

IHf FOCUS: Elections; peaceful assembly; political prisoners; judicial system; torture and ill-treatment; religious intolerance; international humanitarian law.

Despite a formal commitment to respect European human rights standards as a Council of Europe member State (since April 1999), Georgia continued to violate basic civil and political rights. In 1999 the Council of Europe recommended that Georgia review the cases of persons convicted or detained for their role in the political upheavals in 1991-92, i.e. members and supporters of the administration of Former President Gamsakhurdia. However, following the amnesties in 2000, some 30 political prisoners remained in prison, and the Parliamentary Human Rights Committee said in August that their cases were not eligible for amnesty. Vasil Maglaperidze, chair of the Parliamentary Commission for National Reconciliation and known for his dedication to human rights, replied that should the remaining cases be refused review, there would be no point in continuing the "reconciliation process."

The OSCE/ODIHR concluded that fundamental freedoms were generally respected during the election campaign of the April presidential elections, but noted that further progress is necessary in order for Georgia to fully meet OSCE standards of fair and free elections.

Problems regarding the Criminal Procedure Code remained unsolved, as numerous provisions that were in line with European standards were repealed after Georgia was admitted to the Council of Europe.

Torture and ill-treatment remained a central human rights problem and despite Georgian authorities' admission that such methods were used, no significant steps were taken to end the practices.

Religious intolerance grew and some observers claimed that by drawing the population's attention away from social problems, the Government tolerated, and possibly encouraged, attacks on the so-called non-traditional religious groups and individuals seeking to promote tolerance.²

Social insecurity led to widespread restlessness in Georgia. The Government frequently lagged months behind in the payment of wages and pensions, and, according to multilateral lending institutions, failed to collect taxes. In April, the International Monetary Fund (IMF) said that problems of governance and corruption undermined fiscal stability in Georgia, and, in May, found that poverty in Georgia had increased significantly throughout 1998 and the first half 1999.

Of the 5.5 million Georgian population, around 1.5 million left the country in recent years for political and, in particular, economic reasons. The remaining population was largely apathetic. There was a great gap and mistrust between the population and the ruling elite and widespread corruption infiltrated all governmental structures.

The year 2000 was marked by massive demonstrations for social rights. The events were mainly spontaneous and not organised by any political party. The electricity supply collapsed in the fall, leading to a constant electricity shortage. In November, angry people began to demand the light and heating for which they had paid the State, and spontaneously blocked the main streets in the capital Tbilisi and highways in different districts of Georgia. Barricades were built up and tyres burned in the streets, with people demanding their unpaid pensions and the resignation of the President. The situation was almost out of control. Through the intimidation of activists on the one hand, and groundless promises on the other, the Government managed to postpone the problem for a while.

Presidential Elections³

The presidential elections were held in Georgia on 9 April. Eleven candidates applied for registration to the Central Election Commission (CEC). Seven party-nominat-

ed and independent candidates were registered through a procedure that was not fully transparent. Only two candidates, incumbent President Eduard Shevardnadze and Jumber Patiashvili, campaigned actively.

Eduard Shevardnadze won a second five-year term as President with more than 80 percent of the vote. Voter turnout was about 70 percent.⁴

The OSCE/ODIHR Election Observation Mission for the presidential elections concluded that fundamental freedoms were generally respected during the election campaign and candidates were able to express their views. However, the OSCE/ODHIR noted that further progress is necessary for Georgia to fully meet OSCE standards of fair and free elections. In particular, they referred to problems in the following areas: interference by state authorities in the election process; deficient election legislation; a not fully representative election administration; and unreliable voter registers. Other important concerns related to a number of ambiguous and sometimes contradictory procedural provisions of the election legislation.

A substantial number of amendments had been made to the legislation in order to address some concerns raised previously by international observers. However, the OSCE/ODIHR stated that other concerns were only remedied partially or not addressed at all. Furthermore, some amendments enhanced the powers of the chairpersons of election commissions at all levels, thus raising new concerns. The fact that several amendments were adopted less than three weeks prior to the elections created confusion among the election administration and some political parties, in particular those entitled to appoint new members to the election commissions. In fact, the implementation of the amended provisions was delayed beyond legal deadlines, thus frequently preventing the new members from fully participating in the administration of the election process. In addition, on a number of occasions, the Central

Election Committee applied the legal provisions selectively.

Despite new legal provisions stipulating the inclusion of additional representatives of the parliamentary minority in election commissions at all levels, the parliamentary majority retained to a large extent its dominant position in the election administration.

According to the OSCE/ODIHR, the authorities provided strong support for the incumbent President's election campaign to the extent that there was no clear dividing line between state affairs and the incumbent's campaign. Apart from allocating free airtime to registered candidates, the state media gave the incumbent a clear advantage.

The ISHR-Georgia reported violent incidents during the pre-election campaign and other irregularities. For example, Patiashvili's election meetings were pelted with stones and local authorities hindered him from meeting with individuals.⁵

On election day, voting was conducted in a generally calm atmosphere. However, OSCE/ODIHR observers reported a series of identical signatures on the voter lists, group voting and the presence of unauthorised persons, including police and local officials, in polling stations.

The election process deteriorated during the counting procedures, which lacked uniformity and, at times, transparency. Tabulation procedures lacked transparency and instances of protocol tampering were reported. In general, procedural safeguards to support the integrity of the process were not implemented, in part due to a lack of adequate administrative instructions and training.

Political Prisoners

Since 1992, real or presumed supporters of the Government of former President Zviad Gamsakhurdia have been harassed and sentenced to long prison terms. Others were detained routinely for periods ranging from a couple of days to two weeks, con-

victed on charges of terrorism and high treason, mostly in unfair trials, following the ousting of the former President in 1991. As of the end of 2000, some 30 such persons remained in prison.

The Council of Europe Parliamentary Assembly recommended in 1999 that the Georgian Government "review the cases of persons convicted or detained for their part in the upheavals of 1991-92 within two years after its accession."⁶

In early 2000, within the framework of "national reconciliation," the Parliament reviewed a number of cases of political prisoners who had been involved in the 1991-92 upheavals.⁷

In March, a hunger strike was declared by political prisoners Bidzina Gudgabidze, David Bichashvili, Murtaz Dgalagonia and Karlo Djichonaia, demanding a general and unconditional amnesty for political prisoners. As the Government paid no attention at first, numerous political prisoners in other penitentiaries, labour camps and detention facilities joined the hunger strike. As of the end of March, the number totalled more than 50 persons.⁸

On 30 March, the IHF sent an open letter to President Shevardnadze expressing its appreciation for the release of two political prisoners, Nemo Chanturia and Tamaz Gorelishvili, for medical reasons, as the IHF had requested in 1999. Unfortunately, a third prisoner, Karlo Djichonaia, whose case the IHF had raised at the same time, was not released, although he was blind as a result of ill-treatment in pre-trial detention. The IHF emphasised that a review of all cases is vital to a process of "national reconciliation." The IHF stated that, after eight years, the wounds inflicted by the past conflict could only heal when all the cases involving the supporters of former President Gamsakhurdia's Government are resolved in a way consistent with their political rights.⁹

On 19 April, President Shevardnadze issued an amnesty decree for the release of 279 prisoners, including 65 political

prisoners who were members or supporters of the Gamsakhurdia Government, including Gudgabidze, Bichashvili, Dgalagonia and Djichonaia. Dozens of other political prisoners, who were sentenced under Articles 104 and 105 of the Criminal Code (murder), were not covered by the decree.¹⁰

In a June letter to Zurab Jvania, Chairman of the Parliament, the IHF criticised the fact that not all political prisoners' cases had been reviewed,¹¹ including the approximately 30 remaining cases of the 44 prisoners pardoned by President Shevardnadze on 2 August (out of the 147 names submitted to him for consideration). Elene Tevdoradze, Chairwoman of the Parliamentary Human Rights Committee, said that all Gamsakhurdia supporters eligible for amnesty had already been released.¹² In reaction to that statement, Chairman of the Parliamentary Commission for National Reconciliation Vasil Maglaperidze noted that if the Parliament were to refuse to consider any further cases, there would be no reason to continue the "reconciliation process."¹³

Peaceful Assembly

Although the right to peaceful assembly was generally respected in Georgia in 2000, on at least one occasion the Ministry of Interior troops dispersed a peaceful demonstration using force.

◆ On 28 October, the wife of former President Gamsakhurdia organised an assembly at the Freedom Square in Tbilisi to commemorate the 10th anniversary of the first multi-party elections in Georgia. Representatives of many political parties participated in the event. Authorities had sanctioned the assembly and the head of the police was present. The assembly was held for about two hours before OMON troops suddenly appeared and began beating the participants, arresting some of them.¹⁴

Judicial System

Judicial Reform and Detainees' Rights¹⁵

The Government, with assistance from the international community, was carrying out a high profile reform of the court system. However, restrictions on access to the courts, together with other provisions in the Criminal Procedure Code, severely hampered individuals' access to courts to substantiate, for example, a report of torture.

On 15 May 1999, a new Criminal Procedure Code came into force in Georgia, and had been drafted after significant consultation with Georgian defence lawyers actively working in the area of criminal law. Prior to its adoption, the new Code had been reviewed by Council of Europe experts to ensure that it conformed to the ECHR and to standards developed in the case law of the European Court of Human Rights.

Georgia was accepted as a full member of the Council of Europe on 27 April 1999. However, shortly after this on 13 and 28 May 1999, the Parliament adopted a total of 289 amendments to the new Code, and 63 further amendments on 22–23 July. In total, these amendments altered or replaced nearly half of all the articles in the new Code.

Some of the extensive amendments adopted in May and July severely eroded the rights of persons under investigation, narrowing access to courts of general jurisdiction during criminal investigations as had been previously envisaged in the new Code. These amendments affected individuals wanting to submit a complaint to a court prior to trial when the procurator, police, other law enforcement or security agencies committed abuse during a criminal investigation. The repeal of the reforms was alarming given the persistent reports of rampant physical abuse of detainees to secure confessions and other blatant procedural irregularities during criminal investigations in Georgia.¹⁶

Georgian officials stated that concerns regarding corruption were a motivating fac-

tor in carrying out judicial reform. However, the repeal of the right to access to court to review complaints compounded corruption in the criminal justice system. In practice, by restricting access to courts law enforcement officials were left with a wide scope to coerce bribes from those individuals they deemed to be under criminal investigation, while providing little or no recourse for an effective legal remedy to protest such misconduct.

Other violations of detainees' rights included the coercion of detainees to accept lawyers they had not freely chosen, and who did not vigorously complain about mistreatment or otherwise adequately represent their clients' interests.

According to the Caucasian Centre for Human Rights (IHF cooperating organization), there was very little expectation that a criminal justice system that severely impeded individuals' ability to substantiate a claim of torture before a court could ever be confident of ensuring fair trials. Given this failure, it was understandable that the judiciary did not enjoy broad public trust.

Torture and Ill-Treatment¹⁷

Torture and ill-treatment remained a central human rights problem, and despite Georgian authorities' admission to the use of such methods, no significant steps were taken to implement the recommendations made by the UN Committee against Torture and by the UN Human Rights Committee.

Reports of torture to coerce confessions in pre-trial detention were widespread in Georgia and frequently accompanied by other procedural violations that appeared to be specifically intended to cover up physical abuse and to ensure that perpetrators would not be brought to justice.

Detainees in police custody were often subjected to physical and psychological duress, and the denial of access to a defence lawyer facilitated such abuse. Beatings were commonplace and relatives were frequently faced with financial or other demands in exchange for a detainee's

release. Threats that family members would be tortured or murdered were also used against detainees.

Religious Intolerance

In 2000, mobs attacked religious minority group members in various locations. Jehovah's Witnesses were particularly singled out as targets. Police officers not only failed to bring to justice the perpetrators, but also in several instances actually charged the victims with crimes such as hooliganism, a criminal offence in Georgia. Moreover, in some cases, police officers were involved in the attacks.

In August, Deputy Speaker of Parliament, Giga Tsereteli, reportedly announced that the Parliament would create a special group charged with drafting a law on religion. According to Tsereteli, the bill will be based on the constitutionally guaranteed principle of freedom of belief but would "regulate" the activities of religious organizations that engage in "anti-national activity and infringe human rights."¹⁸

Jehovah's Witnesses¹²

At the initiative of MP Guram Sharadze, the Tbilisi Regional Court revoked the legal status of Jehovah's Witnesses in Georgia on 26 June. On appeal, the Supreme Court was to decide whether to cancel or uphold the registration, but the decision was adjourned until January 2001.

Most attacks against Jehovah's Witnesses were reported from the Gldani district, in a suburb of Tbilisi, where a Georgian Orthodox priest known as Father Basili formed a group named the Gldani Orthodox Diocese. The group was apparently not formally recognised by the Georgian Orthodox Church, and its members espoused ultra-nationalist views, and were especially virulent in their intolerance of non-Orthodox faiths. By the end of August, the group was responsible for at least eight attacks against Jehovah's Witnesses and members of other faiths. The group stalked Jehovah's Witnesses and assaulted them verbally and physically.

◆ On 16-17 August, Father Basili's group attacked dozens of individuals. On 16 August, they attacked journalists and Jehovah's Witnesses during a trial, assaulting and beating RFE/RL correspondent Sozar Subeliani. Canadian human rights lawyer John Burns, who was monitoring the trial, was dragged to the ground and struck with a large wooden cross. Some 80 members of the group present shouted insults, and threatened and assaulted spectators and Jehovah's Witnesses seated in the courtroom. On the following day, about 40 followers of Father Basili assaulted human rights defenders and a journalist as they left the trial they had been monitoring.

◆ On 17 October, 120-150 members of Father Basili's congregation assaulted worshipers at a Jehovah's Witnesses service in Guldani District beating, kicking and punching them. At least 16 individuals required hospital treatment, one suffered permanent injuries. Footage of the incident, taped by the attackers themselves, was later broadcast on the Rustavi 2 and Channel 2 news programs.

In early September, violent attacks on Jehovah's Witnesses spread to Western Georgia.

◆ On 3 September, Jehovah's Witnesses were attacked by an armed group in two cities in the western part of the Republic of Georgia, Senaki and Kutaisi. In Kutaisi, two police officers were involved in the attack. Yura Papava, a resident of Senaki, said that the congregation was meeting peacefully in his home "when suddenly a man entered the house and demanded to know what we were doing and what we were teaching. Without waiting for an answer, he and five or six other men started smashing the furniture."¹²⁰

The Georgian Parliament condemned the violence on 26 September. A total of 133,162 people, most of them Georgian Orthodox, signed a petition protesting the mob violence. As the petition was being

presented at a press conference at the Georgian Ombudsman's Office on 22 January 2001, Father Basili and his followers burst into the room and seized the volumes of the petition and verbally and physically abused the persons present.²¹

International Humanitarian Law

Abkhazia

The ethnic Georgian population was subjected to "ethnic cleansing" during the continuing conflict in Abkhazia. Abkhaz militia killed and raped Georgians still remaining in the Gali district (still with a small Georgian population) on a daily basis. The atrocities were obviously carried out in order to change the existing ethnic balance. For the same reason, the Abkhaz Government refused the organised return of Georgian internally displaced persons (IDP) unless Abkhazia is internationally recognised.

The few IDPs who returned spontaneously at their own risk came under the constant threat of death and had no effective protection. Russian peacekeeping troops deployed in the region were not able or willing to provide any protection for the Georgian population of Abkhazia, and in fact showed support for the Abkhaz side. There were many well-documented cases in which Russian peacekeepers took part in killing and raiding the peaceful Georgian population. According to the Caucasian Human Rights Centre, the only solution appeared to be the withdrawal of Russian troops from the conflict region and the deployment of Ukrainian or any other troops under the UN mandate (Ukraine has officially agreed to this possibility).

Following the November statement of President Putin, Russia imposed a one-sided visa requirement on 5 December for all Georgian citizens, but not for the residents of Abkhazia and South Osetia. As Georgia was unable to control its borders

between Russia and Abkhazia, and between Russia and South Osetia, many people interpreted the imposition of a visa requirement as a virtual annexation of Abkhazia and South Osetia, apparently in order to punish Georgia for its support of Western pressure on the withdrawal of Russian military bases from Georgia.

Georgians who have been living in Russia for years (numbering over 900,000), including refugees from Abkhazia, were obliged to apply for Russian visas or could be considered illegal residents in Russia. They were under the threat of arbitrary detention, police brutality, deportation, and other human rights violations.

On 31 January 2001, the IHF together with several Helsinki committees sent an open letter to President Putin noting that the Russian Federation has actively contributed to the deterioration of the human rights situation in Georgia through Russia's support of the forces responsible for destabilization and inter-ethnic conflict in the country. This has led to severe violations of human rights, criminal activity and a repressive state policy, which the existing regime excuses by quoting security considerations. The IHF and the Helsinki Committees also noted that withdrawal of two Russian military bases from Georgian territory, agreed at the OSCE summit in Istanbul, has not been carried out. In addition, they criticised the new discriminatory Russian visa requirements for Georgian citizens.²²

The IHF and the Helsinki Committees also expressed their concern that the Russian Federation continued to extend moral, political, financial and military support to the self-proclaimed regimes in Abkhazia and South Osetia. They noted that the contingent of Russian peacekeeping forces in Georgia often violated the rights of non-combatant citizens, rather than promoting human rights observance in conflict zones.²³

Endnotes

- ¹ Unless otherwise noted, based on information obtained by the IHF and its affiliate Caucasian Centre for Human Rights.
- ² Human Rights Watch/Europe and Central Asia Division, "Georgia Lets Attacks on Religious Believers Go Unpunished," press release and open letter to President Shevardnadze, 6 September 2000.
- ³ Unless otherwise noted, based on OSCE/ODIHR, *Republic of Georgia: Presidential Elections, 9 April 2000, Final Report*.
- ⁴ RFE/RL Newsline, 10 April 2000.
- ⁵ National Section of Georgia of the International Society for Human Rights (ISHR), "Presidential Elections in the Republic of Georgia, 2000," 19 April 2000.
- ⁶ Opinion no. 209, Para 10, 1999.
- ⁷ The National Section of Georgia of the International Society for Human Rights (ISHR), April 2000.
- ⁸ Ibid.
- ⁹ IHF, "Political Prisoners in Georgia on Hunger Strike: Open Letter to President Eduard Shevardnadze," 30 March 2000.
- ¹⁰ Ibid.
- ¹¹ IHF open letter to Zurab Jvania, Chairman of the Parliament, 7 June 2000.
- ¹² RFE/RL Newsline, 4 August 2000.
- ¹³ The Caucasian Centre for Human Rights, November 2000.
- ¹⁴ Ibid.
- ¹⁵ Based on information from the Caucasian Centre for Human Rights to the IHF, 18 August 2000.
- ¹⁶ See Torture and Ill-Treatment.
- ¹⁷ Based on information from the Caucasian Centre for Human Rights to the IHF, 18 August 2000.
- ¹⁸ RFE/RL Newsline, 17 August 2000.
- ¹⁹ Unless otherwise noted, based on Human Rights Watch/Europe and Central Asia Division, "Georgia Lets Attacks on Religious Believers Go Unpunished," press release and open letter to President Shevardnadze, 6 September 2000.
- ²⁰ According to Guram Kvaratskhelia, spokesman for the Witnesses, Watch Tower Public Affairs Office, 9 September 2000, distributed by Human Rights Without Frontiers on 11 September 2000.
- ²¹ Human Rights Without Frontiers, 22 January 2001.
- ²² An open letter from the IHF and the Helsinki Committees in Belarus, Czech Republic, Georgia, Moldova, Russia and Ukraine to the President of the Russian Federation and to the Federal Assembly of the Russian Federation, 31 January 2001.
- ²³ Ibid.