

## Georgia<sup>1</sup>

### **IHF FOCUS: elections; freedom of expression and the media; torture, ill-treatment and police misconduct; freedom of religion; asylum seekers.**

In November 2003, the 12-year-long regime of Eduard Shevardnadze, often criticized as undemocratic, was ended by the “Rose Revolution,” as the change of power was called by leaders of the mass demonstration that led to his ousting. Shevardnadze, a former soviet politburo member and KGB general, had come to power through a *coup d’etat* in 1992. His regime was marked with ethnic conflicts, a civil war, human rights violations, the suppression of political opponents, high rates of criminality and corruption and widespread poverty.

Hope for the future democratic development of Georgia combined with hope to overcome the old regime’s legacy were strong given the peaceful end of Shevardnadze’s era, the strong international support for the new government and the well-developed civil society institutions in the country.

On 22 November, following weeks of protests demanding Shevardnadze’s resignation, Mikheil Saakashvili, Shevardnadze’s former protégé and the leader of the opposition National Movement (EM), led a group of protestors into the parliament while security forces escorted Shevardnadze out of the building. Opposition loyalists announced that they no longer recognized President Shevardnadze’s authority. Shevardnadze denounced the action as an attempted coup.

The opposition’s takeover of parliament pre-empted an attempt by Shevardnadze to convene the largely pro-president legislature on the basis of the official 2 November parliamentary election results, which had been rigged. An independent parallel vote count indicated that the opposition National Movement had received most votes, and that the opposition parties had outperformed pro-government forces by a significant margin.

While Nino Burjanadze, an opposition leader and speaker of the outgoing parliament, assumed presidential authority pending new elections, Shevardnadze sought to rally the army and Interior Ministry troops to his side. He announced a state of emergency on state television, and indicated that defense and Interior Ministry forces could be used to restore order. A large percentage of those forces, however, were already on Mikheil Saakashvili’s side. Saakashvili refused to negotiate with Shevardnadze. Eduard Shevardnadze announced his resignation on 23 November.

Georgian NGOs played an important role in developments following the November elections and in Eduard Shevardnadze’s peaceful departure. Two Georgian NGOs in particular, the Liberty Institute and the student-led association Kmara, led aggressive get-out-the-vote efforts before the 2 November elections and used their organizations to keep protests steady and visible afterwards. Shevardnadze criticized them for siding with Saakashvili and the rest of the opposition. He particularly criticized the Open Society–Georgia Foundation and philanthropist George Soros for allegedly helping to foment the anti-government protests.

On 4 January 2004, new presidential elections were held, with Saakashvili winning with an overwhelming majority. Officially, the voter turnout amounted to 83%, of whom 96% voted for Saakashvili.

Soon after taking office, President Mikheil Saakashvili declared measures for the implementation of far-reaching political and economic reforms in Georgia. The fast pace of these triggered criticism that he was embracing anti-democratic methods in order to promote democracy. These measures included constitutional changes that allegedly enhanced executive authority at the expense of the legislative and judicial branches of government.

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<sup>1</sup> Unless otherwise noted, based on information received by the IHF and its affiliate, the Caucasian Centre for Human Rights (Caucasia).

The human rights record of Adjara, an autonomous republic headed by Aslan Abashidze since 1991, remained poor. Reports were received particularly about violations of freedom of the press and freedom of association. Since the change of power, tensions rose between the central government and the Adjara authorities, and at times escalation towards armed conflict threatened. The Adjara authorities detained and harassed political activists aligned with the central government who had campaigned against the local government. Beatings, detentions and harassment of those critical of Abashidze and his government continued. The Adjara authorities continued to refuse to release Tengiz Asanidze, a political prisoner pardoned in 1999 by then-President Shevardnadze.<sup>2</sup> At the end of January 2004, in a positive move however, the Adjara government permitted the Rustavi-2 television station to broadcast again after a long-standing ban. Rustavi-2 was renowned for its support of the “Rose Revolution.”

## Elections

Elections were held on 2 November to elect a new parliament under President Shevardnadze until the expiration of his mandate in April 2005. Despite a new Unified Electoral Code and several attempts during the first half of the year by international organizations, notably the OSCE/ODIHR and US envoys, to ensure a democratic process, the elections fell short of a large number of internationally accepted standards for democratic elections.

In July, following the failure of parliamentarians to agree on the composition of the new Central Election Commission (CEC)<sup>3</sup>, the US government envoy James Baker submitted a proposal to divide up the seats of the CEC amongst all parties. This proposal and subsequent drafts were criticized for favoring pro-presidential parties and opposition parties held protests outside parliament demanding both more seats on the CEC and the resignation of Shevardnadze. Consequently members of the CEC resigned. Amendments to the proposal were finally accepted in August and the CEC was reinstated. OSCE/ODIHR who monitored and assisted with the pre-election process stressed that preparations for the elections were seriously hampered by continuing uncertainties in the run-up to the elections.<sup>4</sup>

There was intense confusion over voter lists also. In July the Ministry of the Interior submitted amended updates of electoral rolls to be computerized by the CEC. These were found to omit up to 10% of the population and to include names of dead and fictitious people. Criticism of the electoral rolls in the run-up to the elections led authorities to permit citizens to appeal and several lists were changed. However, public confidence remained low and many citizens felt that there was no point in voting at all. According to a poll of 600 people in Tbilisi published by the weekly, *Kviris Palitra*, 25% of respondents said they would not protest if they found they had been omitted from the lists as they felt the outcome of the election was predetermined.<sup>5</sup> There were also cases of intimidation and misuse of state-owned resources by the pro-government For a New Georgia (AS) bloc.

During election day the International Election Observation Mission (IEOM), composed of experts from the OSCE/ODIHR, OSCE Parliamentary Assembly, European Parliament and the Parliamentary Assembly of the Council of Europe, recorded instances of ballot stuffing, multiple voting, use of pre-marked ballot boxes and destruction of ballot boxes. Problems were particularly acute in the Adjara and Kvemo Kartli regions, where turnout data was also highly doubtful. In Adjara, the authorities claimed 289,000 registered voters, (an increase of 22% compared to 2000) of whom 97% voted for the pro-presidential party Union of Democratic Revival. According to the findings, some members of precinct and district election commissions were directly involved in producing

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<sup>2</sup> Human Rights Watch, *Agenda for Reform: Human Rights Priorities after the Georgian Revolution*, 24 February 2004, at [http://hrw.org/english/docs/2004/02/24/georgi7650.htm#P127\\_21017](http://hrw.org/english/docs/2004/02/24/georgi7650.htm#P127_21017).

<sup>3</sup> See <http://www.cec.gov.ge/saparlamento2004/newsENG.HTML>

<sup>4</sup> OSCE/ODIHR Election Observation Mission, *Post-election Report 3-25 November 2003*, at <http://www.osce.org/odihr/index.php?page=elections&div=reports&country=ge> and OSCE/ODIHR Statement of Preliminary Findings and Conclusions, 3 November 2003, at <http://www.osce.org/odihr/index.php?page=elections&div=reports&country=ge>

<sup>5</sup> Radio Free Europe/Radio Liberty, *Caucus Report*, November 2003, at <http://www.rferl.org/>

dishonest election results and the CEC failed to act on these discrepancies.<sup>6</sup> In addition, IEOM complained that last minute decisions made by the CEC undermined the potential democratic and transparent nature of their work.

Preliminary results made public by the CEC on 3 November differed radically from those given by two independent exit polls: GSM, at the request of independent TV station Rustavi-2, and Niccolo M & Sora for State TV. The independent election watchdog, International Society for Fair Elections and Democracy (ISFED),<sup>7</sup> also conducted a parallel vote tabulation. The data from ISFED and GSM indicated that the opposition EM led by Mikhail Saakashvili had a clear lead over the pro-Shevardnadze AS bloc, whilst the CEC results indicated the opposite, suggesting that the elections had been rigged in their favor.

The situation was compounded by the fact that the authorities only released official results three weeks after election day, giving the AS 84 seats, the Union of Democratic Revival party (DAK), who on 10 November affirmed support for Shevardnadze, 39 seats and the EM 36 seats. Individual complaints against the results were heard by a number of courts prior to the events of 22/23 November, but disputes were only clarified in a small number of cases.<sup>8</sup>

Mounting public outrage at the discrepancies in the voting results led to daily protests by opposition supporters in Tbilisi and other big cities. Opposition leader Mikhail Saakashvili declared the results fraudulent and demanded the resignation of President Shevardnadze. Pro-presidential supporters also took to the streets of the capital on 18 November and held a vigil outside parliament. However, government supporters coming from outside the capital did not experience the restrictions on the freedom of movement as did those supporting the opposition rallies. Both national NGOs and international players issued statements condemning the rigged election process and called on the government to respect the civil and political rights of the citizens by permitting new, independent elections. National Security Council Secretary, Tedo Djaparidze, proposed to alleviate the tensions by allowing the newly elected parliament to convene and “swiftly call for new elections.” He was subsequently dismissed from office by the president on the grounds of sympathy with the opposition.<sup>9</sup>

Whilst the protests were, on the whole peaceful, on 19 November, opposition supporters holding a peaceful demonstration were assaulted by pro-government supporters in Bolnisi. There was reportedly no police intervention. Moreover, Giorgi Mshvenieradze, an election monitor who was monitoring the proceedings on behalf of the independent Georgian Young Lawyers Association, was imprisoned for 3 months on charges of hooliganism, “infringing upon the expression of the will of the electorate” and “committing a crime against a government official.” Mshvenieradze had sought to draw the attention of the IEOM to irregularities and had attempted to stop a plainclothes policeman from bringing blank ballots into the polling station apparently intended for ballot box stuffing.<sup>10</sup> Human rights organizations protested the arbitrary nature of the detention.

On 22 November, 20,000-30,000 opposition supporters demonstrated in Tbilisi’s central square to prevent the new parliament from convening, and later they stormed the parliament building following Saakashvili’s issuance of an ultimatum for the resignation of the president. Shevardnadze resigned on 23 November, following talks with the Russian foreign minister, Igor Ivanov, and opposition leaders. The Georgian Supreme Court subsequently annulled the election results on 25 November. The 1999 parliament voted to hold presidential elections on 4 January 2004 and Nino Burjanadze, former speaker of the parliament, took the role of acting president. By the end of December, an unprecedented willingness was displayed amongst opposition parties and parliament

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<sup>6</sup> OSCE/ODIHR Election Observation Mission, *Post-election report 3-25 November 2003*.

<sup>7</sup> See [http://www.isfed.ge/index\\_en.htm](http://www.isfed.ge/index_en.htm)

<sup>8</sup> OSCE/ODIHR Election Observation Mission, *Post-election report 3-25 November 2003*, and OSCE/ODIHR Statement of Preliminary Findings and Conclusions, 3 November 2003.

<sup>9</sup> Radio Free Europe/ Radio Liberty, “Shevardnadze’s resignation resolves constitutional deadlock,” 2 November 2003, at <http://www.rferl.org/reports/caucusu-report/2003/>

<sup>10</sup> See also, Human Rights Watch, “Georgia: Imprisonment of Election Monitor Mshvenieradze, Letter to interim President Burjanadze,” 3 December 2003, at [www.hrw.org](http://www.hrw.org)

speakers to stand behind Saakashvili in his bid for president. An OSCE long-term election observation mission was re-established in the country and a number of countries pledged assistance with the 2004 elections.<sup>11</sup>

## **Freedom of Expression and the Media**

During the administration of President Shevardnadze, the right to freedom of expression was more or less respected as the government did not interfere unduly with the media. The media reflected a wide range of political views, but there were sporadic attacks on independent journalists and independent media outlets continued to face severe economic pressure.<sup>12</sup>

- On the evening of 28 March, four axe-wielding men knocked down the antenna on the roof of the building where the office of the independent radio station Dzveli Kalaki was located. The station was known for its independent editorial policy and its willingness to report on politically sensitive issues. No one was injured, but the station remained off the air for more than two weeks. The case was first handed by the Military Prosecutor's Office because one of the suspected attackers was a military officer. The Military Prosecutor's Office dropped the case due to lack of evidence and the file was handed to the City Prosecutor's Office, which launched an investigation in April. The outcome was not known to the IHF at the end of 2003. During the month preceding the incident, station staff had endured verbal and physical harassment by local Georgian Orthodox extremists who opposed the station's weekly 20-minute program about the country's Catholic minority.<sup>13</sup>

### *Rustavi - 2*

In 2003, the television station Rustavi-2 was targeted by a broad government campaign to harass and discredit it. Rustavi-2 was the main independent television station until it gradually began to support Saakashvili. After the change of government, it openly declared itself to be on the side of the "victors."

Rustavi-2's investigative biweekly program, "60 Minutes," was at the center of attacks because it disclosed corruption and other abuses by authorities and powerful business people. Later, it reported extensively on the anti-Shevardnadze demonstrations. On 10 March, the Supreme Court published a statement requesting the prosecutor general to conduct a criminal inquiry into "60 Minutes." The 16 February edition had revealed that government officials, whom the program had previously caught on hidden camera talking about bribes they had taken and engaging in other corruption, had been fired and later rehired. Rustavi-2 also faced a 10-million-Lari (€3.95 million) criminal libel lawsuit in the Supreme Court that was unrelated to the court's request for an investigation into the station. Valeri Asatiani, the former minister of culture, had filed the suit against the station in April 2000 after "60 Minutes" had featured a convicted criminal accusing her of ordering him to murder her business partner. Rustavi-2 had to pay 50,000 Lari (€19,700) in "moral damage" to Asatiani. Other government officials also had filed suits in lower courts against "60 Minutes."<sup>14</sup>

In the lead-up to the November elections, the Shevardnadze government held Rustavi-2 largely responsible for the political crisis and increased intimidation and pressure against it. On 13 November, when the election results had still not been published, the CEC cancelled Rustavi-2's

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<sup>11</sup> OSCE, "OSCE States pledge almost four million euros for assisting Georgia in 2004 elections," 19 December 2003, at <http://www.osce.org/news/index.php>; and OSCE, "OSCE/ODIHR re-establishes its election observation mission in Georgia," 17 December 2003, at [http://www.osce.org/news/show\\_news.php?id=3784](http://www.osce.org/news/show_news.php?id=3784)

<sup>12</sup> HRW, op.cit

<sup>13</sup> CPJ/IFEX, "Georgia: Popular Radio Station Attacked," 14 April 2003, at <http://www.ifex.org/en/content/view/full/34097>

<sup>14</sup> Committee to Protect Journalists/IFEX, "Supreme Court threatens independent television station for exposing corruption," 21 March 2003, at <http://www.ifex.org/en/content/view/full/33865>

accreditation because the station broadcast a message from the Kmara student movement, which called on the commission to stop falsifying the election results.<sup>15</sup>

On 29 December a rocket attack was carried out against Rustavi-2. It damaged the façade of the Rustavi-2 building but caused no injuries. The station's transmission was blocked for several weeks in the Adjara region.<sup>16</sup>

### *Defamation Legislation*<sup>17</sup>

Defamation legislation was frequently abused to shield those in power from media scrutiny. Both civil and criminal defamation laws provided for harsh sentences of those found guilty. Soon after coming into power, the Saakashvili government suggested introducing lengthier sentences for defamation of public officials.

According to NGO "Article 19," Georgian defamation laws were not up to par with international standards. In addition to providing for criminal defamation, which is not acceptable under international standards, the Civil Code contained a dangerously broad definition of people who could be sued for defamation. The provisions were not developed in sufficient detail to provide the safeguards necessary to protect freedom of expression. "Article 19" recommended that defamation be decriminalized; that public bodies, including bodies forming part of the legislative, executive or judicial branches of government, be barred from suing for defamation; that statements of opinion as opposed to factual accusations not be actionable in defamation; that Internet service providers and others performing similar functions be shielded from liability; that there be a defense of reasonable publication; that damages awarded always be proportionate to the harm suffered; and that a fixed ceiling be established for non-material harm.

### *Aftermath of the "Rose Revolution"*

Under the new government, the media continued to operate relatively freely. However, in early 2004, there were concerns that the diversity of the media was being significantly reduced since most of the media formerly connected to the opposition now supported the government, leaving very few outlets that did not have a pro-government orientation. In early February 2004, two television stations, Rustavi-2 and Mze, simultaneously stopped broadcasting popular evening talk shows that discussed political issues. This led to concerns that the government was trying to control the media prior to the parliamentary elections at the end of March 2004.<sup>18</sup>

In early 2004, the media situation in the Adjara Autonomous Republic caused serious concern. Several journalists were physically attacked or prevented from working in this region.<sup>19</sup>

## **Torture, Ill-Treatment and Police Misconduct**

Georgia acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1994. It ratified the European Convention for the Prevention of Torture in June 2000, which entered into force in October 2000. Torture was a punishable offence

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<sup>15</sup> Reporters without Frontiers/IFEX, "Election Commission cancels accreditation of main independent television station," 14 November 2003, at <http://www.ifex.org/en/content/view/full/55035>

<sup>16</sup> Reporters without Frontiers/IFEX, "Rocket Attack on Television Station Rustavi 2," 29 December 2003, at <http://www.ifex.org/en/content/view/full/55840>

<sup>17</sup> "Article 19," "Harsh Georgian Defamation Laws Must Be Amended," 16 February 2004, at <http://www.article19.org/>. See also the full report *Memorandum on Georgian Criminal and Civil Defamation Provisions*, February 2004, at <http://www.article19.org/>.

<sup>18</sup> HRW, op.cit.

<sup>19</sup> Reporters without Frontiers/CASCEN, "Media facing harassment in Adjara Autonomous Republic," 16 January 2004, at <http://www.cascen.org/modules.php?name=News&file=article&sid=1218>.

under article 126 of the Criminal Code. However, amendments made to Criminal Code following Georgia's accession to the Council of Europe in 1999 hampered the possibility to file complaints with a court for abuse during the investigation period.

In 2003, the Constitutional Court of Georgia took some positive formal steps against torture and ill-treatment. On 29 January, it declared unconstitutional some provisions of the Criminal Procedure Code, which had served as a legal basis for abusive police practices. The court declared unconstitutional the provision that had denied detainees the right to contact a lawyer or a relative and to request medical expertise within the first 12 hours of detention. In a similar vein, it abolished the article that had limited detainees' contact with a lawyer to one hour per day, and infringed upon the defender's right to become acquainted with the case materials. Further, while the code stated that the period of preliminary detention could be more than nine months, the court stated that the maximum nine months included the period of the first court hearing.<sup>20</sup>

On 12 February, the Constitutional Court declared unconstitutional article 142 of the Criminal Procedure Code, which had permitted detention based on suspicion that a person committed a crime; if the person had no permanent residence; or if his/her identity was not determined. The article had been used extensively by law enforcement agencies in illegal detentions, followed by various violations of human rights, including physical and psychological pressure and torture.<sup>21</sup>

In September, top government officials agreed on a Plan of Action against Torture in Georgia, due to be implemented in 2003-2005. The plan, which was drawn up in cooperation with the OSCE, includes, among other things: bringing Georgian legislation up to par with OSCE and other international commitments regarding torture, improving investigations of alleged of torture, enhancing control of police and prison facilities, training officials, and establishing control bodies.<sup>22</sup> As a key element of this action plan, a website was launched by the Human Rights Department of Georgia's National Security Council with the support of the OSCE Mission to Georgia.<sup>23</sup>

International organizations, including the UN Committee against Torture and the Council of Europe's Committee to Prevent Torture (CPT), issued highly critical reports about the use of torture and ill-treatment in Georgia in the past and demanded that the government take decisive measures to put an end to them. The CPT cited abuses such as slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. The most serious cases involved the infliction of electric shocks, asphyxiation by using a gas mask, blows struck on the soles of the feet and prolonged suspension of the body upside down. Torture and ill-treatment were often accompanied by procedural violations such as the failure to bring detainees personally before a judge when deciding on detention, the failure to notify family members of the detention and the restricted access to lawyers and doctors.<sup>24</sup>

Despite formal legislative improvements, however, reports of police ill-treatment continued. It was reported that in the first three months of 2003 alone, some 137 detainees with bodily injuries were taken from the Ministry of Interior's temporary detention isolator to the penitentiary department.<sup>25</sup>

- Kartlos Nakhalov was reportedly tortured with electric shocks in the Didube-Chgureti police department in early 2003. A medical doctor certified traces typical to electric shocks behind his ears.<sup>26</sup>

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<sup>20</sup> The Citizens Advocate Program (CAP), "The Constitutional Court for more Humane Criminal Code," at <http://www.advocacy.ge/magazine/TheConstitutionalCourtformoreHumaneCriminalCode.shtml>

<sup>21</sup> Inside IRIS Georgia, Newsletter, 16 May 2003.

<sup>22</sup> See the website of Human Rights Department of Georgia's National Security Council, at <http://www.dhr-nsc.gov.ge>

<sup>23</sup> OSCE, "OSCE Mission helps Georgia become an area free of torture," 28 May 2003.

<sup>24</sup> See, for example, *Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 18 May 2001*, November 2002, at [www.cpt.coe.int/en/reports/inf2002-14en.pdf](http://www.cpt.coe.int/en/reports/inf2002-14en.pdf)

<sup>25</sup> Human Rights Information and Documentation Center (HRIDC), *Human Rights in Georgia*, No. 3-4, March-April 2003, at <http://ishrg.tripod.com/newsletters/3-4-49-50.doc>

- In another case, the head of the Expert Center of the Justice Ministry, Maia Nikoleishvili, applied on 5 March for the involvement of an expert to look into the case of a citizen who was beaten by the police. This person preferred not to give his identity for fear of retribution after being threatened with death if he filed a complaint about police brutality.<sup>27</sup>
- The attorney of Gocha Bregadze and Revaz Purtskhvanidze, both of whom were arrested on 28 February, claimed that his clients were tortured with electric shocks at the police station of Kutasi. The local police denied the allegations.<sup>28</sup>
- On 16 June, 38-year-old Merab Chukhasvili was allegedly tortured by police officers in the building of the Interior Ministry in Tbilisi to make him to confess to a kidnapping. Chukhasvili fainted during his trial and doctors said he required an urgent operation because electric shocks had damaged his internal organs.<sup>29</sup>

The Prosecutor General, Nugzar Gabrichize, said that detainees frequently fell victim to police ill-treatment when being transported from police detention stations to prisons. He said that the Justice Ministry started to keep a record of such cases, but law enforcement agencies have failed to take any disciplinary measures. He also noted that there were 108 cases of illegal detention of individuals in 2002, officially on suspicion of drug consumption. Further investigations revealed that none of the detainees had been under the influence of drugs.<sup>30</sup> According to Maia Nikoleishvili, “most policemen consider that crimes can be revealed only by means of violations, beatings, and electric shock methods of torture.”<sup>31</sup>

The assistant public defender, Ramaz Ninua, noted that victims of police brutality often filed complaints of police abuse but later withdraw their statements, apparently after being threatened or offered bribes to remain silent.<sup>32</sup>

### **Freedom of Religion<sup>33</sup>**

Georgia continued to be the only former Soviet republic without a law on religion to define the rights and obligations that religious communities have. The status of the largest religious community, the Georgian Orthodox Church, was regulated by a controversial concordat that it signed with the state in October 2002. This concordat provided it with various privileges, including the right

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> HRIDC, *Human Rights in Georgia*, No. 6, June 2002.

<sup>30</sup> HRIDC, *Human Rights in Georgia*, No. 2, February 2003.

<sup>31</sup> HRIDC, *Human Rights in Georgia*, No. 3-4, March-April 2003.

<sup>32</sup> HRIDC, *Human Rights in Georgia*, No. 2, February 2003.

<sup>33</sup> Based on the following documents by Forum 18; “Religious minorities’ hopes and doubts ahead of presidential inauguration,” 23 January 2004, at [http://www.forum18.org/Archive.php?article\\_id=235](http://www.forum18.org/Archive.php?article_id=235); “Orthodox permission needed for religious literature imports,” 20 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=192](http://www.forum18.org/Archive.php?article_id=192); “Religious minorities concerned by ‘voluntary’ ‘Religion and Culture’ classes,” 17 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=189](http://www.forum18.org/Archive.php?article_id=189); “We want legal status!” say minority faiths,” 17 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=185](http://www.forum18.org/Archive.php?article_id=185); “Why can’t minority faiths build places of worship?”, 14 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=184](http://www.forum18.org/Archive.php?article_id=184); “Should violent Orthodox group be banned?” 13 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=182](http://www.forum18.org/Archive.php?article_id=182); “After four years of attacks, a suspended sentence is given,” 5 November 2003, at [http://www.forum18.org/Archive.php?article\\_id=176](http://www.forum18.org/Archive.php?article_id=176); “Catholics fail to break Orthodox monopoly,” 25 September 2003, at [http://www.forum18.org/Archive.php?article\\_id=144](http://www.forum18.org/Archive.php?article_id=144); “2003 Georgia: Racist vigilantes again blockade Pentecostal church,” 14 July 2003, at [http://www.forum18.org/Archive.php?article\\_id=103](http://www.forum18.org/Archive.php?article_id=103); “GEORGIA: No end to immunity despite presidential pledge,” 6 May 2003, at [http://www.forum18.org/Archive.php?article\\_id=46](http://www.forum18.org/Archive.php?article_id=46)

to provide religious education in schools and broad powers to decide on the status of other religious communities.<sup>34</sup> The Catholic Church was expected to be the second religious community to gain legal status through signing an agreement with the state in September 2003. In an embarrassing move, the government abruptly cancelled the signing at the very last minute, apparently under pressure from the Orthodox Patriarchate. The Catholic Church has had great difficulty trying to recover churches confiscated during the Soviet period and handed over to the Orthodox Patriarchate in the 1980s and 1990s.

On a positive note, the Jehovah's Witnesses Watchtower Bible Society was able to restore its legal status as a non-commercial organization on 28 November.

According to many religious minority groups, their situation deteriorated following the signing of the concordat between the Georgian Orthodox Church and the state. For example, a subject called "Religion and Culture" was introduced as compulsory to school curricula. The classes were taught by Georgian Orthodox teachers. Other religious communities faced difficulties in carrying out their activities and were not able to own property or maintain bank accounts. It was impossible for them to defend their rights as legal entities.

Although the possibility for religious minority communities to carry out activities varied considerably from region to region depending on the attitude of local Orthodox officials, most of them faced problems when attempting to build or open new places of worship. They also had difficulty hiring public and private buildings for worship. In contrast, the Georgian Orthodox Patriarchate was actively building many new churches.

Moreover, lacking legal status, many religious minority groups were not permitted to import religious literature. Complaints were received from Baptists, Pentecostals, Lutherans, Muslims and Jehovah's Witnesses. Local authorities frequently stated that the minority communities would need permission from local Orthodox officials despite the fact that there was no law to this effect. It was also alleged that there was an unwritten rule by Patriarch Ilya that customs officials were to ban the import of religious literature unless they had his express permission. In addition, corrupt customs officials often required bribes to the import religious materials. By the same token, as publishers refused to print materials without the blessing of the Orthodox Patriarchate, for example, the Salvation Army, the True Orthodox Church, and Pentecostals faced problems. In addition, it was believed that many publishers feared mob violence should they agree to print literature for religious minorities.

Religious minorities had virtually no access to state or private media to inform the public about their activities.

Since 1999, members of Georgia's religious minorities, including Baptists, Pentecostals, Catholics and Jehovah's Witnesses, have suffered hundreds of physical attacks from self-appointed Orthodox vigilantes. One of the Orthodox vigilante groups that terrorized minorities was called Jvari. It operated in Rustavi and its surroundings and was responsible for hundreds of attacks on Jehovah's Witnesses and Protestants. In November, Paata Bluashvili and four other members of the group were sentenced to suspended prison terms for their acts of violence against Jehovah's Witness meetings in Rustavi and Marneuli. Bluashvili also faced a trial for similar violent assaults against two Jehovah's Witnesses but no criminal cases had been launched against him or any of his associates for a string of other attacks they were responsible for.

Vasili Mkalavishvili, a notorious mob leader and defrocked Orthodox priest, who was responsible for brutal attacks against minority religion believers, remained in hiding throughout the year despite an arrest warrant issued in July pending his trial. Mkalavishvili was finally arrested in

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<sup>34</sup> See IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2003 (Events of 2002)*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=1322](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1322).



March 2004.<sup>35</sup> During his arrest, police used excessive force, injuring numerous people. Other attackers continued to go unpunished.

- In May, Bluashvili and six colleagues raided a private flat in Tbilisi where a Pentecostal congregation led by Pastor Nikolai Kalutsky was meeting. Bluashvili warned them that if he caught them meeting again they would be beaten. After that, the self-styled Orthodox vigilantes prevented the Pentecostal congregation from meeting there for months. The local Police Chief, Temur Anjaparidze, banned Kalutsky from using his home for religious services without special permission and warned him that if he did, he would be fined twice the minimum monthly wage.
- On 4 May a mob stopped the Jehovah's Witnesses from holding a congress in the village of Ortasheni near Gori. The mayor of Gori and the police chief warned them not to hold the congress.
- After threats by a local Orthodox priest to burn down a Baptist church in Akhalsopeli, in eastern Georgia, the building was wrecked by fire in the early hours of 15 June. The interior burned to ashes.

After the change of government, some religious minorities and human rights activists hoped that the new regime would secure religious freedom and stop violence. It appeared, however, that the new leaders, while generally declaring their commitment to democracy and human rights, avoided using phrases such as “freedom of conscience.”

## Asylum Seekers

### *Chechen Refugees*<sup>36</sup>

Following the outbreak of the second armed conflict in Chechnya in 1999, some 6,000 Chechens fled to Georgia, and were granted *prima facie* refugee status. According to the United Nations High Commissioner for Refugees (UNHCR), as of 31 March 2003, 4,000 Chechen refugees resided in Pankisi Gorge<sup>37</sup> and 185 resided in Tbilisi. 75% of the refugees were women, children and the elderly.

Since their stay in Georgia, there has been increasing concern about the respect of their basic human rights: they have been subjected to disappearances, unfair treatment, illegal arrests, and extradition and deportation to Russia. These violations intensified following increased Russian pressure on Georgia and an anti-terrorist military operation in Pankisi Gorge by the Georgian government, backed by the US government.

Pankisi Gorge was isolated by police cordons from the rest of Georgia and remained largely barred from the media and independent observers. In the name of combating terrorism and under pressure from Russia, in October 2002, Georgian authorities extradited five Chechens to Russia without a court decision, and therefore in violation of Georgian law. Under the same pretence, the Interior Ministry and security officers arrested and detained hundreds of Chechen refugees, including women and children in 2002-2003. There were Interior Ministry multiple violations of the rights of detained persons, including the denial of access to lawyers of their choice, as well as intimidation. Before being released, all refugees were fingerprinted without a court decision as if they were criminal suspects. In 2002, the “mop-up” operations resulted in disappearances, intimidation and ill-treatment of refugees.

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<sup>35</sup> BBC, “Radical Georgian ex-priest held,” 12 March 2004, at <http://news.bbc.co.uk/2/hi/europe/3505600.stm>.

<sup>36</sup> See also “Caucasia’s “statement to the OSCE Human Dimension Implementation Meeting, October 2003.

<sup>37</sup> Pankisi Gorge is a small mountainous area adjacent to Chechnya and separated from it by the major Caucasus range. It is populated predominantly by the Kists, ethnic Chechens who have lived in Georgia for centuries.

- Hussein Yusupov was released from the Georgian Security Minister detention in August 2003. Yusupov, a 25-year-old student and Chechen refugee, was arrested on 20 September 2002 at the checkpoint in Pankisi Gorge, and immediately taken to the police department in Akhmeta. The same day, he was transported to the anti-terrorism center of the Ministry of State Security in Tbilisi. On 25 September he made a phone call to his mother telling her that there would be no trial and that he would be released immediately. After that, no one heard from him until his release 11 months later. His mother, who had tried to find out his whereabouts, had been officially informed by the Prosecutor's Office and security offices that her son had been released on 25 September 2002 and that he had not been registered in any detention facility in Georgia after that date. Yusupov's detention was in violation of Georgian law which required that charges be brought within 48 hours of detention or suspects must be released. However, no investigations were initiated into his illegal detention.<sup>38</sup>

With the approach of presidential elections in Chechnya, Russia intensified its efforts to bring all Chechens back home to vote for a pro-Russian president and tried to convince the world that the conditions in that region were satisfactory for refugees to return.

In October 2003 the Georgian government hosted the Russian Minister of Chechen Affairs, Mr. Iliasov, who, *inter alia*, visited Pankisi Gorge to persuade refugees to go back to Chechnya. In spite of Iliasov's promises to provide free transportation, pay compensations for destroyed property, etc., not a single Chechen refugee accepted his offer. The main purpose of Iliasov's visit was to sign a protocol with the Georgian Interior Ministry under which Georgia undertook to encourage the Chechen refugees to go back to Chechnya. Remarkably, international organizations, NGOs, other independent stakeholders and the Ministry of Justice which is normally in charge of issues like these, were not invited to take part in this process. Furthermore, under the protocol, the Georgian Interior Ministry guaranteed the safety and security of Chechen refugees in Chechnya, although it is not clear what mechanisms are available to the Georgian Interior Ministry to control the situation in Chechnya and to hold the Russian government responsible if safety and security are not observed. There was reason to believe, therefore, that by entrusting such an important mission to the Ministry of Interior, the government of Georgia will use illegitimate mechanisms, including intimidation and blackmailing, to force the Chechens to go back to Chechnya.

Although there was a medical clinic in Pankisi Gorge, the health status of many refugees remained deplorable due to a desperate shortage of medical supplies. After going through the horrors of war and brutal treatment, most Chechen refugees suffered from various serious psychosomatic disorders which could not be handled by the elementary medical care that was available to them.

There were virtually no opportunities for paid employment or self-employment for refugees. The Chechens received no allowance and depended entirely on rations provided by the UNHCR. Elementary schools for refugee children did exist in Pankisi Gorge, but the quality of education was very poor as there was an inadequate supply of textbooks. Teachers were not paid.

As an alternative to the prolonged stay of Chechen refugees in Georgia, which apparently was not welcomed by the Georgian government and, due to insecurity and exposure to a number of dangers in Georgia, including potential forcible return, many Chechens applied to third countries for admission. The UNHCR adopted the strategy of resettlement of Chechen refugees to a "safe third country," excluding Russia.

In May 2003, representatives of IHF and its affiliate, the Caucasian Centre for Human Rights, held meetings with the representatives of Chechen refugees in Tbilisi. In a letter to the UNHCR, the IHF expressed great concern regarding the situation of refugees. In October, another fact-finding

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<sup>38</sup> IHF letter to President Shevardnadze, 28 May 2003, at [http://www.ihf-hr.org/viewbinary/viewhtml.php?doc\\_id=3337](http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=3337).

mission was carried out to Pankisi Gorge. It was carried out jointly with the Norwegian Helsinki Committee and the Caucasian Centre for Human Rights (Caucasia).