiciary's lack of professionalism and independence made it unresponsive and indifferent to allegations of mistreatment. Experts observed that judges referred detainee reports of mistreatment back to the institutions responsible for the alleged abuse due to a flawed legal process that does not enable the judge to take independent action if prisoner abuse is suspected. NGOs also cited lack of training for law enforcement officers, low public awareness of the protections afforded citizens, and inadequate standards of transparency and accountability.

Individuals detained in South Ossetia who later returned to undisputed Georgian territory reported incidents of mistreatment and abuse in Ossetian detention centers. Mistreatment included infliction of cigarette burns and beatings. Human rights observers estimated that half of the individuals detained by the South Ossetian de facto authorities experienced some form of abuse. Due to limited access to occupied South Ossetia, these reports were difficult to confirm.

Prison and Detention Center Conditions

The Public Defender's Office, the EIDHR, and many NGOs continued to report that conditions in many prison and pretrial detention facilities were poor and sometimes life threatening. The public defender noted that, while newly constructed facilities met international standards, old facilities still in use were inhumane and deteriorating. Such facilities exposed those incarcerated to torture, systemic mistreatment, overcrowding, inadequate health care, insufficient ventilation, and life-threatening conditions.

Physical Conditions: According to the Ministry of Corrections and Legal Assistance (MCLA), the inmate population at year's end was 19,349, compared with 24,114 in 2011. Of these, 926 were women and 123 were juveniles; 4 percent were pretrial detainees. Conditions in the women's prison were reportedly better than in the others.

According to the public defender, 67 prisoners died within the penitentiary system during the year, compared with 140 in 2011. Tuberculosis was a leading cause of prisoners' deaths. Prisoners had access to potable water, but in Batumi Prison No. 3, running water was only available for one hour per day. The 2011 *Situation of Human Rights and Freedoms in Georgia* report noted that overcrowding continued to compound poor conditions and inadequate health care. According to the public defender, four facilities were overcrowded before the change in government in October. As a result some inmates in two facilities did not have their own beds. The public defender criticized the MCLA for camouflaging overcrowding by announcing an increased inmate capacity of 1,724 in May without making any infrastructural changes to accommodate more prisoners. International organizations that monitor prison conditions found that the country's space standards for prisoners were deficient.

During the year the Ministry of Corrections granted 1,298 inmates early conditional release, of which 800 were released between September and November. In 2011 a total of 445 inmates were given early conditional release. The Presidential Pardon Commission pardoned 2,289 inmates (compared with 647 in 2011), of which 1,118 were released between September and November. Increased early releases and pardons substantially alleviated prison overcrowding, and at the end of the year, one prison remained overcrowded by international standards.

Some prison and pretrial detention facilities lacked adequate sanitary facilities. In its 2011 report *Situation of Human Rights and Freedoms in Georgia*, the Public

Defender's Office noted that, in some penitentiaries, sanitary conditions and overcrowding were sufficiently poor to amount to inhuman and degrading treatment. Many prisons were severely short of medical facilities, equipment, and medicine.

The public defender named Zugdidi Prison No. 4, Batumi Prison No. 3, and Tbilisi Prison No. 1 as particularly problematic institutions. He reported that all three institutions failed to meet standards for living space per inmate and basic lighting, heating, ventilation, and hygiene standards. In Zugdidi No. 4 and Batumi No. 3, obsolete infrastructure made it impossible to eradicate parasites and rodents, and some cells lacked heating in the winter. In Batumi Prison No. 3, running water was only available for one hour per day. Ksani Prison No. 15 was infested with cockroaches, inmates covered their beds with plastic to protect them from leaking water, and the sewage system in parts of the prison was not functional.

The public defender's 2011 report also noted that conditions in temporary detention isolation cells continued to be an acute problem. These facilities were intended to hold detainees accused of crimes and awaiting a hearing for up to 72 hours and not to provide long-term detention. However, isolation cells also housed all individuals convicted of administrative offenses for up to 90 days. According to the Ministry of Internal Affairs, 2,321 persons served terms of administrative detention in the temporary detention isolation cells during the year, compared with 3,745 in 2011. The public defender noted numerous problems, including inadequate space, ventilation, natural light, heating, sanitation, and access to medical services. In many instances administrative detainees were not provided bedding or access to showers.

Administration: The public defender reported that several prisons maintained inadequate records of individuals placed in solitary confinement. Many records failed to note the offense for which a prisoner was placed in solitary confinement, and Ksani Prison No. 15 maintained no records at all. The public defender also reported that the penitentiary system failed to document 74 percent of injuries on prisoners transferred from police custody.

During the year the Ministry of Justice focused on developing alternatives to incarceration for juveniles, implementing a diversion program for juvenile offenders. A key principle of the program was to allow young offenders to avoid criminal proceedings if they graduated from the program and did not commit further crimes. According to the ministry, 123 juveniles entered the program during the year, and only two committed new offenses.

Some Muslim leaders reported that incarcerated members of their community still lacked appropriate space to worship. While there were Georgian Orthodox chapels in most prisons, there were no specific areas for nondenominational worship.

Authorities generally permitted prisoners to submit complaints without censorship to judicial authorities as well as to the Public Defender's Office, NGOs, international organizations, and lawyers. Prisoners also requested investigations of inhuman conditions. Authorities opened investigations into such allegations but in many cases never officially completed them, filed charges, or took other disciplinary action against officials alleged to have committed abuses. There were also cases in which prisoners allegedly were warned not to report abuse to representatives of the Public Defender's Office and NGOs.

Monitoring: The government permitted independent monitoring of prison conditions by international organizations and some local and international human rights groups. The ICRC had full access to prisons and detention facilities in undisputed Georgian territory and some access to prison and detention facilities operated by de facto authorities in Abkhazia and South Ossetia. The Council of Europe's Committee for the Prevention of Torture also conducted periodic visits to the country.

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

Improvements: Family members of prisoners in Gldani were allowed 24-hour access to inmates in the initial days following the release of the videos, and patrol police were temporarily deployed to all 17 of the country's prisons to provide physical security. The ombudsman created a system permitting continuing civil society monitoring of prisons, which continued at year's end. A December *National Preventive Mechanism* special update reported no new cases of mistreatment between September and November, after increased monitoring was established. After the October elections, a series of early releases and pardons freed 2,950 inmates, reducing prison overcrowding. Inmates also reported improved prison conditions and treatment from prison guards.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention. However, the government's observance of these prohibitions was uneven.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs has primary responsibility for law enforcement and controls the police force. During times of internal disorder, the government may also call on the armed forces. The Ministry of Finance has its own investigative service.

While security forces were generally considered effective, there were some reports that members committed abuses with impunity (see section 1.c.). The public defender documented cases when use of force by police exceeded permissible limits. NGOs and human rights defenders reported cases of police violence and harassment directed toward supporters of opposition movement GD before October parliamentary elections. There were also instances in which security forces failed to respond adequately to societal violence (see section 6).

NGOs and the public defender maintained that the incidence of police abuse was higher than the number of cases investigated by the prosecutor general and that failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. Human rights NGOs also asserted that many instances of abuse went unreported by victims due to fear of reprisal, a lack of confidence in the judicial system, and a desire to avoid imprisonment.

According to the Ministry of Internal Affairs, its General Inspection Service imposed fewer disciplinary actions on law enforcement officers during the year than in previous years. Forms of punishment included reprimands, demotions, and dismissals. There were 841 such actions during the year compared with 1,017 in 2011. The ministry also reported that during the year 30 officers were arrested for various crimes, compared with 60 in 2011. Crimes during the year included 10 cases of abuse of authority, seven corruption-related cases, six cases of accepting a bribe, five cases of excessive use of authority, and two cases of physical abuse.

The Prosecutor General's Office manages all criminal investigations into allegations of torture and mistreatment by government officials. Prosecutors must investigate the use of force by police when a detainee sustains injuries during an arrest. The law requires the office to open an investigation when it receives information about a possible violation, even if from an anonymous source. If prosecutors conclude after investigation that charges are not warranted, their decision can be appealed to a higher level within the office. In many cases the Prosecutor General's Office continued investigations indefinitely without issuing

any findings. In most cases that were completed, the office concluded the use of force by police was reasonable. The Human Rights Protection Unit in the Office of the Prosecutor General issued regular updates on the status of cases, trials, and investigations of human rights violations.

The police academy provided basic training for 331 new police officers and retrained 183 border police during the year. The curriculum included human rights training and covered the legal basis for the use of force, proper crowd control, hate-crime investigation, use of negotiations for managing critical situations with the goal of employing lawful force as a last resort, identification of trafficking cases, and police ethics. The police academy also conducted specialized training on human rights in cooperation with international partners.

Arrest Procedures and Treatment While in Detention

Law enforcement officers must have a warrant to make an arrest except in exceptional cases where there are no less restrictive alternative measures available. According to the criminal procedure code, an arrest warrant can be obtained only where probable cause can be shown that a person committed a crime punishable by imprisonment, or that he or she may abscond or fail to appear in court, destroy evidence, or commit a new crime. The Georgian Young Lawyers Association (GYLA) reported that most arrests were made without a warrant based on “immediate necessity,” and courts later substantiated police action in almost all cases. Legal experts noted law enforcement’s apparent reliance on the court’s consistent after-the-fact approval for warrantless arrests and warrantless searches led to a climate of impunity and added to the public perception that the judiciary failed to act as a meaningful check on the executive branch. The public defender considered unsubstantiated arrest warrants to be a systemic problem characteristic of most courts. According to the Ministry of Justice, however, there were no reports during the year of officials holding detainees without judicial review for longer than the 72 hours permitted by law.

Upon arrest, a detainee must be advised of all legal rights. Any statements made after arrest but before a detainee is advised of his or her rights are inadmissible in court. The arresting officer must immediately take the detainee to the nearest police station, and the detainee must be indicted within 48 hours or released. The arresting officer must make a record of the arrest immediately after bringing the detainee to the police station. The record should indicate the detainee’s identity, place and time of arrest, circumstances of arrest, legal basis for the arrest, physical condition of the detainee at the moment of arrest, and the crime that the detainee is

suspected of committing. The record must be signed by the arresting officer and the detainee, with a copy given to the detainee and his or her attorney. GYLA reported that arresting officers often omitted information or recorded contradictory information in records of arrest.

The judiciary's use of bail instead of pretrial detention increased during the year, particularly following the October parliamentary elections. However, NGOs noted that many defendants were not able to make bail even when it was granted. Property bonds and other alternatives to bail are permitted.

While a detainee has the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel, the government did not always respect this right. In January the UN Human Rights Council's Working Group on Arbitrary Detention reported several instances in 2011 of prolonged interrogation of detainees without a break or rest and without the presence of counsel.

GYLA described the deficiencies in detainees' right to a defense as "systematic," particularly with administrative offenses. For example, on September 28, police arrested Davit Lomsadze after he participated in a September 27 protest in Khashuri. Lomsadze was unable to contact his family or attorney, and he was sentenced to 40 days' administrative detention without an attorney present. Lomsadze's family received the court's decision after the 48-hour period to appeal the decision had expired.

An indigent defendant charged with a crime has the right to counsel appointed at public expense, and all indigent persons appeared to have been represented by legal aid counsel at their detention and/or bail hearings. However, persons who could not qualify as indigent and who could not obtain private counsel were often unrepresented at the bail or detention hearing stage of a criminal case. Court monitors reported that in criminal cases monitored, nonindigent persons lacked representation in 31 percent of bail hearings. This represented a 35 percent increase from 2011, when similarly situated nonindigent defendants were unrepresented in 23 percent of detention or bail hearings.

Human rights defenders also raised concerns that the Legal Aid Service, charged with provision of legal advice and court representation for the indigent, is within the Ministry of Corrections. Legal experts noted legal aid attorneys could be unduly influenced by the executive branch to favor the interests of the government,

especially in light of the labor code provision that allows employers to dismiss employees without a stated reason.

By law, detainees facing possible criminal charges have the right to notify their families of their location within three hours of their arrest, and those charged with administrative offenses have the right to notify family upon request. Detainees frequently reported to the Public Defender's Office that they were prevented from contacting family members after detention. For example, on September 22, police detained civil activists Dachi Tsaguria and Bekar Aladoshvili. GYLA reported that neither individual was allowed to contact an attorney or family members until a few minutes before their trial. Both were sentenced to 10 days' administrative detention.

Arbitrary Arrest: The public defender reported cases of arbitrary detention of individuals during the year. NGOs, civil society groups, and opposition party members alleged that politically motivated arbitrary arrest occurred during the year (see section 3). For example, Tamaz Tamazashvili, the father-in-law of a key advisor to then opposition leader Bidzina Ivanishvili and a former regional police chief of Kakheti, was sentenced to 3½ years in prison on April 30 for illegal possession of a firearm and an explosive device. Opposition party members alleged his arrest and conviction were based on planted evidence and law enforcement misconduct. Tamazashvili was arrested four days after Ivanishvili announced he was entering politics. A plea bargain reduced his sentence to one year, and he was released on October 10, after the election that brought the opposition to power.

Revaz Khulordava, the deputy head of the Free Democrats faction in the Senaki City Council, who was convicted on July 24 on allegedly false, politically motivated charges of stabbing a man, was released from prison on December 4 after the Kutaisi Appellate Court found him not guilty.

Patterns in allegedly politically motivated arrests noted in GYLA's *Legal Analysis of Cases of Criminal and Administrative Offenses with Alleged Political Motive, Part 2*, which examined 21 cases from 2011, identified a trend of mass arrests of opposition party representatives when the country's political situation was strained, arrests for illegal possession of drugs or arms and resisting police without subsequent examination of evidence, and numerous violations of due process.

During the year de facto officials of the separatist territories and Russian officials continued to detain many individuals in the separatist regions of Abkhazia and

South Ossetia on charges related to their “illegal” crossing of the administrative boundary. Russian border guards along the administrative boundary line with Abkhazia typically enforced the boundary-crossing rules imposed by de facto authorities by fining and releasing detained individuals. Along the South Ossetian administrative boundary line, Russian border guards frequently handed individuals over to the de facto authorities. Most individuals were released within five days, but some were held considerably longer. Georgian authorities also detained a number of Russian individuals near the administrative boundary on various charges, including illegal entry into the country. (Entering the occupied territories directly from Russia is against Georgian law).

There were reports of arbitrary arrests of ethnic Georgians, particularly in Tskhinvali and Gali regions of South Ossetia and Abkhazia. Detainees reported they were not given a reason for their arrest nor were they seen by a prosecutor. Human rights groups alleged de facto authorities arbitrarily detained ethnic Georgians and held them in order to negotiate prisoner exchanges between de facto officials and Georgian authorities.

Pretrial Detention: The law provides safeguards for a speedy trial through strict time limits for detentions, hearings, and trials, and observers found that judges strictly enforced these requirements. However, pretrial detention at times was lengthy. A high number of judicial vacancies at the trial-court level may have contributed to some delays in scheduling trials. Criminal cases were delayed or postponed most commonly based on requests from the parties further to negotiate a plea bargain, or because a witness did not appear as scheduled to give testimony. The Ministry of Corrections reported that 4 percent of the penitentiary system’s population consisted of pretrial detainees. GYLA found that judges rarely provided reasoning for imposing pretrial detention or required the prosecution to provide a rationale for requesting it, and always imposed pretrial detention if recommended by the prosecutor. Judges also accepted the prosecution’s request for specific bail amounts almost uniformly. However, in the postelection period the judiciary moved toward a more liberal approach and granted bail in many cases.

Amnesty: According to the Ministry of Corrections and Legal Assistance, the president pardoned 2,289 convicts during the year, compared with 647 in 2011.

e. Denial of Fair Public Trial

While the constitution and law provide for an independent judiciary, outside influence on the judiciary remained a problem. Transparency International/Georgia's *Georgia National Integrity System Assessment* for 2011 noted that the judiciary "suffers from undue influence exerted by the Prosecutor's Office and the executive authority during the adjudication of criminal cases, as well as cases where the political leadership's interests are at stake" and that the judiciary's "inadequate level of independence" undermined its ability to exercise oversight of the executive branch. However, the assessment also found that bribery in courts was eradicated and that judges were believed to be independent in their handling of the majority of civil cases. The public defender's report for 2011 identified inadequate substantiation of court decisions at various stages as an endemic problem in the judiciary across the country.

GYLA's May monitoring report on the Tbilisi City Court Criminal Chamber noted that "courts lack neutrality and heavily favor the prosecution." For example, in all of the bail hearings monitored by GYLA, the court imposed pretrial detention or bail as recommended by the prosecution, set bail in the exact amount as recommended by the prosecutor, and granted all of the prosecution's motions related to the admissibility of evidence. GYLA also identified judges' refusal to grant defense requests, instances where judges sharply digressed from their neutral role, and disproportionate punishment among common court actions. In all cases that GYLA observed between October 2011 and April 2012 where the court delivered a final decision, it found the defendant guilty.

Court observers noted that judges enforced criminal procedure code standards for ensuring in-custody appearances for defendants within 24 hours of arrest, an initial appearance before a court on an indictment within 48 hours of arrest, and a detention hearing within 72 hours of arrest. Judges held prosecutors to the code's standards for disclosing case evidence to the defense, and complaints of failure by the prosecution to disclose evidence in a timely or complete manner were limited. However, observers noted that judges struggled at times with language in the criminal procedure code that allows the defense to request assistance from the court in obtaining court-ordered evidence. Judges also showed some reticence in following up on complaints from defendants regarding alleged actions by police or prosecutors that affected the defendant's access to counsel, ability to call defense witnesses at trial, or ability to fully cross-examine police or prosecution witnesses at trial. Judges showed marked improvement in their desire and ability to maintain order in their courts and in demanding higher professionalism from court participants.

The code of administrative offenses lacks sufficient due process provisions. For example, although the code provides for prison sentences of up to 90 days for violations, it does not require police to inform individuals of their rights or the reason for their arrest, nor does it permit defendants to present evidence or witnesses for their defense in court. According to NGOs, authorities used the code to detain at least 40 opposition members between September 19 and the October 1 parliamentary elections without adequate evidence in violation of due process.

The public defender reported administrative case decisions contained no or insufficient reasoning, and most administrative cases violated the defendant's right to a defense. Trends identified included inadequate time to prepare a defense (sometimes as little as 10 minutes), failure to admit defense evidence or witness statements, and complete reliance on statements made by police officers. One NGO described the administrative code's lack of due process as a "summary punishment upon request of a police officer."

In June an NGO coalition reported that the lack of checks and balances within the judiciary undermined its independence. The report noted that concentration of power within the judiciary--particularly within the High Council of Justice (HCOJ) and the Supreme Court Chairman--weakened the independence of judges. The HCOJ played the principal role in appointing, promoting, transferring, and dismissing judges as well as implementing judicial reforms. The Supreme Court chairman, who is appointed by the president, chairs the High Council and nominates eight of its 15 members. The Supreme Court chairman also nominates members of the Disciplinary Collegium, which initiates and adjudicates disciplinary charges, creating conflicts of interest. NGOs also cited continuing problems of transparency in the selection, appointment, and disciplining of judges and stated selection criteria were not sufficiently based on merit.

During the year the High Council of Justice's Judicial Ethics and Disciplinary Procedure Department received 844 complaints involving judges and started disciplinary proceedings in all cases. The majority of complaints were deemed unsubstantiated or faulty. The High Council of Justice questioned judges in 11 cases, reprimanded one judge, and put one on notice. One prosecutor was convicted on corruption charges during the year.

The Prosecutor's Office and Ministry of Justice are responsible for disciplinary action for violations of the ethics code by prosecutors. During the year, 19 prosecutors from the Chief Prosecutor's Office were subject to disciplinary actions ranging from notice to reprimand.

Trial Procedures

The law presumes defendants are innocent. Defendants have the right to a trial by jury only in cases of aggravated murder and attempted aggravated murder and only in Tbilisi. During the year the Tbilisi City Court conducted the country's third post-Soviet jury trial. Most legal observers considered the trial fair and well run, although court employees subsequently complained publicly that despite higher due process protections listed in the Criminal Procedure Code, jury trials were manipulated by the executive branch with the acquiescence of the judiciary. Defendants have a right to a public trial (except where national security, privacy, or protection of a juvenile is involved) and to be present at their trial, although the right to a public trial was not always respected. The public defender named the Kutaisi City Court and Akhalkalaki District Court as problematic but stated that overall public access to courtrooms was not impeded. However, he reported that exceptionally small courtrooms in Tbilisi where administrative cases were held impeded access for most observers. The law allows for trial in absentia in certain cases in which the defendant has left the country.

Defense counsel has the right to meet individuals accused of a crime without hindrance, supervision, or undue restriction. However, NGOs and lawyer associations complained that long lines and cumbersome entry checks at penitentiary institutions hindered their access to detainees to prepare cases. In its December *Strengthening the Rule of Law* report, the International Bar Association reported several cases of harassment of defense attorneys by prison authorities, including physical assault, rape threats, and confiscation of case notes by penitentiary officials. Attorneys also reportedly encountered intense interference if their client complained about alleged abuse by prison staff. For example, Human Rights Center lawyer Irina Saghinadze reported prison guards confiscated case documents containing evidence of prison abuse in Ksani prison No. 15 multiple times in 2011 and 2012.

According to statistical data provided by the Supreme Court, 10 defense lawyers were charged during the year with fraud for misappropriation of client funds. Sufficient information was not available to determine whether these lawyers were objects of undue pressure by the government.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. Defendants and their attorneys have access to the prosecution's evidence relevant to their cases at any point during

criminal proceedings and may make copies at their own expense. The prosecution must disclose all evidence to the defendant no later than five days before the pretrial hearing. Court observers reported that the prosecution complied with these rules.

A convicted defendant has the right of appeal. However, appeals under the administrative and criminal codes were difficult in practice. Under the criminal procedures code, defendants have one month to file an appeal and appeals must be completed within three months in cases where the appellant is imprisoned and within 12 months otherwise. However, in criminal cases, courts were allowed up to two weeks to provide court records to defense attorneys, thus reducing the attorneys' time to prepare an appeal. Administrative sentences that entail incarceration must be appealed within 48 hours and within 10 days otherwise. In administrative cases, courts provided records three days after the trial, thus forcing attorneys to prepare appeals of cases involving incarceration without the court's written judgment. Appeals must be signed by the defendant, and attorneys reported difficulty in locating and accessing their clients in the penitentiary system, impairing their ability to submit the appeal on time. Human rights monitors also reported that court decisions in administrative trials were often "perfunctory" and that in criminal trials appeals were rejected without an adequate explanation.

Monitoring groups pointed to the country's low acquittal rates in criminal cases and low rates of successful appeals as possible indicators of executive branch pressure on the judiciary. The Supreme Court reported an 8.7 percent acquittal rate during the year, compared with a 4.6 percent rate in 2011. Transparency International/Georgia's 2010 report cited a 1 percent acquittal rate in criminal cases. Observers attributed the discrepancy in reported acquittal rates to Transparency International's counting of all cases, including those concluded through plea-bargaining, whereas the court counted only the cases that proceeded to trial.

By law a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. However, there were reports that judges failed to exercise proper oversight. Approximately 65 percent of plea agreements contained a fine as a penalty along with either a prison term or a suspended prison sentence. A June 2011 report by the Council of Europe's human rights commissioner noted that judges relied almost exclusively on evidence presented by the prosecutor in plea agreements. GYLA's report noted that many judges failed to apprise defendants of important rights and legal protections. During the year there were

credible reports that, when a defendant complained of mistreatment and directly or indirectly maintained that his or her guilty plea had been made under duress, the judge took no action to either investigate or reject the plea agreement.

GYLA reported that judges' decisions prescribing preventive measures were "usually unsubstantiated." The UN Working Group on Arbitrary Detention reported that detainees effectively relinquished their right to fair trial because they felt pressured to enter plea bargains, believing a fair and impartial trial was not possible. Detainees reportedly believed their chance for acquittal was small and they risked a lengthy prison sentence in a penitentiary system known for abusing inmates. The Council of Europe reported that defense lawyers, instead of working towards their clients' acquittal, often advised them to enter into a plea bargain in exchange for a reduced sentence. As a result legal experts noted that defendants enjoyed no leverage in the plea-bargaining process and were relegated to accepting a plea agreement regardless of their legal interests.

According to the Supreme Court, the use of plea-bargaining remained at 88 percent of cases during the year. During the year observers remained concerned about the potential lack of fairness and transparency in the implementation of plea-bargaining. Experts agreed that the core problem was not in the law, but in the law's application, as noted by Transparency International/Georgia in a 2010 report. While noting the benefits of plea-bargaining, including increased efficiency and cost-savings in the court process, providing relief to overcrowded prisons, and in fighting organized crime and corruption, Transparency International/Georgia raised significant concerns about the fairness of the system, highlighting the imbalance between the powers of the prosecution and the judiciary and the system's lack of transparency in the application and collection of fines. There are no explicit criteria for calculating fines, and during the year NGOs alleged that defendants facing equal charges frequently received very different sentences according to their ability to pay.

NGOs and legal experts also raised concerns regarding the proportionality of punishment. For example, in pretrial hearings GYLA found that the courts only applied pretrial detention or bail, rather than less severe measures allowed by the criminal code such as allowing the defendant to go free on his or her recognizance, even in cases involving only minor crimes. The UN Working Group on Arbitrary Detention's report in January noted that "sentences of imprisonment were considered harsh in relation to the alleged crimes committed" for both criminal and administrative offenses. In GYLA's view, one of the less strict measures in many cases could have been considered reasonable. Furthermore, judges may not

decrease a sentence below statutory limits unless a plea agreement is entered. The public defender noted that the government's "excessively strict criminal justice policy" contributed to prison overcrowding and repeatedly recommended that the Prosecutor's Office prioritize alternatives to incarceration.

Political Prisoners and Detainees

Several NGOs, former opposition parties, and family members of prisoners alleged that the government continued to hold political prisoners and detainees. Their estimates of the number varied, with NGO estimates at approximately 200. The government, NGOs, and former opposition leaders disagreed on the definition of a political prisoner. The public defender did not name any political prisoners or detainees in his 2011 report.

On December 5, parliament passed a resolution declaring 190 individuals political prisoners and 25 political exiles. However, prominent NGOs GYLA and Article 42 withdrew from the working group of NGOs and human rights defenders that compiled the list, citing parliament's inadequate timeframe of only two weeks and failure to share case materials, which limited their ability to consider individuals on a case-by-case basis. GYLA also clarified that its past reports did not classify individuals as political prisoners, since such a classification should be made by competent legal authorities.

Beginning mid-September--two weeks before parliamentary elections--credible NGOs reported that authorities detained at least 40 opposition members without adequate evidence and in violation of due process. The government alleged the arrests were in response to what appeared to be a deliberate strategy of committing petty crimes in order to provoke a police response.

The government permitted international and domestic organizations to visit persons claiming to be political prisoners or detainees, and some organizations did so during the year.

Civil Judicial Procedures and Remedies

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

civil action. Individuals have the right to appeal court decisions involving the alleged violation of human rights by the government to the ECHR after domestic avenues of appeal have been exhausted.

Regional Human Rights Court Decisions

During the year the ECHR ruled against the government in 10 cases involving alleged violations of the European Convention on Human Rights. According to the Ministry of Justice, authorities paid compensation in four of the cases by year's end. However, the public defender reported that the government failed to execute fully ECHR judgments as they were delivered.

Property Restitution

There were concerns about the lack of due process and respect for the rule of law in a number of property rights cases. During the year NGOs, business owners and citizens reported property rights violations, particularly in newly developed touristic regions. After the October parliamentary elections, numerous former business owners and individuals claimed previous government officials illegally deprived them of their property. The Economic Policy Research Center reported that the government used criminal proceedings and seizure of property as a means of exerting pressure on businesses. The public defender confirmed that cases of incorrect asset seizure were frequent.

In a March report, four NGOs documented numerous cases of private property that was abandoned, gifted to the government, or reregistered to the Ministry of Economy in Sairme, Bakhmaro, Anaklia, and Grigoleti. These transfers raised concerns because they occurred in specific geographic areas, they happened within a few days' time, the property was often quite valuable, and before its transfer to the government, citizens had spent considerable financial resources to register it in their own names. GYLA stated the suspicious conditions of the transfers raised concerns that citizens had abandoned their property under duress. For example, in Sairme, the majority of properties were transferred to the Sairme Development Company LLC, owned by Temur Kokhodze, a former UNM member of parliament. The public defender's 2011 report confirmed that property rights in areas adjacent to the Black Sea were illegally revoked or illegally denied in several cases.

Transparency International reported several cases in which groups claimed the government improperly used eminent domain to seize property at unfairly low

prices. In May former member of parliament Kandid Kvitsiani met with 16 landowners in Mestia whose properties would be affected by the development of a local airport and promised their land would be purchased for 10 lari per square meter (\$39 per square foot). However, the actual purchase price offered was approximately 3.60-4.00 lari per square meter (\$23.30-\$25.89 per square foot). Although many landowners refused to sign the contract, the airport construction company initiated construction of the airport on their land anyway. In a similar case, the Zugdidi local municipality initiated construction of the Zugdidi-Anaklia road without offering any compensation to local landowners. Landowners received 20 lari per square meter (\$129.45 per square foot) only after construction was completed.

In Abkhazia the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving internally displaced persons of their property rights in Abkhazia.

In a 2010 decree South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 and related to property held in the Akhgori region. The decree also declared that all property in Akhgori belongs to the de facto authorities until a “citizen’s” right to that property is established in accordance with de facto legislation, effectively denying ethnic Georgians, displaced in 2008, of their property rights in the region.

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

The constitution and law prohibit such actions without court approval or legal necessity, and prohibit police from searching a residence or conducting undercover or monitoring operations without a warrant. However, these prohibitions were not always respected.

NGOs continued to report that police conducted searches without first obtaining warrants. NGOs reported that police often obtained warrants after the fact and many citizens were unaware of their right to delay a search of their home by one hour to summon two objective, third-party witnesses to the search. Under the law, if authorities conduct a search or seizure without a warrant because of urgency, they must apply for the warrant within 24 hours of the search; otherwise, the evidence collected is considered invalid. According to GYLA, these warrants were almost always approved.

On February 28, the Constitutional Court ruled telephone taps require a warrant that specifies the period for which the warrant is valid. However, during the year some opposition figures, including GD leader Ivanishvili, and NGOs expressed concern about government surveillance. They alleged that surveillance included monitoring of e-mails and cellular telephones and surveillance from private cars by officials they believed to be from the Ministry of Internal Affairs.

In November the Prosecutor's Office arrested Tbilisi's vice mayor, Shota Khizanishvili, the head of the Constitutional Security Department, Levan Kardava, and nine other officials of the Ministry of Internal Affairs, and charged them with illegal surveillance through unauthorized access to private computer networks. The Prosecutor's Office alleged the government officials used malware software, which enabled unauthorized access to private computer systems of then opposition leaders, taking control of embedded Web cameras and microphones on computers to take screenshots and eavesdrop on targets in the preelection period.

There were numerous reports that relatives of unions and opposition party members were harassed, demoted, dismissed from employment, or arbitrarily arrested (see sections 1.d., 3, and 7). Throughout the year members of NGOs and individuals reported arbitrary harassment, job loss, and arrests that they alleged were related to the activities of family members.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

While the constitution and law provide for freedom of speech and press, there were credible reports that the government at times restricted both freedom of speech and press.

Freedom of Speech: Individuals were generally free to criticize the government publicly and privately, although a number of persons claimed to have experienced reprisals as a result of preelection pressure by the then ruling UNM party. Some individuals told foreign monitors they were reluctant to discuss, or had stopped discussing, sensitive topics by telephone due to concern about government wiretapping. NGOs reported that a lack of investigation for harassment of human rights defenders diminished dissenting voices and watchdog groups, especially outside of Tbilisi. They also claimed that the government used the legal process and government organs to silence critical voices.

Freedom of Press: Although independent media were active and expressed a wide variety of views, direct or indirect government influence over the most watched countrywide media outlets remained a problem. According to Transparency International/Georgia's *Georgia National Integrity System Assessment* for 2011, while "the country has mostly progressive and liberal laws governing the establishment and operation of media entities, in practice the media remain less transparent, accountable, and independent." The International Research and Exchanges Board's *Media Sustainability Index 2012*, which covered the 2011 calendar year, reported that "partisanship and poor ethical practices pervade mainstream media, while quality news is mainly accessible only to the educated, media-savvy, and urban audiences." While print media frequently criticized senior government officials during the year, some individuals affiliated with newspapers reported facing pressure and intimidation by the preelection government for doing so.

Few newspapers were commercially viable. According to Transparency International's 2012 *Georgia's Regional Media* report, independent print media struggled to compete with local government-funded newspapers, reported local government pressure on distributors, and had difficulty receiving information from local government officials. For example, Laura Gogoladze, the editor of *Chemi Kharagauli*, reported that two local government officials threatened the newspaper's local distributors, who quit their jobs. In addition many local and regional governments allocated significant funds from their budgets to government-controlled newspapers.

Television was the most influential medium and the primary source of information on current events for more than 80 percent of the population. According to Transparency International's August report *Georgia's Television Landscape*, the media were politically polarized, and both the government and the opposition sought to keep a number of television stations, as well as key intermediary companies that broadcasters needed to reach their audience, in their sphere of influence. The three largest television broadcasters were the state-owned Georgian Public Broadcaster (GPB), and the privately owned Rustavi-2 and Imedi TV, the country's two most popular stations. Before the October elections, all three reportedly had close ties to the government, generally had a progovernment editorial policy, and were the only providers of noncable coverage on a national level.

Before June numerous cable television providers across the country refrained from including pro-opposition channels in their service packages in spite of polling that

demonstrated strong public interest. After cable television provider Global TV began offering opposition-affiliated TV9 in April, progovernment stations Rustavi-2 and Imedi TV asked Global TV to discontinue carrying them. On June 29, in an effort to broaden public access to sources of information and in response to a civil society campaign, parliament passed an amendment to the election code known as “must carry, must offer.” The new regulation required that cable providers carry television channels with public value content (e.g., channels of the public broadcaster, local channels, or channels with national news and current affairs programs) in their packages during the official, 60-day preelection period, while television stations must offer their signal to service providers without discriminating against selected companies. Although the legislative mandate expired on September 30, the day before the election, some cable providers continued to carry more pluralistic programming.

On April 30, TV9, financed by GD coalition leader and subsequent prime minister Ivanishvili, went on the air nationwide, broadcasting views critical of the government. Pro-opposition stations Kavkasia and Maestro also expressed views critical of the government. Before the passage of the “must carry” law, the stations’ audience was concentrated in Tbilisi. Their audience reportedly increased from 180,000 to 240,000 after passage of “must carry.”

While TV9 was owned by Prime Minister Ivanishvili’s wife, other key media companies were controlled by relatives or close friends of current or former government officials. In October, shortly after the parliamentary elections, the owners of the Imedi TV television station sold 90 percent of the shares in the station for the symbolic price of three lari (\$1.80) to its previous owners, the family of the late Badri Patarkatsishvili, who founded and managed it when it was a pro-opposition channel.

The head of the Georgia National Communications Commission (GNCC), charged with regulating electronic communication, owned a major advertising agency, which represented a direct conflict of interest because he received income from the advertising company regulated by the agency he headed.

Transparency International reported that, as a result of the 2011 amendments to the broadcasting law requiring public publication of media ownership and disclosure of annual revenues, the availability of information on television station ownership and the financial transparency of stations significantly improved. However, media experts noted that problems remained, including a lack of clarity regarding ownership of the Rustavi-2 television station. In a December report, Transparency

International reported the shareholders of several major Georgian telecommunication companies, including the three largest Internet service providers--Caucasus Online, Silknet and Akhali Kselebi--were owned by opaque shell companies. The report noted continued reluctance of telecommunication companies to inform their customers about how their data was collected, stored, managed, and protected and under what conditions information was shared with third parties and authorities.

The GNCC issues broadcast licenses as either a “general license” for news and political programming or an “entertainment only” license that strictly limits content, thereby giving the commission substantial control over programming content. In April the Constitutional Court ruled that television stations that transmit their programs although cable networks would no longer require a license from the GNCC. Television stations and service providers still need a license for satellite broadcasts, but there were no prominent cases in which an applicant was denied such a permit. The GNCC issued or renewed five broadcast licenses during the year, including one license to an outlet considered to be pro-opposition.

Violence and Harassment: There were reports during the year of physical and verbal assaults of journalists by police, confiscation of journalists’ cameras by authorities, and intimidation of journalists by government officials due to their reporting. Transparency International’s *Georgia’s Regional Media* report in June stated that “reports of harassment and intimidation of journalists increased significantly” in connection with the October parliamentary elections.

Journalists affiliated with pro-opposition media outlets reported unequal access to government buildings, politically motivated detentions, telephone threats, and surveillance by unknown persons while covering stories. For example, Gela Mtvlishvili, the head of the online Kakheti and Mtskheta-Mtianeti Information Centers, alleged police detained and beat him in Tianeti on May 20 for taking pictures of the local police station. Although Mtvlishvili reportedly showed police his press credentials, he alleged that police confiscated his camera, destroyed the footage it contained, refused to allow him to call an attorney, kicked him in the stomach, and hit him in the head. A subsequent physical examination at a hospital confirmed a bruise on his head. The Ministry of Internal Affairs asserted the incident was “a clear provocation” by the journalist and denied that police had beaten him or touched his camera.

The public defender called the frequent interference with journalistic activity in the preelection period “troubling” and criticized the inadequate response of law

enforcement bodies: “Law enforcement has launched investigations of these cases. However, we have found that these investigations rarely result in someone being held accountable for intimidating, threatening, or harassing journalists.”

Transparency International’s June report stated that the “reluctance of law enforcement and other government bodies to investigate, prosecute, and hold accountable individuals who interfere in the work of journalists and intimidate or attack media representatives has resulted in an atmosphere of impunity for attacks against the media.”

Several companies with strategic positions in the television sector faced a broad range of difficulties in the preelection period, including tax audits (Videoscope), damage to equipment during customs clearance (Global TV and TV9), theft of equipment (Studio Monitor), and liens on broadcast licenses (Stereo+). In June and July authorities seized up to 70,000 satellite dishes, receivers, and other equipment from Global TV and 10,000 satellite dishes that Maestro intended to distribute to households in the regions for a very small fee, allegedly as part of a promotional campaign to increase its audience. The Prosecutor’s Office stated it had evidence the antennas were part of a vote-buying scheme for the GD coalition. Civil society groups including GYLA termed the seizures illegal and asked the government to present evidence to substantiate allegations that Global TV and Maestro were acting on behalf of the opposition and seeking to buy votes. On October 5, after the elections, the government permitted Maestro and Global TV to retrieve the seized satellite dishes.

In October the outgoing government again granted a tax reduction for television stations that disproportionately benefitted the progovernment Rustavi-2 and Imedi TV stations. The forgiven tax debt during the year totaled 20 million lari (\$12 million). Of this sum, Imedi TV was forgiven 13.6 million lari (\$8.2 million), Rustavi-2 4.8 million lari (\$2.9 million), and GPB-funded PIK TV 1.5 million lari (\$900,000). Transparency International commented that the previous 2010 amnesty provided incentive for nonpayment of taxes, as evidenced by Rustavi-2 and Imedi TV’s new tax debts during 2012, and was a form of government subsidy in exchange for progovernment reporting. Opposition-leaning stations reportedly paid most or all of their taxes due to fear that they would be fined or closed if they did not.

Censorship and Content Restrictions: Throughout the year NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of influencing editorial and programming decisions through their personal connections with news directors and media executives and by directing

advertising using their personal connections with business owners. The International Research and Exchanges Board's *Media Sustainability Index 2012* reported that self-censorship was "rampant." Journalists said they censored their reporting to reflect the media owners' views due to fear of losing their jobs. In one high-profile example, Revaz Sakevarishvili resigned as editor in chief of *Forbes Georgia* on March 27, alleging that the publication's owners interfered with his reporting on opposition leader Ivanishvili. The management of *Forbes Georgia* claimed that Sakevarishvili was dismissed for plagiarism.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by de facto authorities and Russian occupying forces. Mari Otarashvili, an independent journalist in South Ossetia, reported she was threatened on March 20 by Misha Beriandze, a local businessman, for reporting on his political activity in connection with South Ossetian "elections." An investigation of her alleged blackmail in 2011 by Zurab Pitskhelauri, the recognized governor (in exile) of South Ossetia's Akhalkalaki region, continued at year's end.

Internet Freedom

Outside of Abkhazia and South Ossetia, there were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Freedom House improved the country's Internet freedom rating from "partly free" in 2011 to "free" during the year. According to Freedom House, 37 percent of the population had access to the Internet in 2011. High prices for services and inadequate infrastructure remained obstacles to access, particularly for individuals in rural areas or with low incomes. There were no indications of censorship or content being blocked by authorities or Internet service providers. There were no known cases during the year of activists or reporters being questioned or arrested for their online activities.

On October 25, the Constitutional Court ruled that operative investigations of private Internet communication would require a warrant. However, the Ministry of Internal Affairs appeared to have continuing direct access to the technological infrastructure of telecommunication companies, raising concerns regarding continued illegal government surveillance.

Insufficient information was available about Internet freedom in Abkhazia and South Ossetia.

Academic Freedom and Cultural Events

There were no government restrictions on cultural events. However, there were reports of academic appointments and dismissals due to political affiliation, especially in the run-up to the October elections. For example, according to parliamentarian Giorgi Tsagareishvili, a Nikozi high school principal, Tamaz Malanashvili, stated in court during wrongful dismissal proceedings that he fired biology teacher Tsisana Javakhishvili because “she doesn’t love [President] Mikheil Saakashvili.”

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, and authorities routinely granted permits for assemblies during the year. While the government generally respected freedom of assembly, on a number of occasions authorities failed to protect participants in peaceful assemblies from counterprotesters and at times detained participants. Human rights organizations expressed concern about provisions in the law, including prohibition of demonstrations by one person or by noncitizens, and the requirement that political parties and other organizations give prior notice and obtain permission from local authorities to assemble on a public thoroughfare five days in advance, thereby precluding spontaneous demonstrations.

The law governing administrative offenses prohibits the blocking of streets “artificially” and “deliberately,” either by protesters or using “various types of constructions and/or objects.” The maximum prison term for the offense is 90 days. Courts, government agencies, and ministries may prohibit rallies within 65 feet of their respective buildings.

On March 27, police detained Kakha Mikaia on charges of petty hooliganism and disobeying law enforcement officers during a peaceful protest assembly outside the Zugdidi District Court. Video footage from the then opposition Free Democrats party showed Mikaia holding a voice amplifier for Tea Tsulukiani (subsequently appointed minister of justice after the October elections) as she addressed the group of protesters. Mikaia was sentenced to 10 days administrative detention. GYLA called his detention a violation of right to peaceful assembly and stated witness testimony contradicted police charges.

Police were slow to protect the right to peaceful assembly at a May 17 march in downtown Tbilisi in observance of International Day against Homophobia and Transphobia (see section 6). In a roundtable later that day, senior government officials acknowledged police response had been inadequate and pledged to improve communication with leaders of the lesbian, gay, bisexual, and transgender (LGBT) community.

NGOs noted the excessive use of force by police, including attacks on journalists and rally participants, and lack of transparent investigations had a dampening effect on freedom of assembly. The public defender's 2011 annual *Situation of Human Rights and Freedoms in Georgia* criticized as inadequate the government follow-up of the use of force in the dispersal of the January veterans' protest and May opposition protests in 2011.

Freedom of Association

The constitution and law provide for freedom of association. However, the government's respect for this right was selective. There were multiple allegations during the year that members of trade unions and opposition parties, and their families and associates were selectively targeted for prosecution by law enforcement agencies and were subjected to stricter penalties than other citizens upon conviction. There were also allegations of pressure on political opposition figures and supporters, NGOs, teachers, and union members, including surveillance and actual or threatened job loss (see sections 3 and 7).

Throughout the election campaign, there were reports of detentions and arrests of party activists, mainly members of the GD coalition. There were numerous verbal and physical altercations between UNM and GD party supporters. On June 12, a stone-throwing crowd drove GD activists, including Kakha Kaladze and Sozar Subari, out of the village of Karaleti. Six persons were arrested and 13 hospitalized, including representatives of the media. Witnesses alleged that local municipality employees Gigi and Gogita Gochashvili provoked the scuffle. Following the election Kaladze and Subari became ministers in the new government.

Witnesses also observed GD activists throwing stones at a UNM rally in Mestia in July.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation of citizens, but de facto authorities and Russian occupying forces limited this freedom in Abkhazia and South Ossetia. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law imposes limitations on foreigners moving into and out of Abkhazia and South Ossetia. It also imposes special requirements on persons conducting economic activities in the occupied regions. There were no reports that Georgian authorities unduly restricted any international humanitarian organizations. Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia. Russian and South Ossetian de facto authorities blocked virtually all international organizations, including humanitarian organizations, from regular access to South Ossetia.

The European Union Monitoring Mission (EUMM) facilitated conflict resolution (including conflicts involving human rights problems) among Georgian, Russian, and de facto authorities in the occupied regions by regularly patrolling near the conflict areas and facilitating contacts among the sides in the framework of the Incident Prevention and Response Mechanisms. However, despite the 2008 cease-fire agreement's provisions, the EUMM was denied access to the occupied regions. Patrols could be conducted only on the undisputed Georgian side of the administrative boundary lines.

De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia restricted freedom of movement, limiting the movement of the local population across the administrative boundary for medical care, pension services, religious services, and education. Checkpoints operated by Russian border guards and de facto militia often obstructed citizens' movement within these regions and between these regions and areas controlled by the Georgian government. Although Abkhaz de facto authorities maintained that the administrative boundary with the rest of the country was officially closed, they allowed limited crossings at the

Rukhi Bridge. In 2010 they introduced a permit system that formalized a process of granting permission to cross the boundary for 100 Russian rubles (\$3) for a single trip. South Ossetian de facto authorities allowed limited crossings in and out of the Akhgori region, whose remaining inhabitants were primarily ethnic Georgians. International observers were able to gain limited access to Abkhazia, but only a small number gained occasional and extremely restricted access to South Ossetia. Russian military forces and de facto militias limited the ability of international observers to travel in Abkhazia to investigate claims of abuses. South Ossetian de facto authorities continued to refuse humanitarian access to most international organizations, including the UNHCR.

The Gali region of Abkhazia, where many ethnic Georgians lived, remained tense because of limitations on freedom of movement, as well as reports of kidnapping, arbitrary arrests, and deaths in custody. There were numerous reports of extortion, looting, and robbery by Russian and Abkhaz de facto forces and criminal gangs, especially during the harvest season, when local farmers regularly faced extortion of a portion of their income.

An Abkhaz “citizenship” law allows dual Russian-Abkhaz but not dual Georgian-Abkhaz “citizenship.” Ethnic Georgians living in Abkhazia were required to acquire Abkhaz “citizenship” to open businesses, establish bank accounts, vote in elections, run for office, travel freely, or own property.

Internally Displaced Persons (IDPs)

The UNHCR estimated that a total of 273,997 IDPs from the conflicts in 1992-93 and 2008 were in the country during the year. In addition as of January, the UNHCR counted 147,214 persons as being in an “IDP-like” situation needing protection and humanitarian assistance. This number included individuals who returned to Abkhazia, South Ossetia, and areas adjacent to the administrative boundary with South Ossetia and Abkhazia as well as those displaced in the 2008 conflict who were subsequently relocated.

Most IDPs displaced in 2008 received formal IDP status under national legislation. However, IDP status was not established for some individuals who claimed to have been displaced in the conflict. These individuals, described by officials as “IDP status seekers,” included persons who had never been registered with Georgian authorities, such as persons who had never been registered at birth or were displaced from regions that before 2008 were not under government control, persons whose departure from South Ossetia could not be established as having

been caused by the conflict, or persons who could not prove their former residence in the occupied territories. These included, in particular, some persons who might own property in the Akhlagori region of South Ossetia but might have moved for economic, educational, or other reasons before the conflict. Since there was some seasonal movement of persons to and from Akhlagori, where an individual was settled at the time of the conflict was at times difficult to establish. Various agencies, including the government, the UNHCR, and NGOs, employed different methods in estimating the number of IDPs.

The Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations continued to provide for IDPs, promote their socioeconomic integration, and create conditions for their return in safety and dignity.

The government took steps during the year to rehabilitate, purchase, or build new housing or offer cash payments in lieu of providing housing to IDPs from the conflicts in the early 1990s and 2008. Many IDP households, primarily those displaced in conflicts in the 1990s, nonetheless continued to live in substandard or squalid buildings and were in areas with insufficient access to services and economic opportunities. The public defender identified access to running water, heating in the winter, and unemployment as continuing problems for IDP households.

Abkhaz de facto authorities continued to prevent repatriation of the approximately 235,000 persons displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and the UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 45,000 of these IDPs, many working as seasonal laborers, returned to the Gali and Ochamchire regions of lower Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia. IDPs living elsewhere in Georgia were prevented from reclaiming homes in Abkhazia, based on a 2008 “law” that expropriated all “abandoned property” from 1992-93.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

On March 18, the Law on Refugees and Humanitarian Status entered into force, bringing the legal framework for asylum closer to international standards. Drafted in cooperation with the UNHCR, the law introduces a humanitarian status and

offers a complementary form of protection and improved provisions in the areas of the applicable refugee definition, procedural guaranties, family unification, and access to rights and services. However, the law still allows an admissibility procedure that permits authorities to deny registration of an asylum request *inter alia* due to health reasons, criminal prosecution in the country, or failure to meet administrative deadlines.

During the year Georgia approved only 12 of the 600 applications for asylum and refugee status, compared with 16 of the 150 applications in 2011. Of these, nine were Russian citizens. This was consistent with Georgia's practice in previous years.

Stateless Persons

The law provides for citizenship at birth if one or both parents are citizens. It also gives citizenship to children of stateless individuals born on the country's territory. The law provides that an adult may become a citizen if he or she satisfies the following requirements: (a) has permanently resided on the country's territory during the previous five years; (b) knows the state language; (c) is familiar with its history and laws; and (d) has a job or owns real estate on the country's territory, conducts business, or owns shares in a Georgian company or industry. A person seeking naturalization is expected first to give up any previous citizenship.

According to UNHCR, as of January, there were 1,569 stateless persons in the country, compared with 1,780 in 2011.

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

The constitution and law provide citizens with the right to change their government peacefully. However, the government's record in the conduct of presidential elections in 2008 and parliamentary elections during the year was mixed.

Elections and Political Participation

Recent Elections: The October parliamentary elections led to the first peaceful, democratic transfer of power in the country's post-Soviet history. OSCE observers found the elections constituted an important step in consolidating the conduct of elections in line with most OSCE and Council of Europe democratic election commitments, but some key problems remained to be addressed.

The election was competitive with active citizen participation throughout the campaign, including in peaceful rallies. However, harassment and intimidation of party activists, often ending in detentions and/or fines of mainly opposition-affiliated campaigners, marred the campaign. Other key problems highlighted by the OSCE final report included insufficient distinction between government activities and resources and the ruling party's campaign; shortcomings in the new election code, such as the disparity of population size among single-mandate election districts, which undermined the equality of the vote; and selective application of the new law on party financing, a law the OSCE stated contained "gaps, ambiguities and disproportional sanctions negatively affecting its implementation." The OSCE also reported voter lists significantly improved, although they still lacked a comprehensive and uniform address system. In addition officials did not communicate voter registration procedures for citizens abroad to potential voters in a clear and timely manner.

Both the election code and the law that regulates party and campaign finance underwent substantial amendments less than a year before elections. The new election code incorporated some but not all important recommendations by the OSCE and Venice Commission. The OSCE, NGOs, and other observers criticized the State Audit Office (SAO), the regulatory body charged with enforcing the new law on party financing, for failing to apply the law's provisions in a transparent and impartial manner. Fueling concerns about partisan enforcement, both the chair and the deputy chair of the SAO left to run as members of parliament for the UNM party, while the director's successor previously represented the UNM in parliament.

NGOs also reported multiple instances of the previous government's misuse of government institutional resources for political and electoral purposes, including the use of office equipment, Web sites, vehicles, facilities, junior civil servants, and other government-funded material or human resources belonging to governmental agencies to organize or support political events. Before the elections, NGOs documented cases in which public officials instructed employees to create lists of UNM supporters and threatened them with professional difficulties if they did not comply. In Lanchkhuti, the Freedom of Choice NGO coalition alleged that it retrieved a computer memory chip belonging to police officer Shmagi Uratadze that contained residents' personal data grouped into such categories as satellite dish owners, the local leader of the opposition who "supervises the supply of antennas," and persons employed by opposition leader Ivanishvili.

In response to complaints of preelection abuses, parliament passed a law in December 2011 establishing an interagency task force to address a number of problems associated with the campaign. The task force, composed of representatives of several government ministries, called for government agencies (including school principals) to halt unnecessary dismissals, asked the GPB television station to stop airing government-commissioned “social advertisements,” penalized the UNM party for misuse of government administrative resources, and called for the application of fines rather than detentions in response to the rash of arrests before elections. The OSCE noted that the task force’s nonbinding recommendations were implemented in a timely manner.

The OSCE reported politically balanced news coverage of the campaign by only one of eight monitored television channels, the GPB. While “Must Carry, Must Offer” provisions implemented in August enabled opposition television channels to access a broader audience through cable networks, this provision mainly benefited Tbilisi, where the vast majority of cable subscribers resided.

OSCE observers identified isolated cases of election day fraud, including seven instances of ballot box stuffing. The observers also noted procedural violations in the vote count in one-sixth of the polling stations observed. Election authorities annulled results for seven of 3,766 precincts nationwide and held repeat elections due to serious violations in those precincts. The Central Election Commission reported that two election commission members were charged with election fraud or election interference in various regions of the country for acts committed during the parliamentary elections.

Scattered instances of violence and intimidation also marred the postelection period. GD supporters protested results outside several district election commissions and allegedly physically assaulted the mayor of Marneuli, resulting in his three-day hospitalization.

Political Parties: There are no legal restrictions on political party formation beyond registration requirements, and the election code adopted in December 2011 allows an individual to run for office without party affiliation. According to the OSCE’s election report, freedom of association, assembly, and expression were respected overall during the preelection period, although instances of harassment and intimidation of party activists marred the campaign. Throughout the campaign, there were reports of detentions and arrests of party activists, mainly of

the GD. According to NGOs, authorities used the code to detain without adequate evidence at least 40 opposition members between September 19 and the October 1 parliamentary elections in violation of due process. The government claimed the arrests were in response to a sudden increase in minor offenses that appeared to be part of a deliberate strategy. However, the government's Interagency Task Force for Free and Fair Elections reported that, following its appeal for law enforcement officials to use less severe sanctions, the number of detentions of campaign activists notably decreased.

In what many NGOs alleged was political intimidation, the SAO opened an aggressive investigation of alleged campaign finance violations in March, summoning at least 260 individuals for questioning. Most of those summoned were linked to opposition parties. Interviews lasted up to six hours, attorneys in some cases were reportedly barred from the interrogation, and some individuals reportedly were required to strip to their underwear for "security searches." Some individuals who refused to report for the initial administrative summons reportedly were summoned for arrest. GYLA reported that the questioning went far beyond campaign financing and included questions regarding the subject's political views and at times were conducted in an intimidating manner. Some individuals claimed that authorities asked them to remove articles of clothing during questioning. The public defender confirmed that journalists' rights were restricted and individuals were not allowed legal representation.

Throughout the preelection period, the SAO levied unusually severe fines for illegal donations, most of which were levied on GD party affiliates. The government subsequently seized assets if the fine was not paid. The SAO fined Ivanishvili 74.3 million lari (\$44.7 million) in June and again in August fined him 20.2 million lari (\$12.1 million) for alleged campaign finance violations. In a similar case, Kakha Kaladze, who subsequently became minister of energy, was fined 16.9 million lari (\$10.2 million) for alleged campaign finance violations. GYLA commented that the SAO's decisions and subsequent court rulings in these cases lacked sufficient evidence and demonstrated substantial due process deficiencies. In another high-profile case in August, the government seized assets of all GD coalition member parties for nonpayment of a 2.4 million lari (\$1.4 million) fine levied in June.

The OSCE found that the SAO failed to implement the law transparently, independently, impartially, and consistently, and mainly targeted the opposition. It concluded in this regard, "questions were raised that challenged due process and

the independence of the judiciary.” The former government contended in some detail that the GD engaged in substantial violations of the campaign finance law.

NGOs reported a trend of officials firing opposition members and their relatives from their public sector jobs, before and after the elections, due to alleged politically motivated discrimination. In one high-profile case, authorities dismissed Paata Tushurashvili, the husband of GD spokesperson Maia Panjikidze, from the National Forensic Bureau on April 30. Tushurashvili, the director of the Chemistry Laboratory of the National Forensic Bureau since 2009, reportedly had never been cited or counseled for work performance. GYLA confirmed that, under the terms of his employment contract, Tushurashvili should have been counseled three times before being terminated. GYLA noted that Tushurashvili received a monthly bonus in April, the same period in which he reportedly made the error for which he was dismissed. In December, Tushurashvili filed a legal complaint challenging his dismissal, which was pending at year’s end.

In April the Civil Registry denied the request of then opposition leader Ivanishvili for naturalization, a decision GYLA stated was “not in line with legislation” and which many viewed as harassment of a political opponent. The government asserted that according to its Law on Citizenship, Ivanishvili lost his Georgian citizenship after acquiring French citizenship, despite his announced intention to renounce French citizenship upon receiving back Georgian citizenship. In May parliament adopted legislation that allows a Georgian-born citizen of an EU member state who lived in the country for the previous five years to run for parliament. The GD party and NGOs criticized the law as being tailored to allow Ivanishvili to run for office, and he declined to run for parliament under the provision. On October 16, following the parliamentary elections, President Saakashvili restored Ivanishvili’s citizenship, based on a portion of the law allowing him to grant Georgian citizenship based on “state interests.”

Following the October election of the new government, approximately 35 UNM mayors and chairs of city councils resigned. In some cases, the resignations appeared to be in response to protests by intimidating crowds of GD activists. The opposition alleged that this was an orchestrated attempt to change the leadership at the local level. The government denied this. Some reported they were forced to leave or face investigation from the financial police. At least one reported to have resigned voluntarily, reflecting the will of the people as expressed in the elections. There also were numerous instances where GD activists blocked local municipal buildings and police failed to arrest blockaders or provide protection to UNM city council members. Many NGOs considered the involvement of financial police to

audit local city council budgets a clear sign of the GD coalition's desire to consolidate its political base in the regions in advance of local elections in 2014. Local governments were vulnerable to charges of misuse of administrative resources in view of the opaque laws governing local and national spending.

Participation of Women and Minorities: There were 16 women in the 150-seat parliament elected on October 1, double the number in the previous parliament. One of the five vice speakers was a woman, as were the chairs of parliament's human rights and procedural committees. There were three women in the 19-member cabinet and three women on the 14-member Supreme Court.

While the election code provided financial incentives for parties to increase the number of women on their candidate lists, neither the UNM nor the GD parties met the voluntary quota required for increased government funding, although several smaller parties did. Several parties and blocs included members of national minorities in their lists and as majoritarian candidates, nominating them in districts where minorities formed substantial parts of the population.

There were three ethnic Armenians, three ethnic Azeris, and one ethnic Ossetian in the new parliament, but no minority members in the cabinet, Supreme Court, or Constitutional Court. Higher-level city managers included ethnic minority leaders.

The de facto authorities in Abkhazia continued to restrict the rights of citizens to vote and to participate in the political process through a "citizenship" law that forced ethnic Georgians to give up their Georgian citizenship to vote or participate in regional elections. Even those ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them in time to participate due to extensive delays. Ethnic Georgians in South Ossetia were also required to accept a South Ossetian "passport" and "citizenship" to participate in political life.

Abkhazia held de facto "presidential elections" in August, and South Ossetia did likewise in November. Neither contest was considered free and fair due to the large number of IDPs who were prohibited from voting. In South Ossetia public concerns about the integrity of the election results, including a seemingly biased decision by the de facto "supreme court" that disqualified the winner, led to public demonstrations and a political crisis that was settled through Russian mediation and a new election with new candidates.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government implemented the law effectively against low-level corruption. According to survey data, less than 1 percent of the population reported paying a bribe in the previous year to obtain a public service. However, allegations of high-level corruption persisted, and after parliamentary elections in October more than 25 high-level former government officials were indicted on corruption-related charges.

For example, on December 21, police arrested six individuals, among them three former senior government officials and business executives, on bribery, money laundering, forgery, and other corruption-related charges. The Prosecutor's Office claimed that in July, Devi Kandelaki, chief executive of electricity distributor Telasi, paid then energy minister Alexander Khetaguri \$1 million to avoid tax obligations. Nika Gvaramia, director of the Rustavi-2 television station and a former minister of both justice and education, was allegedly the attorney who arranged the deal. Gvaramia's associate, Giorgi Nemsitsveridze, former deputy minister of economy Kakha Damenia, and businessman Bela Gutidze were also charged in the alleged scheme. All six denied the charges and were released on bail awaiting trial on December 22.

NGOs and independent media raised concerns about the government's close connection to some businesses and a lack of transparency regarding their ownership structures, the conduct of bids on public projects, and major government expenditures. For example, GYLA reported that it was unable to monitor adequately the construction of the new parliament building in Kutaisi because the preelection government classified relevant information and failed to respond to GYLA's requests for data. Based on the preelection government's failure to release information on how the budget for the project was disbursed, GYLA concluded the transactions were likely corrupt. A report in December by the Institute for Development of Freedom of Information (IDFI) reported the new building cost \$196 million, substantially higher than originally estimated.

The prevalence of opaque business structures and the dominance of select markets by a few companies contributed to allegations of elite corruption and crony capitalism. The Economic Policy Research Center stated that elite corruption was marked by embezzlement of public money by public officials and abuse of official powers through government favoritism and internal deals. Transparency International's *Competition Policy in Georgia* reported that some segments of the country's market were highly concentrated and suggested the existence of cartel agreements or coordinated practices among economic agents. Some problematic markets identified included fuel, food, and pharmaceuticals. Transparency

International's *Georgian Pharmaceutical Market* report noted that the pharmaceutical market was best described as an "oligopoly and vertical monopoly of two companies that use their strong concentration of market power in the import/distribution, the retail, and the manufacturing sectors to dominate the market." Aversi Rational and PSP accounted for 90 percent of pharmaceutical manufacturing and were the largest import and distribution companies. Both companies also owned hospitals and insurance companies. PSP was owned by parliamentarian Kakhaber Okriashvili, who was a member of the Committee on Health Care and Social Issues and the Committee on Sectors of Economy and Economic Policy. The pharmaceutical companies Aversi Pharma, PSP Pharma, and GPC were among the largest contributors to the election campaigns of the UNM party, and were the beneficiaries of substantial public procurement contracts.

In other cases the preelection government reportedly used heavy-handed practices or leveled questionable fines against companies. Several owners of microfinance institutions felt compelled to accept plea bargain offers with extremely large fines during the year and in 2011. Prosecutors confirmed that the fines went directly into the government treasury, rather than to the victims of the offense as restitution, as required under the law. In one case a microfinance institution alleged unequal application of the law when its chairman, who refused to accept a plea bargain offer, was sentenced to almost a year of prison for abuse of authority. Observers noted that authorities prosecuted the conflict-of-interest charges against the companies without careful adherence to legal due process.

During the year the government adopted some measures to combat corruption. In January it established the Competition and State Procurement Agency, which was tasked with reducing anticompetitive practices and market power abuse, although it pursued no antitrust cases during the year. On May 8, parliament passed a free trade and competition law establishing basic regulations for competition policy.

The Prosecutor's Office took steps during the year to curb bribery, prosecuting 23 public officials for accepting bribes, all of whom were convicted. The Ministry of Justice's Inspector General's Office actively enforced internal ethics and disciplinary rules in the Prosecution Service.

The law requires public officials to submit yearly declarations of their and their family members' financial incomes and property for tax inspection, which are posted online. The Bureau of Declarations received the financial declarations, and the Prosecutor's Office investigated government corruption cases.

The law provides for public access to government meetings and documents; however, the government sometimes did not provide access. NGOs criticized April amendments to the information security law, which broaden the categories of classifiable information the government may withhold from disclosure. NGOs warned the law would be applied to public information, although the government noted that the law was intended to increase cyber security.

In the IDFI's field tests conducted in 2011-12, government agencies provided complete responses to 53 percent of its requests for public information. Executive government bodies refused to respond, ignored the request for information, or provided incomplete responses to 47 percent of its requests for public information. The IDFI reported that the Ministry of Internal Affairs, Ministry of Defense, Ministry of Corrections and Legal Assistance, and Ministry of Refugees and Accommodation completely ignored their 2011-12 field test requests for public information.

Although the law states that a public agency shall release public information immediately or no later than 10 days after receiving a request, agencies sometimes delayed release indefinitely. NGOs noted that a 100 lari (\$60) fee for court information was burdensome and limited the ability to access information. In addition the freedom of information law restricts third-party access to information on cases involving the government in international courts.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups in most cases operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs enjoyed close cooperation with the government, and officials were cooperative and responsive to their views, while others complained they had insufficient access to government officials and their views were ignored. Some NGOs also reported instances of official harassment.

The major human rights problems that caused tension between the government and NGOs were the torture and mistreatment of prisoners, harassment and intimidation of political party activists and supporters, dismissals for alleged political motivations, harassment of human rights defenders and journalists, the conduct of IDP evictions, lack of accountability for abuses, and a court system NGOs called "unresponsive" to human rights violations.

The Human Rights Center's October *Situation of Human Rights Defenders in Georgia* reported that attacks against human rights defenders "somewhat decreased" before the October parliamentary elections in Tbilisi, but that harassment of human rights defenders in the regions continued and was underreported.

UN and Other International Bodies: De facto authorities in Abkhazia allowed some international organizations, including several UN agencies, to operate on a limited basis, but only the ICRC had a specific human rights mandate. De facto authorities in South Ossetia allowed no international organization except the ICRC to operate on a regular basis, but a few organizations, including the Council of Europe and the OSCE, gained extremely restricted and intermittent access, also without a human rights mandate.

Government Human Rights Bodies: NGOs continued to view the Public Defender's Office, which is mandated to monitor human rights and investigate allegations of abuse, as the most objective of the government's human rights bodies. The public defender's authority does not include the power to initiate prosecution or other legal actions, but he can recommend action, and the government must respond. The office generally operated without government interference and was considered effective. However, the public defender reported that the government often responded partially or not at all to inquiries and recommendations. During the year the Office of the Public Defender repeatedly requested copies of criminal case materials from the Office of the Chief Prosecutor. However, before the October elections, the public defender never received such copies.

The public defender has the right to make nonbinding recommendations to law enforcement agencies to investigate particular human rights cases. The public defender must submit an annual report on the human rights situation for the calendar year, but can make periodic reports as the office deems necessary. Government offices must respond to all requests for information from the Public Defender's Office within 10 days. The office may not report on torture unless the victim gives clear consent. De facto authorities in the occupied territories did not grant the office access to those territories. The parliamentary Committee on Human Rights and Civil Integration, the Ministry of Internal Affairs' Human Rights Division, and the National Security Council's human rights advisor had mandates to investigate claims of abuse.

By law the prosecutor general is charged with protection of human rights and fundamental freedoms. The Human Rights Unit of the Office of Chief Prosecutor monitored overall prosecution and supervision of compliance with national and international human rights standards. The unit reviewed statistical and analytical activities within the prosecution system and was responsible for considering and responding to human rights recommendations of national and international human rights institutions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status. However, the government did not always enforce these prohibitions effectively.

Women

Rape and Domestic Violence: Rape is illegal, but spousal rape is not specifically addressed by criminal law. Criminal cases of rape generally could be initiated only after a complaint by the victim. A first-time offender may be imprisoned for up to seven years; a repeat offender or perpetrator of rapes of multiple victims may receive up to 10 years' imprisonment. If the victim is, or becomes, pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years. If the victim is a minor in any of these cases, the sentence may be increased up to 20 years. During the year investigations were initiated in 81 rape cases, compared with 126 in 2011. Observers believed many instances of rape were unreported due to the social stigma for victims and because police did not always investigate reports of rape.

Domestic and other violence against women were problems. NGOs believed cases were underreported. According to Ministry of Internal Affairs' statistics, 316 domestic violence cases were reported to police during the year. However, the public defender reported that inadequate police response often led to secondary traumatization of victims. In 80 percent of domestic violence cases addressed to the public defender, the police response was limited to issuing warnings and initiating preventive supervision, which provided no actual protection from a recurrent abuse.

In June parliament passed a domestic violence statute, which raised domestic violence from an administrative to a criminal offense. Domestic violence is legally defined as a violation of the constitutional rights and liberties of one member of a

family by another through physical, psychological, economic, or sexual violence or coercion. The law allows victims to seek immediate protective orders from courts against domestic abusers and authorizes police to issue temporary restraining orders against persons suspected of abusing a family member. Restraining orders were issued in all domestic violence cases reported to police during the year, and courts issued 60 protective orders. A court must approve a restraining order within 24 hours of a victim's application. Such orders prohibit the abuser from coming within 310 feet of the victim and from using common property, such as a residence or vehicle, for six months. A victim may request an unlimited number of extensions of a restraining order. The first violation of a restraining order results in an administrative fine, but a second offense is punishable under the criminal code. However, NGOs reported police avoided charging suspects with a second offense due to increased criminal accountability.

During the year the Ministry of Justice trained staff in the victim/witness coordinators program initiated in 2011 to improve services to victims of domestic violence and sexual assault. In May offices were opened in Telavi, Zugididi, and Gori. The goal of the program was to increase victim willingness to report assaults, provide victims with legal and medical assistance, and follow through with prosecution of offenders.

NGOs reported that police use of the national referral system for victims slightly improved during the year, although police officers reportedly continued to be reluctant to write restrictive orders when appropriate. During the year Tbilisi police patrol inspectors, regional police officers, and prosecutors received domestic violence-related training.

Local NGOs and the government jointly operated a hotline and shelters for abused women and their minor children, although space in the shelters was limited. There were two government-run and two NGO-run shelters for domestic violence victims. All adhered to the same standardized regulations and generally provided the same services. The total capacity of the shelters was 56 women. There were no facilities or support services available for men. There were some complaints that the hotline could not be called toll free from a cellular phone. Shelters included crisis centers that offered domestic violence victims psychological, medical, and legal assistance. The State Fund, an interagency government department that worked with NGOs on gender-based problems, reported that 1,681 consultations were conducted by telephone or in person during the year. The State Fund reported that the shelters hosted 38 women and 52 minor children during the year.

The government/NGO Interagency Council on Gender-based Issues continued a public awareness campaign to publicize the domestic violence hotline, coordinate domestic violence training in partnership with the Prosecution Service and police, and maintain the two government-run domestic violence shelters.

Harmful Traditional Practices: Kidnapping of women for marriage occurred in ethnic minority areas and communities but was very rare. Such kidnappings reportedly often were arranged elopements. Police rarely took action in these cases, although the law criminalizes kidnapping.

Sexual Harassment: Sexual harassment of women in the workplace was a problem. The law does not explicitly prohibit sexual harassment, and authorities rarely investigated complaints.

Reproductive Rights: Couples and individuals have the legal right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, or violence.

Discrimination: The law provides for the equality of men and women but was not always implemented in practice. NGOs stated that discrimination against women in the workplace existed, and instances were underreported. The Gender Equality Law provides for the establishment of a national women's council, enhancement of women's security, equality in the labor market, and strengthening of women's political participation. The law also introduced gender-responsive planning and budgeting on the part of the government. The National Action Plan on Gender Equality outlines plans for the years 2011-13 to ensure that gender equality is a key consideration in fundamental areas of society, including health and social protection, education, economics, security, political participation, and environmental protection. In April the government created an interagency working group to harmonize Georgian law with the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence. The Public Defender's Office monitored gender equality cases.

Although some observers noted continuing improvement in women's access to the labor market, women remained primarily confined to low-paying and low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. According to the World Bank's *Gender Equality and Development 2012* report, women in the country earned on average

60 percent as much as men engaged in similar work. As a result, many women sought employment outside the country.

Gender-biased Sex Selection: According to a 2011 report by the Parliamentary Assembly of the Council of Europe, the gender ratio of children born in Georgia was 112 boys for every 100 girls. The skewing of the gender ratio was particularly acute for the birth of a woman's third child, but neither the public nor the medical society considered sex selection to be a serious problem. Few civil society organizations in Georgia were aware of the problem of gender-biased sex selection or engaged in public education campaigns or other efforts to address the apparent societal bias in favor of male children.

Children

Birth Registration: The law provides for acquisition of citizenship by birth on the country's territory. It applies to children of stateless individuals. According to statistics from UNICEF, the births of 97 percent of children under age five were registered.

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

Education: The quality of education fluctuated greatly between urban and rural areas and between Tbilisi and the regions. Children of noncitizens often lacked the documentation necessary for school registration, impeding registration in some cases.

The public defender and several NGOs reported that the Ministry of Education violated a child's right to an education by expelling him from school without evidence of a disciplinary violation in 2011 and subsequently failing to provide alternative educational opportunities during the year.

The quality of education in the occupied regions of Abkhazia and South Ossetia, outside of the government's control, was reportedly poor. In rural areas school facilities were often inadequate and lacked heating, libraries, and blackboards.

Child Abuse: There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. According to the Ministry of Justice, 18 cases of rape and three cases of sexual abuse involving violence were reported during the year.

Authorities referred children who had suffered abuse to the relevant community and government services in coordination with stakeholders, including police, schools, and social service agencies. UNICEF reported that referrals increased 40 percent during the year. According to the Public Defender's Office, during the year 25 cases of child abuse were reported, of which 11 involved physical abuse and 14 involved neglect and emotional abuse. However, UNICEF's December *Analysis of the Child Protection Referral Procedures* noted that response by school professionals, police, and social workers to reported cases of violence against children was often inadequate due to cultural inclinations to avoid interference in family affairs.

Child Marriage: The legal minimum age for marriage for both men and women is 18, although some exceptions were authorized at 16. According to UNICEF data, 14 percent of women between the ages of 20 and 24 were married or cohabitating with a partner before they were 18.

Sexual Exploitation of Children: Commercial sexual exploitation of children and child pornography are punishable by up to three years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation. According to the Ministry of Internal Affairs, the number of exploitation cases was very small.

The law includes an explicit statutory rape provision that classifies sexual intercourse with a juvenile as rape. Other sexual crimes carry increased levels of punishment if the victim is a juvenile. The criminal code prohibits sexual intercourse with juveniles under the age of 16, provided the perpetrator is shown to be aware of the age of the victim. The penalty for violating the law is imposition of a fine and incarceration for up to three years.

Displaced Children: Difficult economic conditions contributed to the problem of street children, although the number was not considered high and decreased yearly. UNICEF estimated that approximately 1,500 children lived and worked in the streets in the country's cities. The Ministry of Labor, Health, and Social Affairs operated a shelter in Tbilisi and, according to the Public Defender's Office, hosted 180 children during the year. The office reported a lack of information about street

children and noted inadequate resources were devoted to them. In November 2011 the government created an interagency committee composed of representatives of several ministries and UNICEF to address the problem better.

There were unconfirmed reports that police harassed street children. Patrol police routinely transferred street children to 24-hour care centers, which lacked resources for treatment and rehabilitation of the children, many of whom were substance abusers or suffered from mental disorders.

The government continued its efforts to replace large-scale orphanages with smaller foster parenting arrangements. According to government statistics, the number of institutionalized children decreased from an estimated 5,000 in 2000 to 163 during the year, and only five large orphanages--three of which were for children with disabilities--remained open. By year's end 33 percent of previously institutionalized children were reintegrated with biological families, 960 placed in foster care, and the number of small group homes housing 350 children increased from 37 to 45. The government also continued to provide higher education grants for institutionalized and foster care children, including full coverage of tuition and a stipend, and provided emergency assistance to foster families.

The conflicts in Abkhazia and South Ossetia displaced thousands of children. Even before the conflicts, UNICEF reported that health services in both regions were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish community was estimated to be 8,000.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other government or private sector services. However, the government was not effective in enforcing these provisions. Discrimination, including social, educational, and employment discrimination, against persons with disabilities was a problem. Most schools did not provide appropriate educational services because of a lack of qualified instructors.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. However, very few public facilities or buildings were accessible, although notably the presidential residence, the Ministry of Internal Affairs, Ministry of Justice, Ministry of Education, and Office of the Public Defender's buildings complied with the law. Public and private transportation offered no accommodation for persons with disabilities. Sidewalk and street crossing accessibility was poor.

In the 2011 *Situation of Human Rights and Freedoms in Georgia* report, the Public Defender's Office noted that infrastructural and institutional barriers created insurmountable difficulties for persons with disabilities. The report stated that access to medical care was especially problematic because many individuals with disabilities were unable to work yet did not qualify for government-subsidized health care. For example, one family applied to the public defender for assistance after the Ministry of Health determined their ownership of a used vehicle disqualified them for government-funded health care. The family asserted the car was necessary for transporting their two children with muscular dystrophy. The family later notified the public defender that one child died from pneumonia because it could not afford hospital treatment.

Nine major committees in the country evaluated children with disabilities and assisted with their integration in schools. Four early intervention centers for children with disabilities were managed by NGOs and partially funded by the government for the most vulnerable children. Only three large orphanages for children with disabilities remained open at the end of the year. A pilot program through the Ministry of Education integrated 100 children with special needs in physical education and sports classes in five public schools in Tbilisi.

National/Racial/Ethnic Minorities

The incoming government included in its leadership several figures who reportedly engaged in xenophobic, racist, and anti-Muslim statements. Murman Dumbadze, the deputy speaker of parliament and a GD coalition party member, made anti-Muslim and anti-Turkish statements during the campaign for the October parliamentary elections. For example, he said one of his political opponents "...is not of Georgian origin. He doesn't understand what Georgia is." In April Dumbadze also organized rallies against the proposed construction of a mosque in Batumi. Protesters alleged the proposed site was near the gravesite of Georgians killed while attempting to end the short-lived Turkish occupation of Batumi in 1921. Although the local mufti expressed flexibility with regard to the location, plans for construction were withdrawn.

Shortly after his nomination, several NGOs accused IDP minister Davit Darakhvelidze of making xenophobic statements during the campaign. In a video posted on the Internet, Darakhvelidze, referring to Ivansihvili's citizenship troubles, stated "every Negro you meet in Tbilisi is a citizen, Indian and Chinese as well," and later stated, "Georgia must be for Georgians." Darakhvelidze claimed his remarks were taken out of context and misinterpreted, admitted that he used politically incorrect language, and apologized for any offense his comments might have caused.

On October 5, Prime Minister Ivanishvili stated, "I would like to note that all citizens of Georgia are equal irrespective of their ethnic origin. This is guaranteed by the Constitution of Georgia and it is also my personal belief."

The public defender's *Monitoring Results of Implementation of the National Concept and Action Plan on Tolerance and Civil Integration*, which covers the period 2010 to February 2012, reported few minorities involved in the executive branch of government, political parties, and civil society.

Georgian-language skills continued to be the main impediment to integration for the country's ethnic minorities; political, civic, economic, and cultural obstacles to integration also remained. Some minorities claimed that the law requiring all government officials to speak Georgian excluded them from participating in government. The Public Defender's Office continued to note lack of minority political participation in parliament and executive bodies in its 2011 *Situation of Human Rights and Freedom* report. The public defender's report also noted an insufficient number of Georgian-speaking government administrators in minority regions. In addition some government materials distributed to the public were only available in Georgian. While the Ministry of Reintegration asserted it translated all

major legislative acts into Armenian, Azeri, and Russian, a civil society watchdog group reported that, aside from the constitution and the National Concept on Tolerance and Civil Integration, only abstracts of a limited number of laws were translated into minority languages.

Ethnic Armenians, Azeris, Abkhaz, South Ossetians, and Russians usually communicated in their native languages or in Russian in the areas where they were the dominant ethnic groups. The law requires that ethnic minority students learn Georgian as a second language. The government continued to provide education in the state language and minority languages in minority regions. However, no textbooks in Armenian or Azeri followed the national curriculum, making it difficult for students in minority-language schools to pass high school graduation exams. The Council of National Minorities also reported insufficient qualified teachers in minority-language schools.

Some schools reportedly continued to display Georgian Orthodox religious objects, resulting in complaints from several ethnic minority families. Members of the Muslim community reported some educational texts treated historic religious accounts and figures disrespectfully.

Many NGOs in minority regions claimed an improvement during the year in the number of opportunities for Georgian-language instruction and in the quality of classes. According to the *Situation of Human Rights and Freedom* report, the Ministry of Education and Science since September 2011 has implemented a program to promote Georgian-language learning at eight preschool centers in ethnic minority regions, providing textbooks and additional educational materials for children. The government also introduced bilingual textbooks in 40 pilot public schools in minority regions. However, approximately 30 percent of the text was only in Georgian, and many students and some teachers were unable to understand some of the content. The Public Defender's Office criticized the government for not adequately funding a multilingual education program.

Both geography and language barriers limited ethnic minorities' access to information. The *Situation of Human Rights and Freedom* report noted limited access to national television news in ethnic minority languages. The GPB produced only 15-minute news programs in minority languages and was criticized for lack of news coverage in minority regions. In October the GPB terminated its contract with Russian-language PIK TV. Local government officials in Samtskhe-Javakheti voiced concern that the lack of significant Georgian news programs in minority languages alienated many members of national minority communities.

The law permits the repatriation of Muslim Meskhetians, a national minority group that Stalin deported in 1944. More than 5,800 Meskhetians filed for repatriation by the beginning of 2010. More than 150 returned unofficially over the previous three years, quietly settling in Akhaltsikhe and Abastumani. At year's end 864 applications were approved, although no repatriations occurred due to the long and complicated process. The Public Defender's Office criticized the review process, noting that 90 percent of applicants were officially denied because of an inability to provide documents proving their ancestors were deported in 1944, and that many applicants were unable to afford translation of their Russian-language documents into either Georgian or English, as required. Approximately 25 families in Samtskhe-Javakheti region and 11 families in Gori in the Shida Kartli region resided in the country illegally due to lack of required legal documents. According to the NGO Toleranti, these individuals lacked access to education, medical assistance, property registration, and employment opportunities due to the lack of legal documentation.

The European Center for Minority Issues (ECMI) reported that Roma appeared to suffer from widespread societal prejudice and marginalization and that the government needed to do more to integrate Roma. The ECMI estimated the Romani population at 1,500, with no more than 300 in any one location. The most recent census, conducted in 2002, reported the number of Roma at 472. Roma were found principally in the Tbilisi, Kutaisi, Kobuleti, Kakheti, and Sukhumi regions. The ECMI reported that the Romani community suffered from extreme poverty, unemployment, lack of education and health care, and isolation from larger society.

Ethnic Georgians living in the Gali district of Abkhazia had no legal access to education in the Georgian language. In practice, instruction in Georgian occurred but with limitations. Teachers who did not speak Abkhaz instructed students in Georgian but were often harassed by Abkhaz de facto authorities, who also did not provide funding for teachers of Georgian. Local communities had either to pay for teachers themselves, make arrangements for teachers to cross from undisputed Georgian territory to teach, or send their children from Abkhazia for Georgian-language lessons. An increasingly strict boundary regime imposed by Russian border guards made the latter two alternatives more difficult. There were reports of Russian border guards detaining children attempting to cross the boundary for language lessons.

The government took several steps to integrate ethnic minority communities through Georgian-language instruction, education, and participation in several programs seeking to promote civic, cultural, and economic integration of minorities. The GPB produced a limited number of television shows that celebrated traditions and cultures of ethnic minorities. Access to higher education improved, as did transportation infrastructure to high-minority-population areas, and several government agencies actively participated in civic integration programs. The Zurab Zhvania School of Public Administration in Kutaisi provided courses specifically for students from minority areas and facilitated integration of future public servants from minority areas into Georgian society.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There is no single antidiscrimination law; however, the constitution provides for fundamental equality before the law and antidiscrimination provisions are outlined in a variety of laws or regulations. On March 27, parliament amended the criminal code to make racial, religious, sexual orientation, or other bias motives of an offender an aggravating factor for all crimes in Georgia.

Social prejudices against LGBT persons were strong, and the Georgian Orthodox Church strongly condemned same-sex sexual activity. Few LGBT organizations worked openly because of the extensive societal stigma against LGBT persons. Problems reported included police mistreatment, family violence, and verbal and physical societal abuse. According to Identoba, an LGBT advocacy and support NGO, victims of discrimination and violence were reluctant to report incidents to police due to fear of disclosing their sexual orientation to family members and homophobic reactions by police.

Police were slow to protect the right to peaceful assembly at a May 17 march in downtown Tbilisi in observance of International Day against Homophobia and Transphobia. Demonstrators held a permit issued by Tbilisi city authorities and initially received police escort. However, police failed to respond when members of the group Union of Orthodox Christian Parents surrounded the demonstrators, blocked their path, tore their posters, and trampled their flags. Only when a demonstrator's reaction to provocations prompted a fistfight did police intervene to detain three demonstrators and two priests briefly.

During the election campaign political candidates frequently used homophobic speech to discredit their opponents. For example, before the October elections

current vice speaker of parliament Murman Dumbadze stated, “Gays are sick people and they need medical treatment more than participation in elections... National Movement now has to fight for the votes of gays; they have no one else left...”

Other Societal Violence or Discrimination

NGOs reported that social stigma resulted in individuals avoiding testing and treatment for HIV/AIDS. Some health-care providers, particularly dentists, refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers due to fear of losing their jobs. The public defender identified an emerging HIV/AIDS epidemic concentrated in high-risk groups

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law and related regulations and statutes protect the right of all workers, including government employees, to form and join independent unions and to strike and bargain collectively. The law also prohibits antiunion discrimination. However, the law places several restrictions on these rights, and certain provisions limit the mechanisms available to workers for the exercise of these rights. For example, the law permits a court to suspend the activity of a trade union if the union stimulates social conflict. The law also restricts the right of employees of law enforcement agencies, medical doctors, firemen, personnel of the Prosecutor General’s Office, and the employees of certain ministries (for example, defense) to form and join unions and to strike.

Legislation passed in June lowered the number of members needed to establish and operate a trade union from 100 to 50, a reform recommended by the International Labor Organization (ILO).

The law permits strikes only in cases of disputes in which a collective agreement is already in place. June amendments to the labor code removed the 90-day limit allowed for strikes. According to trade unions, the law does not establish a coherent process for commencing legal strikes. Violators of strike rules can face up to two years in prison.

Although the law prohibits employers from discriminating against union members or union-organizing activities in general terms, it also allows employers to terminate employment at will and without cause, providing a pretext to fire employees on discriminatory grounds or for union activism. The law does not explicitly require that workers dismissed for union activity be reinstated.

Employers are not obliged to engage in collective bargaining, even if a trade union or a group of employees wishes to do so, and may conclude collective agreements with nonunionized workers even if a trade union exists.

The government frequently did not respect the right of workers to form and join independent unions, to strike, or to bargain collectively, particularly before the October parliamentary election. The government also failed to enforce effectively laws that prohibit antiunion discrimination. There were no effective penalties or remedies for the arbitrarily dismissed employees. Labor unions, the ILO, and the AFL-CIO reported the preelection government's actions indicated a deliberate effort to deny workers the right to freely associate, organize, and collectively bargain in both the private and public sectors. Legal disputes regarding labor rights were subject to lengthy delays.

The Educators and Scientists Free Trade Union of Georgia (ESFTUG), a teachers' union, the National Railway Association Worker's Union, the Health Care Workers Union, the Trade Union of Public Servants, the Trade Union of Communication Sector Workers, the Trade Union of the Workers of the Energy Sector, and the Trade Union of Art Workers reported government interference with union activity during the year, largely before the election. The government also continued to interfere with unions' ability to collect dues. The government did not permit the ESFTUG, the National Railway Association Worker's Union, or the Health Care Workers' Union to deduct union members' dues from paychecks, a practice known as the check-off system. The railway and teachers' unions both had valid collective agreements with the government requiring check-off. The government also restricted the ESFTUG from collecting dues through bank transfers and prohibited union meetings in schools. In contrast, the Professional Educational Syndicate (PES), a parallel government-created union, was permitted to use the check-off system, and its representatives were allowed to hold meetings with teachers in schools. The restrictions on ESFTUG's ability to hold meetings and collect dues seriously impaired its ability to function.

The government also interfered with internal ESFTUG elections. After an 18-month delay, the 2010 case brought by PES members challenging the unanimous

election of ESFTUG president Maia Kobakhidze was decided in Kobakhidze's favor in April. The PES members continued to appeal the case at year's end.

Employers in both the public and private sectors frequently refused to bargain and often failed to fulfill their obligations under existing collective bargaining agreements. After the privatization of health-care institutions, the new owners of hospitals and clinics declined trade union offers for dialogue and terminated 15 existing collective bargaining agreements; no new agreements were signed by year's end.

The Tripartite Commission, a body created to facilitate dialogue between employers, workers, and the government, met regularly. However, the AFL-CIO reported that the commission did not resolve any labor problem in the 2½ years of its existence. Despite a growing number of labor disputes, in September the AFL-CIO reported that the government did not cooperate with efforts of the ILO or the Georgia Trade Unions Confederation (GTUC) to establish a mechanism to mediate between employers and trade unions. However, after the parliamentary elections the new government met regularly with union leaders and worked to revive the tripartite process. Union leaders reported strong cooperation on efforts to amend the labor code to address problems involving freedom of association and collective bargaining.

The GTUC and its national unions continued to report cases of company management warning staff not to organize trade unions and of employee dismissals for union activity. For example, in a meeting in August with employees of the Samtredia railroad station, the former general director of the JSC Georgian Railway (a government-owned company), asked employees if they were members of the trade union, adding that he would not tolerate union activity and advising them to relinquish membership.

During the year the telecommunications company Silknet dismissed the chairs of 19 trade union committees in Tbilisi and throughout the country. The dismissed union members were not given reasons for their dismissals or reinstated by year's end, and the Tripartite Commission did not respond to a July letter from the Trade Union of Communication Sector Workers of Georgia requesting that it review the case. Four additional union members were dismissed after July.

Workers generally exercised their right to strike in accordance with the law, but strikes were rare before October elections. On September 10, 40 railroad workers in Kutaisi conducted a one-day strike. The general director of the railroad

prohibited them from speaking with the GTUC. After elections, both unionized and nonunionized employees of at least 16 different companies staged strikes demanding significant increases in salaries, improved work conditions, adjustments to overtime pay and bonuses, reinstatement of workers previously fired, and in some cases the right to form a union.

Before the October elections the practice of collective bargaining was not widespread, and labor union leaders alleged employers used short-term contracts to avoid hiring workers with bargaining rights. In the private sector, 80-90 percent of contracts were short-term contracts of two to three months, although workers often worked several consecutive years under such contracts.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government took some measures to enforce the law. However, country experts reported that a lack of labor inspectors and weaknesses in the government's labor code contributed to workers' vulnerability to abuse and forced labor.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Child labor was uncommon. In most situations the minimum legal age for employment is 16. In exceptional cases, children may work with parental consent at the age of 14. Children under the age of 18 may not engage in unhealthy or underground work, and children between the ages of 16 and 18 are subject to reduced working hours and prohibited from working at night. The law permits employment agreements with persons under the age of 14 in sports, arts, cultural, and advertising activities.

During the year the Ministry of Labor, Health, and Social Affairs and the Public Defender's Office reported receiving no complaints concerning child employment, although no single government entity is responsible for investigating allegations involving child labor unless there is evidence that a crime has been committed. The government does not have an agency responsible for monitoring workplaces for violations of child labor laws.

An interagency committee composed of representatives of several ministries and UNICEF to address problems of street children better took some action during the year, including establishing mobile outreach teams staffed by social workers.

Although recent data were not available, a 2007 survey estimated that 77.4 percent of working children were employed intermittently on family farms, while 18.4 percent worked in family enterprises. The International Trade Union Confederation reported that children living in rural areas were slightly more involved in child labor.

The most visible form of child labor was street begging in Tbilisi. In his 2011 report, the public defender noted that there were no official statistics on the number of children living or working on the street. However, he reported most street children lacked legal documents and were thereby excluded from medical care, education, and other government benefits.

Many children under the age of 16 worked and performed chores on small, family-owned farms in rural areas. In most cases this work was not abusive or categorized as child labor. However, in some ethnic minority areas, family farm obligations reportedly interfered with school attendance. Some observers suggested that school participation by ethnic minority children was especially low. Some families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there is also a significant ethnic Azeri population) worked on distant pastures for six to nine months a year, meaning that their children seldom attended school. Estimates of the number of children affected were not available.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The monthly minimum wage for public sector employees is 115 lari (\$69). The minimum wage for private sector employees is 90 lari (\$54) per month. The official subsistence income level is 138 lari (\$83) for the average consumer and 276 lari (\$166) for a family of four.

The law provides for a 41-hour workweek and a weekly 24-hour rest period unless otherwise determined by a labor contract. Shifts must be at least 12 hours apart. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. Overtime is defined as work that exceeds the

workhours specified in a worker's employment agreement. If the employment agreement does not specify business hours, then overtime is considered to be performance exceeding 41 hours of work per week. Terms of overtime labor are defined by agreement between the parties. The law permits an employer to change the hours of work by 90 minutes without renegotiating the terms of any labor agreement. NGOs contended that this provision would effectively require employees to work overtime without compensation, a violation of the constitutional prohibition against compulsory labor. The law does not explicitly prohibit excessive overtime.

The government set occupational health and safety standards, but the AFL-CIO cited the failure to ensure safe conditions for workers as one of the major deficiencies in the implementation of the labor code.

No government body is responsible for workplace monitoring, and there are no government labor inspectors. As such, the government did not effectively enforce the law in either the formal or the informal sectors. The Technical and Oversight Inspection Agency had some inspection responsibility, but only for occupations classified as hazardous. The agency has no jurisdiction over labor law violations or workplace disputes and can only inspect for safety violations after accidents occur or in cases of immediate threat. A significant number of workers were employed in the informal economy.

The government did not provide statistics on workplace deaths. The mining and construction sectors were especially dangerous. For example, a construction worker died after scaffolding collapsed at the construction site of the new parliament building in Kutaisi on June 7. The Ministry of Health and the construction company initially denied that an accident had occurred. Authorities subsequently arrested the construction site manager for failure to provide safety protection for employees.