

## GEORGIA 2016 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 provides for an executive branch that reports to the prime minister, a unicameral parliament, and a separate judiciary. The government is accountable to parliament. The president is the head of state and commander in chief. The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) termed the October parliamentary elections competitive and administered in a manner that respected the rights of candidates and voters, but it stated that the open campaign atmosphere was affected by allegations of unlawful campaigning and incidents of violence. According to the ODIHR, election commissions and courts often did not respect the principle of transparency and the right to effective redress between the first and second rounds, which weakened confidence in the election administration. In the 2013 presidential election, the OSCE/ODIHR concluded the vote “was efficiently administered, transparent and took place in an amicable and constructive environment.” While the election results reflected the will of the people, observers noted several problems, including allegations of political pressure at the local level, inconsistent application of the election code, and limited oversight of alleged campaign finance violations.

Civilian authorities maintained effective control of the security forces.

The most significant human rights problems reported during the year included: arbitrary detentions and deprivation of life by Russian and de facto authorities of Georgian citizens along the administrative boundary line with the country’s occupied territories; shortcomings in the justice sector, including pressure on the judiciary in selected cases; and weaknesses in state institutions, including insufficient parliamentary oversight of law enforcement agencies, which raised concerns about illegal surveillance and inconsistent government responses to select law enforcement cases.

Other problems included ineffective mechanisms to address alleged abuses by law enforcement officials, some substandard prison conditions, reduced space for political dialogue in the media and credible reports of pressure on the leading independent television broadcaster, restrictions on freedoms of assembly and

association, substandard living conditions for internally displaced persons (IDPs), underrepresentation of minority groups in government, persistent concerns about government corruption, and pressure on nongovernmental organizations (NGOs) from government and influential former government officials. Domestic violence against women, gender-biased sex selection, early marriage, trafficking in persons, discrimination against persons with disabilities, instances of societal intolerance of members of minority groups, as reflected in hate speech, religiously based hate crimes, and HIV/AIDS social stigma were also reported. The country also lacked a legal framework for labor inspection.

The government took steps to promote accountability by punishing officials who committed violations in the security forces and elsewhere in government, but shortcomings remained.

De facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside central government control and were supported by several thousand Russian troops and border guards occupying the areas since the 2008 conflict between Russia and Georgia. A cease-fire remained in effect in both Abkhazia and South Ossetia. Russian border guards restricted the movement of the local populations. While there was little official information on the human rights and humanitarian situation in South Ossetia due to limited access, allegations of abuse persisted. With the exception of one international human rights assessment, access to Abkhazia was also limited.

De facto authorities in the separatist regions of Abkhazia and South Ossetia restricted the rights, primarily of ethnic Georgians, to vote or otherwise participate in the political process, own property, register businesses, and travel. De facto South Ossetian authorities refused to permit most ethnic Georgians driven out during and after the 2008 conflict to return to South Ossetia. De facto authorities did not allow most international organizations regular access to South Ossetia to provide humanitarian assistance. The Geneva International Discussions cochairs representing the United Nations, OSCE, and EU special representative for the conflict in Georgia visited South Ossetia in September, accompanied by representatives of the Office of the UN High Commissioner for refugees (UNHCR). Russian “borderization” of the administrative boundary lines of the occupied territories continued during the year, separating residents from their communities and undermining their livelihoods.

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

### **a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings**

There were no reports during the year that the government or its agents committed arbitrary or unlawful killings. The government continued to conduct investigations into several killings allegedly committed by former government officials.

In May a border guard from breakaway Abkhazia shot and killed a Georgian citizen near the crossing point into the occupied territory. According to the Georgian Young Lawyer's Association (GYLA), in June the de facto "court" of Abkhazia sentenced a suspect to house arrest. On December 27, a Georgian court in Zugdidi sentenced the suspect to 12 years in prison in absentia. Georgian and de facto authorities exchanged documentation related to the incident, and discussions continued.

In January the International Criminal Court (ICC) opened an investigation into alleged war crimes and crimes against humanity that the ICC had "reasonable basis to believe" were committed during the 2008 war in breakaway South Ossetia.

### **b. Disappearance**

There were no reports of politically motivated disappearances during the year in government-administered territory, although there were frequent reports of abductions along the administrative boundary lines of both occupied regions of Abkhazia and South Ossetia. Georgian authorities detained a number of Russian citizens near the administrative boundary line on various charges, including for entering an occupied territory of Georgia from Russia, which is against the law.

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 Ossetia administrative boundary line, Russian border guards frequently transferred individuals to de facto authorities. The State Security Service of Georgia reported detentions by de facto authorities typically lasted between two to three days until the detainee paid "fines" set by the de facto "court."

The European Union Monitoring Mission (EUMM) recorded 78 individuals detained along the administrative boundary line with Abkhazia and 140 along the administrative boundary line with South Ossetia. The Public Defender's Office reported that, from January to September, 177 individuals were detained along the

administrative boundary line with Abkhazia and 104 individuals on the South Ossetian administrative boundary line. The EUMM also reported that, on at least one occasion, local South Ossetian border guards crossed into government-controlled territory to detain an individual.

There were also reports of arbitrary arrests of ethnic Georgians by the de facto authorities, particularly in the Tskhinvali and Gali regions of South Ossetia and Abkhazia, respectively. Detainees reported they were not informed of the reason for their arrest or why they were brought before a de facto prosecutor.

More than 2,300 individuals were still missing following the 1992-93 war in Abkhazia and the 2008 Russia-Georgia conflict, according to the International Committee of the Red Cross (ICRC). The organization continued to work with all sides, including de facto authorities in South Ossetia and Abkhazia, to identify remains.

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

While the constitution and law prohibit such practices, there were reports government officials employed them. Although the number and severity of allegations of such abuse by penitentiary employees decreased, the Public Defender's Office reported that mistreatment of detained persons by police officers remained an acute problem.

NGOs and the Public Defender's Office reported they continued to receive reports of mistreatment at the hands of police and penitentiary officials. The Public Defender's Office considered investigations into such cases as not effective, independent, prompt, or impartial. NGOs and the Public Defender's Office continued to recommend the creation of an independent mechanism to investigate allegations of misconduct by law enforcement officials.

GYLA received 20 complaints of such treatment during the year, 11 of which were from No. 3 prison, and reported them to the Chief Prosecutor's Office to initiate investigations. The Prosecution Service of Georgia confirmed it received 20 complaints from GYLA but reported 12 involved alleged mistreatment of detainees by police and eight in penitentiary facilities, including only one in prison No. 3. The Prosecution Service of Georgia stated it commenced investigations into five of the complaints in the penitentiary establishments and found three were based on allegations of inhuman and degrading treatment and two were based on allegations

of abuse of official power. The Prosecution Service of Georgia also reported it started investigations into six of the reported complaints of violations by police officers, and at year's end the investigations were underway.

Authorities also conducted investigations into allegations of cruel, inhuman, or degrading treatment or punishment reported during the year. As of November the Public Defender's Office submitted two cases of mistreatment of inmates by employees of penitentiary facilities to the Chief Prosecutor's Office. The Prosecution Service of Georgia reported it started investigations into both cases of alleged mistreatment of prisoners reported by the Public Defender's Office and declared one of the investigations was terminated due to the lack of cooperation from the victim and lack of additional evidence. The Prosecution Service of Georgia said it also received 10 reports of mistreatment in detention by police officers from the Public Defender's Office and after conducting investigations brought charges for the abuse of official power against five police officers.

An investigation into the alleged 2015 assault of lawyer Giorgi Mdinaradze by police officers in Vake-Saburtalo Police Department No. 5 continued. The Public Defender's Office reported the prosecution did not bring charges against any additional police officers who allegedly participated in the assault and noted the court hearings had been postponed a number of times because the witness police officers did not show up in court. The Prosecution Service of Georgia reported the trial against one police officer involved in the incident for charges of abusing official power committed with violence was in progress but that evidence did not support the allegation other police officers were involved in the violent act against Mdinaradze.

GYLA did not identify any instances of torture during the year. In September the Public Defender's Office noted any allegations of torture by law enforcement officials were increasingly investigated as "exceeding official power," rather than "torture or inhuman treatment," and thus were difficult to track.

Regarding alleged instances of torture under the former government, in December 2015 the Prosecution Service of Georgia charged former deputy defense minister Davit Akhalaia, former deputy chief of the general staff Giorgi Kalandadze, and two other former officials with illegal imprisonment and torture. According to the Prosecution Service of Georgia, the accused beat and exposed Elberd Koberidze to asphyxiating gas in 2012 to make him confess to committing a terrorist act. The trial began in July, and GYLA monitors did not document any procedural violations. In May the Prosecution Service of Georgia charged two former

officials, deputy culture minister Giorgi Udesiani and director of Gldani No. 8 prison Aleksandre Mukhadze, with the torture of a businessman in an attempt to expropriate his property in 2011. Both Udesiani and Mukhadze left the country in 2012. As of December former defense minister Bacho Akhalaia was on trial in absentia at the Tbilisi City Court for torture, organization of sexual abuse, and abuse of official power.

Individuals detained in Russian-occupied South Ossetia and Abkhazia who later returned to Georgian government-controlled territory reported incidents of mistreatment and abuse, including cigarette burns and beatings, while in custody, according to the EUMM. Human rights observers estimated half of the individuals detained by South Ossetian de facto authorities experienced some form of abuse.

There was one report of conflict-related abuse by Ministry of Defense peacekeeping forces in the Central African Republic (CAR). In January the UN high commissioner for human rights issued a report on alleged sexual exploitation and abuse of minors by foreign peacekeepers stationed in the CAR. The report detailed accusations from four girls claiming that their abusers were attached to contingents operating as part of the EU operation (EUFOR). While the nationalities of some of the soldiers were unclear, three of the girls said they believed some of their abusers were members of the Georgian EUFOR contingent. The girls were between 14 and 16 years of age at the time of the alleged abuse. In response to the allegations, the minister of defense issued an order creating an interagency investigation team that travelled to the CAR to conduct a comprehensive investigation. The team, composed of professionals with backgrounds in academia, law enforcement, and medicine, sought to gather information while protecting the best interests of the victims. In June the defense minister announced the team's preliminary results indicated Georgian soldiers were not involved in the alleged abuse. As of December the investigatory team had returned from the CAR and was preparing a final report.

### **Prison and Detention Center Conditions**

While overall prison and detention facility conditions continued to improve, conditions in some old facilities were inhuman and lacked sufficient ventilation, natural light, minimum living space, and adequate health care.

Physical Conditions: According to the Ministry of Corrections, the penitentiary system, which holds both pretrial and convicted inmates, had an operating capacity

for 12,681 individuals. As of December there were 9,334 inmates, or 73 percent of capacity.

While persons in pretrial detention were required by law to be held separately from convicted prisoners, the Public Defender's Office reported the practice of placing convicts and accused persons together remained a problem in several facilities.

According to the Ministry of Corrections, 17 prisoners died in the penitentiary system during the year, a slight increase from 12 deaths in 2015.

While the Ministry of Corrections maintained a special medical unit for prisoners with disabilities, in 2015 the Public Defender's Office reported the needs of persons with disabilities, including for medical services, were not taken into account in prisons and temporary detention centers. The Public Defender's Office also noted the majority of institutions failed to keep data and register the needs of persons with disabilities. The Ministry of Corrections reported during the year that the No. 2 and No. 14 penitentiary establishments were equipped with cells adapted to the needs of prisoners with disabilities and noted specially adapted cells for prisoners with disabilities were available at No. 5, No. 6, and No. 16 penitentiary institutions, in addition to the long-term care units at No. 18 penitentiary medical facility.

The Ministry of Internal Affairs also ran a migration center, built to international standards, to house individuals being deported or brought into Georgia for legal reasons. Men, women, and families each had their own quarters, and there were specially adapted rooms for individuals with disabilities. A designated monitoring unit provided internal oversight for the facility, which supplied medical and psychological support to its residents as needed.

Prison conditions in Abkhazia and South Ossetia were reported to be chronically substandard.

Administration: The Public Defender's Office noted there was only one ombudsman authorized to respond to complaints by prisoners and reported that obstacles such as a lack of information on their rights, fear of intimidation, distrust of the outcome, and lack of confidentiality could deter prisoners from filing complaints with judicial authorities.

The Public Defender's Office reported it received a vast number of complaints from prisoners that prison officials did not inform them about disciplinary

measures taken against them and a number of complaints that they were not allowed to keep their case files in their cells. These prisoners also claimed they were not allowed to receive any law-related material, making it harder for them to form an appropriate defense for hearings. In 2015 the NGO Human Rights Center reported women and juvenile prisoners did not have access to lawyers for legal assistance in preparing various documents, complaints, statements on early release, and other important matters.

According to the Public Defender's Office, records on registering and distributing detainees in temporary detention centers were often incomplete or erroneous.

Most prisons had Georgian Orthodox Christian chapels but no specific nondenominational areas for worship.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international organizations and some local and international human rights groups. The national preventive mechanism operating under the Public Defender's Office had access to penitentiaries and conducted planned and unscheduled visits and was allowed to take photographs during monitoring visits.

The ICRC had full access to prisons and detention facilities in undisputed Georgian territory and some access to prison and detention facilities in South Ossetia.

Improvements: In September the Ministry of Corrections approved photographic recording in penitentiaries and granted the right to the national mechanism of prevention to photograph bodily injuries and the physical condition inside penitentiaries during monitoring visits. The ministry also amended its regulations to better define conditions and compensation requirements for inmates employed within the penitentiary system, launched a new website to allow inmates to sell handicrafts online, and created an advisory council including NGOs and international organizations to increase transparency and feedback to the minister.

The Ministry of Internal Affairs reported during the year it opened a medical care service in its Temporary Detention Department, hired 30 staff for the department, and trained the staff on documenting injuries according to the Istanbul protocol and emergency response. The ministry also reported it repaired or reconstructed ventilation and heating in temporary detention facilities throughout the country, installed them in facilities where no ventilation system existed, fully reconstructed two existing facilities, and completed construction of one new facility.



#### **d. Arbitrary Arrest or Detention**

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

#### **Role of the Police and Security Apparatus**

Two organizations have primary responsibility for law enforcement and the maintenance of public order: the Ministry of Internal Affairs and the State Security Service. The Ministry of Internal Affairs is the primary law enforcement organization in the country and includes the national police force, the border security force, and the Georgian Coast Guard. The State Security Service is the internal intelligence service responsible for counterintelligence, counterterrorism, and anticorruption. The Ministry of Finance and the Prosecution Service of Georgia both have investigative services with police powers in financial investigations. The Ministry of Defense is responsible for external security, although the government may call on it during times of internal disorder.

Civilian authorities maintained effective control over the Ministry of Internal Affairs, State Security Service, and Ministry of Defense, and the organizations have internal mechanisms to investigate and punish abuse and corruption. While there were no reports of impunity involving the security forces during the year, the Public Defender's Office reported it received a number of complaints regarding the excessive use of force by police. State Security Service official allegedly placed political pressure on candidates and campaign staff (see section 3).

In July the Chief Prosecutor's Office charged former justice minister Zurab Adeishvili in absentia regarding an alleged 2007 illegal detention and kidnapping of a former opposition leader, Koba Davitashvili. Adeishvili reportedly ordered the deputy head of the Revenue Office in the Ministry of Finance, Davit Karseladze, to use a special unit to prevent opposition leaders from appearing in crowds, to prevent them from addressing the public, and to attack other protesters. As of December the trial was underway at Tbilisi City Court.

In September the former head of the Constitutional Security Department, Davit Akhalaia, and three additional former Ministry of Internal Affairs officials were charged in connection with the violent dispersal of a protest in 2011 that was allegedly ordered by then internal affairs minister Ivane Merabishvili, who remained in prison.

According to the Ministry of Internal Affairs, its General Inspection Service imposed 1,305 disciplinary actions, such as reprimands, demotions, and dismissals, on law enforcement officers between January and July. There were 2,623 such actions in 2015. The ministry also reported it transferred 23 cases to the Chief Prosecutor's Office for investigation, of which 10 ended with convictions on various charges.

### **Arrest Procedures and Treatment of Detainees**

Law enforcement officers must have a warrant to make an arrest except in limited cases where destruction of evidence or commission of a new crime cannot be prevented by other means. The criminal procedure code provides that an arrest warrant can be obtained only where probable cause can be shown that a person committed a crime punishable by imprisonment and that the individual may abscond or fail to appear in court, destroy evidence, or commit a new crime. GYLA noted courts generally failed to conduct proper review of the legality of arrests, but in some cases judges began to review arrests.

Upon arrest, a detainee must be advised of his or her legal rights. Any statement made after arrest but before a detainee is advised of his or her rights is inadmissible in court. The arresting officer must immediately take the detainee to the nearest police station and record the arrest, providing a copy to the detainee and his or her attorney. Detainees must be indicted within 48 hours and taken to the court within the first 72 to decide on the use of pretrial conditions. Violating the time limit results in the immediate release of the person. Anyone taken into custody on administrative grounds has the right to be heard in court within the first 12 hours after detention, and violating the time limit results in the immediate release of the person.

GYLA monitored the Tbilisi and Kutaisi city and appellate courts from February to July and reported courts generally continued to use bail and imprisonment as preventive measures. While GYLA reported the percentage of unsubstantiated decisions imposing bail significantly increased, it also reported the number of decisions unreasonably imposing imprisonment slightly declined. GYLA also stated that proper judicial oversight of the conclusion of plea bargains deteriorated and that the number of cases in which judges failed to explain fully to defendants their rights increased.

The law permits alternatives to bail and detention, but they were rarely used.

Detainees have the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. An indigent defendant charged with a crime has the right to counsel appointed at public expense. This support, managed by the Legal Aid Service, is a separate and independent entity with a nine-member board.

Detainees facing possible criminal charges have the right to have their families notified by the prosecutor or the investigator within three hours of arrest; persons charged with administrative offenses have the right to notify family upon request. The law requires the Chief Prosecutor's Office to approve requests by detainees in pretrial detention to contact their family.

In February a new law shifted the government from a system of compelled witness interrogations to voluntary witness interviewing. The law provides the right for witnesses to refuse to participate in an interview with law enforcement officials and includes a mechanism for prosecutors and investigators to petition the court when a witness refuses to participate and law enforcement can prove that the person has "necessary information" on the circumstances of the case. NGOs and international partners criticized this mechanism as a significant loophole. As of December, however, statistics showed the practice had not been abused by law enforcement: prosecutors had interviewed approximately 123,000 adults and 4,000 minors on a voluntary basis and petitioned the court on 71 occasions for court-compelled interviews (the court granted 66 of the 71 requests). Of those individuals compelled by the court, only 27 witnesses were interviewed because of their refusal to talk. The other motions were for individuals who were leaving the country before trial, had deteriorating health, or were due to foreign government requests.

Concerns persisted regarding the use of administrative detention, under which authorities may detain an individual for up to 15 days without the right to effective defense, defined standards of proof, and effective right to appeal. According to the Ministry of Internal Affairs, 701 persons served terms of administrative detention in temporary detention isolation cells during the year, compared with 998 in 2015.

Arbitrary Arrest: The Public Defender's Office reported that, although the number of complaints of such detentions was not high, it was studying a case concerning the detention of an individual who authorities described as "not accused" but "taken to the administrative building of the Ministry of Internal Affairs to be questioned." The Public Defender's Office also raised concerns that individuals

who were confined in mental health institutions based on medical records may be detained involuntarily and that individuals who refuse to give a drug test sample to police, but remain under police control for several hours without the procedural guarantees of detainees, may be held arbitrarily.

The Ministry of Internal Affairs explained “questioning” and “inviting a person to a police station to conduct an interview” were strictly voluntary, that the person must be informed of the grounds for “interviewing,” and that police stations where “interviews” were conducted are equipped with video surveillance systems and in a controlled environment. The Ministry of Internal Affairs also explained police officers are authorized to bring an individual for a drug test only when the police officer personally witnesses that the person is committing an offense and there is sufficient ground to believe that a person is under the influence of narcotics or psychotropic substances.

Members of the opposition party United National Movement (UNM) alleged the government engaged in politically motivated arrest and detention. On June 14, the European Court of Human Rights (ECHR) ruled that former prime minister Ivane Merabishvili’s pretrial detention in May 2013 was lawful, but it added that the Tbilisi City Court ruling for additional detention in 2013 should have included a justification even though it was not legally required. The ECHR further concluded that prosecuting authorities also used Merabishvili’s pretrial detention to seek to gain leverage over him in two unrelated cases in December 2013. At that time Merabishvili reported he was taken from his detention cell to a late night meeting with the then chief prosecutor, who sought to intimidate him into cooperating on these cases. Opposition party leaders said the ECHR’s ruling substantiated their claim that Merabishvili was a political prisoner and called on the authorities to release him. On June 21, the Chief Prosecutor’s Office stated it had opened an investigation into the December 2013 events; as of year’s end no investigation results were publicly released.

Pretrial Detention: In September the Constitutional Court ruled that prolonging pretrial detention beyond nine months was unconstitutional if law enforcement officials knew of the crimes, or potential charges, at the time the defendant was serving pretrial detention for other offenses. Although there was noticeable progress in the substantiation of court rulings, NGO trial monitors identified inadequate substantiation of detention decisions and delays in a number of cases. Pretrial detention at times was lengthy, and NGOs noted uneven application of the standards to grant bail or require detention. Lawyers noted courts sometimes used ECHR standards to justify their rulings. Nevertheless, prosecutors and judges

often did not articulate a reasoned and specific justification for requesting or ordering detention.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The criminal procedure code provides that in exigent circumstances, a person can be arrested without a court warrant. A person shall be immediately released if the substantial breach of an arrest procedure has been identified. This decision can be made by a prosecutor or a judge at the first appearance hearing within 72 hours from the arrest. The law provides that regardless of whether the arrested person is convicted or not, the person shall be fully reimbursed from the state budget for the damage incurred as a result of an unlawful and unjustified arrest. The legality of administrative arrest--which is not to exceed 12 hours--can be appealed with a prosecutor. There is no meaningful judicial review provided by the code of administrative violations for an administrative arrest.

Amnesty: According to the Ministry of Corrections, the government granted amnesty to eight individuals and pardoned 834 individuals who were serving prison sentences during the year.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary and progress on judicial reforms occurred in late December, there remained indications of interference in the judicial system. The president, public defender, and NGOs raised public concerns regarding pressure on judges, judicial appointments (including to the Constitutional Court), passage of Constitutional Court legislation, prosecutorial reform, case assignments, due process, appellate review, and compulsory defense.

The president and the Coalition for an Independent and Transparent Judiciary, consisting of dozens of human rights and democracy NGOs, expressed concern that flawed processes for selecting judges at all court levels--many to lifetime appointments--left the judiciary vulnerable to political influence in politically sensitive cases. Nearly 100 new judges with lifetime appointments were appointed throughout the year. Coalition members reported they were able to attend High Council of Justice meetings and enjoyed unlimited access to court sessions. On February 9, however, the coalition criticized the judicial selection and appointment processes as "unfair, nontransparent, and unconstitutional" and called on the High Council of Justice to suspend the election and appointment of new judges, reiterating its request made in December 2015.

In May parliament passed legislation that was controversial both in content and timing altering the functioning of the Constitutional Court, including judicial competencies in the final months of their office, term limits, and quorum requirements. The president vetoed the law and requested an opinion from the Council of Europe's European Commission for Democracy through Law (Venice Commission), which found the law was excessively stringent with regard to term limits, quorum requirements, and its proposed limits on judges' hearing of cases in their final months in office. In addition to voicing substantive concerns, the president, public defender, and NGOs criticized parliament's speedy passage of the legislation, which they considered worthy of broad public discussion. In December the Constitutional Court ruled the changes made to the Constitutional Court were unconstitutional.

Parliament passed a revised version of the amendment in June that incorporated the Venice Commission's criticism regarding term limits and limits to judicial competencies in the final months of their office. The final version did not address Venice Commission concerns regarding the high quorum requirement for a ruling, which the commission noted was "excessive" and created the risk that a minority of judges could "easily" block decisions.

In July the chairman of the Constitutional Court, whose term ended in September, claimed the justices on the court involved in politically charged cases were under external pressure to rule in favor of the government. Some of the judges on the court, however, refuted the claim, asserting they were not under external pressure and claimed the chairman was the one pressuring them to act quickly and in certain ways. NGOs also cited threats against Constitutional Court judges and the lack of response by law enforcement authorities as causes for concern.

The court system continued to lack an effective system to guarantee the random assignment of cases. According to Transparency International, the case distribution system in the trial and appeals courts remained a major problem and hindered judicial independence. A package of legislation informally known as the "third wave of judicial reforms"--which would have enhanced judicial independence--contained amendments to introduce random electronic distribution of cases. Parliament did not adopt the package, which the government submitted in the summer of 2015 and which remained the subject of high public and international interest, until late December. At year's end the legislation was pending the president's approval.

The president and the Coalition for Independent and Transparent Judiciary also highlighted that the 2015 amendments on the appointment of the chief prosecutor failed to achieve the goal of depoliticizing the Prosecution Service of Georgia. In particular, the coalition stated that a lack of genuine transparency in the formation of the Prosecutorial Council remained and that power to select the chief prosecutor ultimately rested with the ruling party and the government. The Venice Commission, which also reviewed the reforms, advised that the process of selection and appointment of the chief prosecutor should include procedures that avoid the appointment of a candidate acceptable solely to the ruling party. It also advised that the law should contain a merit-based process driven by consensus among the ruling and opposition parties, and representatives of professional circles and the society. The coalition concluded that the 2015 law failed to meet both of these criteria. Aimed at reforming the Prosecution Service of Georgia and specifically the rules for selection and discipline of the chief prosecutor, the 2015 package focused on depoliticizing the selection of the chief prosecutor by involving several agencies and parliament in both the selection and discipline of a chief prosecutor. To meet this goal, the legislation created a Prosecution Council chaired by the minister of justice and composed of prosecutors, judiciary, academia, and civil society members. The legislation also codified (for the first time) professional objective qualifications required to hold the office and implemented mechanisms to guarantee checks and balances within the Prosecution Service of Georgia.

### **Trial Procedures**

The constitution and law provide for the right to a fair trial. While the judiciary generally enforced this right, NGOs noted this was not the case in some high-profile, politically sensitive cases. Although the constitution and law provide for the right to a public trial, GYLA reported on December 8 that courts were inconsistent in their approaches to closing hearings to the public and at times did not provide an explanation for holding a closed hearing.

Defendants enjoy the right to a presumption of innocence and to be informed promptly and in detail of the charges against them, with free interpretation as necessary. Defendants have a right to be present at their trial and have a public trial except where national security, privacy, or protection of a juvenile is involved. The law allows for trial in absentia in certain cases where the defendant has left the country. The code on administrative offenses does not provide the necessary due process guarantees including the presumption of innocence, especially when dealing with violations that can result in a defendant's deprivation of liberty.

The law does not prescribe a maximum period for investigation of cases but stipulates a maximum period for trial if the person is detained. In 2015 the criminal procedure code was amended to require trial courts to issue a verdict within 24 months of completing a pretrial hearing.

GYLA noted that defendants increasingly had difficulty understanding judges' explanation of their rights, particularly in cases where the defendants represented themselves and in plea bargain cases. Courts allowed photographs and audio and video recordings of trials and provided these to the public upon request.

Defendants have the right to meet with an attorney of their choice without hindrance, supervision, or undue restriction. Defendants enjoy the right to have an attorney provided at public expense if they are indigent, but many did not always have adequate time and facilities to prepare a defense. The Public Defender's Office noted that while a state appointed lawyer generally was available for those in need, state-appointed attorneys often were not presented until submitting charges or plea bargaining. Furthermore, the Public Defender's Office explained there was not adequate documentation of when detainee requests for state-appointed attorneys were submitted and recommended that the demand for the right to a lawyer be documented to ensure such demands and relevant actions were recorded.

Defendants and their attorneys have the right to have access to the prosecution's evidence relevant to their cases no later than five days before the pretrial hearing, during criminal proceedings, and could make copies. Defendants have the right to question and confront prosecution or witnesses against them and present witnesses and evidence on their own behalf at trial. Defendants have the right to refuse to testify or self-incriminate. While a defendant has the right to appeal a conviction, making an effective appeal under the administrative code was difficult. Under the criminal procedure code, defendants have 30 days to file an appeal once they receive the court's written and reasoned judgment. Administrative sentences that entail incarceration are required to be appealed within 48 hours and within 10 days otherwise.

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. Plea bargaining provisions in the criminal procedure code provide safeguards for due process, including the removal of a no contest plea and allowing charge bargaining. The evidentiary standard for plea agreements



stipulates that evidence must be sufficient to find a defendant guilty, without a full trial of a case, and must satisfy an objective person that the crime was committed by the defendant.

### **Political Prisoners and Detainees**

The UNM opposition party and family members of prisoners alleged the government held political prisoners, including the former internal affairs minister and former mayor of Tbilisi. The government permitted international and domestic organizations to visit persons claiming to be political prisoners or detainees, and several international 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 civil 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 human rights violations, is entitled to bring a civil action. Individuals have the right to appeal court decisions involving the alleged violation of the European Convention on Human Rights by the state to the ECHR after they have exhausted domestic avenues of appeal.

### **Property Restitution**

There were reports of lack of due process and respect for rule of law in a number of property rights cases. The Public Defender and Chief Prosecutor's Offices stated that after the 2012 parliamentary elections, numerous former business owners and individuals claimed former government officials illegally deprived them of property. NGOs also reported several cases in which groups claimed the former government improperly used eminent domain or coercion to seize property at unfairly low prices. The Public Defender's Office noted hundreds of persons were still waiting for redress, although the Chief Prosecutor's Office considered these complaints in its Investigation Department of Crimes Committed in the Course of Legal Proceedings.

During the year the government's newly established Investigation Department of Crimes Committed in the Course of Legal Proceedings under the Chief Prosecutor's Office investigated allegations of illegal deprivation of property under the previous government. As of year's end, the department had received 700 such

complaints and had granted 85 individuals “victim” status, in each case returning to the claimant property worth approximately 18 million lari (\$6.8 million). In November the department indicted former internal affairs minister Merabishvili and former justice minister Adeishvili on charges of infringing the right to private property and forceful deprivation of citizens’ property. In 2013 the Tbilisi City Court ordered that Adeishvili be held in pretrial detention in absentia; the former justice minister remained outside the country with several cases pending against him.

According to the Public Defender’s Office, the problem of “overlapping registration” in Bakuriani, Zemo Svaneti, and Adjara, where the government only partially implemented land reform, continued and resulted in hundreds of pending cases in common courts and a high number of applications submitted to its office.

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 IDPs 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 relating to property in the Akhalkalaki Region. The decree also declared all property in Akhalkalaki belongs to the de facto authorities until a “citizen’s” right to that property is established in accordance with the de facto “law,” effectively stripping ethnic Georgians displaced in 2008 of their property rights in the region.

#### **f. Arbitrary or Unlawful 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 nonconsensual electronic surveillance or monitoring operations without a warrant. NGOs, media outlets, and others asserted the government did not respect these prohibitions. For example, there were widespread reports that the government monitored the political opposition.

In March numerous unauthorized videos purporting to show politicians in compromising positions were released on the internet. Several other public figures stated they were blackmailed with recordings made of their private lives. The Public Defender’s Office criticized law enforcement agencies for failing to identify the sources of the recordings or establish responsibility for disseminating them.

The Public Defender's Office also admonished law enforcement bodies for failing to take appropriate measures to stop the spread of the videos.

In April the Constitutional Court ruled the country's electronic surveillance law was unconstitutional and that the government must update it by March 2017. The court ruling drew attention to the security services' unrestricted and direct access to telecommunication networks as well as to the inadequacy of checks on the services' activities to protect individual privacy.

In September an audio tape was released on the internet, allegedly of a former president and other opposition leaders discussing the feasibility and logistics of organizing a revolution in the country. Opposition party members also claimed they received texts from unknown sources threatening to release incriminating footage of them. The government's investigation was in progress at year's end.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech and press, and citizens generally were free to exercise these rights, although there were allegations the government at times did not adequately protect them. Journalists, NGOs, and the international community raised concerns about the environment for media pluralism following developments affecting the independence of the country's leading television broadcasters, including its leading station, Rustavi 2. Parliament's failure to select all eight members of the reconfigured board of the Georgian Public Broadcaster for a third consecutive year amplified concerns about the politicization of the selection process and its negative impact on the ability of state-funded television and radio outlets to fulfill their programming responsibilities.

Freedom of Speech and Expression: While individuals were usually free to criticize the government without reprisal, democracy NGOs expressed concern that government and former government officials' public criticism of civil society and the media, including calls for investigations of individual NGO leaders, led to self-censorship by journalists and civil society actors.

Press and Media Freedoms: Independent media were very active and expressed a wide variety of views. At the same time, media remained politically polarized and provided the public only limited access to objective, neutral news.

Television was the most influential medium and the primary source of information on current events for approximately 87 percent of the population, according to a 2015 survey carried out by Caucasus Research Resource Centers Georgia. Major television stations expressed a political bias, albeit to a lesser degree than in previous years. Government officials periodically criticized certain media outlets, in most cases Rustavi 2, alleging a pro-opposition bias.

Following the 2011 amendments to the Law on Broadcasting, which obligate media outlets to disclose information about their owners, media ownership became fairly transparent. Transparency of media ownership allowed consumers to judge the objectivity of news, but media experts acknowledged transparency was not absolute. In 2014 a Transparency International report concluded that significant personnel changes at several major media companies affected the content of broadcasting. In a number of instances, owners were suspected of interference in the editorial policies of the broadcasters, undermining media freedom.

Some media outlets, watchdog groups, and NGOs expressed continued concern over a restrictive environment for media pluralism and political meddling in the media, to which government critics were particularly vulnerable. In particular, concerns persisted over government interference with the country's most widely viewed television station, Rustavi 2, as well as over the independence of the judiciary in a case involving the station's ownership. In that case Rustavi 2 alleged the government was involved in a June decision by the Tbilisi City Court of Appeals that upheld the Tbilisi City Court's November 2015 decision to grant ownership of the company to former owner Kibar Khalvashi. Although the government maintained the case was a legal dispute between private parties, the appellate court's actions were widely seen as an attempt to change the editorial policy of Rustavi 2, which often espoused views critical of the government.

In July attorneys for Rustavi 2 appealed the decision to the Supreme Court. Several NGOs, including Transparency International and GYLA, as well as members of the opposition, called on the Supreme Court to accept the case, which it did in September. In November the Supreme Court passed the case to its Grand Chamber, and, as of year's end, the Grand Chamber had not started hearing the case. There were also claims concerning the constitutionality of the statutes cited in the Rustavi 2 ruling by the Tbilisi City Court pending before the Constitutional Court (see section 1.e.).

Violence and Harassment: Crimes against media professionals, citizen reporters, and media outlets were prosecuted vigorously, but such crimes were rare. There was one report of police physically and verbally assaulting a journalist. In August Davit Mchedlidze, editor in chief of the online media outlet *media.ge*, reportedly was attacked by police in the city of Rustavi. An investigation was underway.

Nongovernmental Impact: Media observers, NGO representatives, and opposition politicians alleged that a former prime minister continued to exert a powerful influence over the government and judiciary, including in the lower and appellate court decision against owners of the Rustavi 2 television station.

While there was a greater diversity of media in Abkhazia, media in the separatist regions of South Ossetia and Abkhazia remained restricted by de facto authorities and Russian occupying forces.

### **Internet Freedom**

The Georgian government rarely restricted access to content online, although two isolated blocking incidents involving WordPress and YouTube were documented during the year. Aside from these isolated incidents, government blocking and filtering was not a major hindrance to internet freedom.

In recent years legislative amendments and court decisions gradually began to increase checks on the ability of authorities to conduct surveillance of citizens online. During the year the Constitutional Court ruled against the government's practice of accessing user metadata without oversight, further shoring up privacy online. Leaked recordings of private conversations between public officials, however, raised concerns of unauthorized surveillance (see section 1.f.).

According to International Telecommunication Union statistics, approximately two-thirds of the population used the internet. High prices for services and inadequate infrastructure limited access, particularly for individuals in rural areas or with low incomes.

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

### **Academic Freedom and Cultural Events**

There were no confirmed reports of government restrictions on academic freedom or cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution and law generally provide for freedom of assembly. While authorities routinely granted permits for assemblies, the government's respect for the right was uneven. Police on occasion arrested or failed to protect participants in peaceful assemblies from counterdemonstrators. In addition, human rights organizations expressed concern about provisions in the law, including the requirement that political parties and other organizations give five days' prior notice to local authorities to assemble on a public thoroughfare, thereby precluding spontaneous demonstrations.

Activists noted that freedom of assembly for members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community remained restricted (see section 6, Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity).

### **Freedom of Association**

The constitution and law provide for freedom of association, but the government's respect for this right was selective. There were reports that some government representatives and supporters of the ruling party pressured political opposition figures and supporters, central and local government employees, teachers, and union members, including by surveillance (see section 1.f.) and actual or threatened job loss (see section 7). Throughout the year, and especially during the campaign prior to the October parliamentary elections, there were reports of violence, intimidation, and harassment against opposition party figures and dismissal or the threat of dismissal from work for supporting opposition parties.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **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 IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: There were substantial impediments to freedom of movement within the country due to a lack of access to the breakaway regions of Abkhazia and South Ossetia. The majority of the more than 250 thousand IDPs in the country from Abkhazia and South Ossetia reportedly wished to return to their areas of origin but lacked adequate security guarantees and a political resolution to the conflicts.

Foreigners were restricted from moving in and out of South Ossetia but could access Abkhazia with approval from the de facto authorities there. Crossing permits (so-called propusks), which were introduced in 2014 by de facto South Ossetian authorities, were the only document that allowed movement across the South Ossetia-Georgia boundary line. On December 26, South Ossetian de facto authorities announced the introduction of a new permit valid for three years for crossing at controlled crossing points, effective January 1, 2017. The de facto authorities allowed the following categories of persons to cross the Georgia-Abkhaz boundary: holders of Abkhaz and Soviet passports, Form No. 9 permits, authorized employees of Enguri hydro plant holding a Georgian or international passport, and children under the age of 14 with birth certificates who resided in the Gali District (where the majority of the population were ethnic Georgians). Some non-Gali residents who used their Georgian passports had to obtain permission from district de facto State Security Services to cross the Georgia-Abkhaz boundary. Georgian passport holders residing in government-administered territory could also cross the checkpoint if they possessed invitation letters cleared by the de facto State Security Services allowing them to enter Abkhazia.

There were no reports that Georgian authorities unduly restricted any international humanitarian organizations access to the breakaway regions of Abkhazia or South Ossetia. Russian and Abkhaz de facto authorities, on the other hand, limited

international organizations' ability to operate in Abkhazia, and Russian and South Ossetian de facto authorities limited international organizations, including humanitarian organizations, regular access to South Ossetia, although the Geneva International Discussions cochairs representing the United Nations, OSCE, and EU special representative for the conflict in Georgia visited South Ossetia regularly, accompanied by UNHCR. The Georgian Law on Occupied Territories limits access to Abkhazia and South Ossetia, prohibiting entry and exit from neighboring states and requiring movement from Tbilisi Administered Territory only, absent a specific waiver from Georgian authorities.

De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia also restricted the movement of the local population across the administrative boundaries for medical care, pension services, religious services, and education. De facto authorities continued expanding fencing and other physical boundaries along the administrative boundary line between the government-administered area and South Ossetia during the year. Villagers who approached the line or crossings risked detention by Russian Federation Border Guards. The restrictions tightened the Russian "borderization" of both administrative boundary lines and further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries.

### **Internally Displaced Persons**

Based on data of the Ministry for Internally Displaced Persons from the Occupied Territories, Refugees, and Accommodations, as of August there were 271,525 IDPs from the 1992-93 and 2008 conflicts. As of June, UNHCR estimated 166,000 persons were in an "IDP-like" volatile security situation and needed 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. The government, UNHCR, and NGOs employed different methods in estimating the number of IDPs.

Most persons displaced in 2008 received formal IDP status under national legislation, although some individuals who were determined not to have been displaced by the 2008 conflict but might be living close to the administrative boundary line were described by officials as being in an "IDP-like situation." The Ministry for Internally Displaced Persons provided monthly allowances to persons recognized as IDPs, promoted their socioeconomic integration, and created conditions for their return in safety and dignity.



The government prioritized finding durable housing for the 55,732 IDP families in the country. Since 2014-15 the government provided urban housing to 1,506 families and purchased homes in rural areas for 874 families. Durable housing remained a priority need for IDPs. Approximately 64 percent of IDPs in the government-administered territory did not have living quarters that could be considered habitable, with many living in collapsing communal facilities that lacked basic services, including potable water, adequate sanitation, and sewage systems. Many IDP households--primarily those displaced in conflicts in the 1990s--continued to live in substandard or squalid buildings and were in areas with insufficient access to services and economic opportunities.

Abkhaz de facto authorities continued to prevent repatriation of the approximately 274,000 persons displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 45,000 of the overall 274,000 IDPs worked as seasonal laborers, returning to the Gali and Ochamchire regions of lower Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions. De facto authorities prevented IDPs living elsewhere in the country from reclaiming homes in Abkhazia, based on a 2008 “law” that expropriated all “abandoned property” from the 1992-93 war.

### **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.

Employment: Refugees and asylum seekers could not work in the public sector but otherwise had access to legal employment. Refugees seeking jobs registered with the Ministry of Labor, Health, and Social Affairs.

Access to Basic Services: The government provided almost no integration assistance for recognized refugees, so many relied on limited support from international agencies. The country’s reception center had adequate services for asylum seekers and increased its capacity from 60 to approximately 150 persons.

The law enables refugees and asylum seekers to receive a temporary residence permit during the entirety of their asylum procedure as well as documentation necessary to open a bank account and register a business or property. Access to

education remained a problem due to the language barrier, notwithstanding the government's provision of Georgian language classes.

Durable Solutions: The government naturalized 471 Chechen refugees over the previous five years. UNHCR reported approximately 200 Chechen refugees remained unnaturalized, however, including several whose applications were rejected because they failed to pass the required test in language and country history. Others were purportedly denied for national security concerns.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify for refugee status. As of August, 162 persons were granted humanitarian status.

### **Stateless Persons**

According to UNHCR statistics, as of November there were 602 persons in the country under UNHCR's statelessness mandate. The law provides that an adult may become a citizen if he or she has permanently resided on the country's territory during the previous five years; knows the state language; is familiar with the country's history and laws; and has a job or owns real estate on the country's territory, conducts business, or owns shares in a Georgian company or industry. In certain cases the president may grant citizenship to individuals who did not satisfy these requirements.

The law does not adequately define who is a stateless person, address the loss of Georgian citizenship or reactivation of a suspended statelessness claim, or define the rights of children of stateless person(s).

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections conducted by secret ballot and based on universal and equal suffrage.

In January the president signed into law parliament's 2015 amendments to the electoral code that redrew electoral district boundaries for majoritarian mandates. Large differences in the sizes of electorates in single-mandate constituencies prior to passage of the amendments had been identified as undermining equality of the vote by OSCE/ODIHR and the Constitutional Court. In March the Venice Commission and OSCE/ODIHR experts stated the amendments were an important

step toward achieving equal suffrage but criticized the lack of a clear methodology for establishing constituencies. They also expressed concern that the drafting process lacked transparency, impartiality, and broad engagement. In June the UNM filed a complaint with the Constitutional Court that election district boundaries were gerrymandered. In July the court ruled the evidence did not show abuse of electoral geography. Following the October parliamentary elections, the OSCE/ODIHR election observation mission reported that, despite the technical amendments adopted in June, some large deviations from the average number of voters still remained in the single-mandate constituencies.

### **Elections and Political Participation**

Recent Elections: The country held two rounds of parliamentary elections on October 8 and October 30. The OSCE/ODIHR election observation mission's preliminary report termed them "competitive and administered in a manner that respected the rights of candidates and voters," but it stated the open campaign atmosphere was affected by "allegations of unlawful campaigning and some incidents of violence." According to the OSCE/ODIHR's statement on the October 30 second round, between the first and second rounds, election commissions and courts often did not respect the principle of transparency and the right to effective redress, which weakened confidence in the election administration. OSCE/ODIHR also reported several parties alleged there was political pressure and intimidation on candidates and campaign staff throughout the election process and noted numerous allegations of the misuse of administrative resources. According to OSCE/ODIHR, election observers reported that 31 percent of the vote counts they observed were bad or very bad, while unauthorized individuals participated in the vote count in half of the observations.

While unrest was not widespread, violent incidents were reported throughout the electoral process. In the pre- and postelection period, the Prosecutor's Office reportedly investigated 38 beatings related to the October elections. On election day, for the first round, there were four incidents of violence toward the end of voting and during the vote count in Marneuli, Kutaisi, and Zugdidi. In two precincts in Zugdidi and one in Marneuli, the counting process was disrupted or terminated by outside activists who stormed polling stations, damaged ballot boxes and private property, and assaulted international observers. Reruns were necessary in both Zugdidi precincts and the precinct in Marneuli but not in Kutaisi. The UNM and local NGOs in separate statements expressed concern that police raids on the homes of individuals suspected of raiding the polling station in Marneuli during the first round of the elections was an attempt to intimidate supporters from

voting in the second round. On runoff day fighting broke out in Gori between UNM and ruling party Georgian Dream (GD) supporters, resulting in severe injuries to a UNM supporter. In addition, the National Democratic Institute for International Affairs (NDI) reported that one precinct election commission (PEC) official allegedly physically assaulted a UNM observer in Marneuli.

Other incidents of violence during the election period included the bombing of the car of a UNM member of parliament in Tbilisi four days before the first election round, an assault on international election observers, a shooting incident at an independent candidate's campaign event, and two assaults days before the second election round (see Political Parties and Political Participation).

Election observers including the International Society for Fair Elections and Democracy (ISFED), which conducted parallel vote tabulation that was consistent with official results, expressed concerns about the qualifications, neutrality, and competence of some polling station commissioners. Several NGOs and opposition parties complained the selection process for precinct electoral officials lacked transparency. NDI and other election observers reported numerous procedural problems at PECs--particularly related to the counting and completion of summary protocols--as well as other violations, including duplicate voting, vote buying, voter invitation cards included with cast ballots, and allegations of ballot box stuffing. GYLA questioned the impartiality and consistency of official adjudications of electoral disputes, calling some court rulings "vague and contradictory."

NGOs and opposition parties reported politically motivated intimidation throughout the electoral process. ISFED reported 28 cases of intimidation in the pre-election period, while Transparency International identified 10 cases between the first and second rounds. The UNM reported more than 50 cases overall.

In its final statement, the OSCE/ODIHR election observation mission characterized the 2013 presidential election as efficiently administered and transparent and considered that the legal framework provided a sound basis for the conduct of democratic elections. Shortcomings included allegations of political pressure during the campaign, including on UNM representatives in local government; unclear and unevenly applied election code provisions; and insufficient campaign finance monitoring.

**Political Parties and Political Participation:** On May 22, multiple leading UNM politicians and activists were beaten at a polling station in Kortskheli, a village in

the Zugdidi municipality, during a by-election for a seat in the local council. Local media filmed part of the altercation. NGO election observers reported that the small number of police officers present failed to prevent a fistfight from breaking out and that additional police forces arrived later. The president and prime minister condemned the violence, while NGOs and the public defender criticized police for failing to perform their duty and raised concern that authorities' delay in identifying and prosecuting the GD-affiliated attackers amounted to selective justice. UNM leaders accused the head of GD's election headquarters of organizing the assault, while the GD contended that UNM provoked GD supporters. On June 1, the Ministry of Internal Affairs filed criminal charges against six men involved in the incident. On December 7, the case went to trial.

OSCE/ODIHR observers to the October elections reported candidates were able to campaign freely but that several parties alleged that local authorities, police, and the State Security Service placed political pressure on candidates and campaign staff. NDI observed that while the campaign environment was more competitive than in the 2012 parliamentary elections, the number of political parties represented in the newly elected parliament narrowed to three.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and women and minorities did participate.

There were three ethnic Armenians and four ethnic Azeris in parliament but no minority members in the cabinet, Supreme Court, or Constitutional Court. Higher-level city managers included ethnic minority leaders. Central offices of the major political parties did not include members of ethnic minorities, but they participated in party activities at the regional and local level and in pre-election campaigning in ethnic minority communities.

De facto authorities in Abkhazia reportedly forced ethnic Georgians to give up their citizenship to vote or participate in de facto elections. Ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them in time to participate in elections due to extensive delays or had them annulled in 2014. Ethnic Georgians in South Ossetia were also reportedly required to accept a South Ossetian "passport" and "citizenship" to participate in political life.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. While the government implemented the law effectively against low-level corruption, Transparency International Georgia stated that a lack of independence of law enforcement agencies diminished their ability to investigate cases of high-level corruption effectively. There were no effective mechanisms for preventing corruption in state-owned enterprises and independent regulatory bodies.

According to a December 2015 Transparency International report on implementation of the country's anticorruption laws, the majority of ministries had internal bodies responsible for identifying, reviewing, and sanctioning corrupt practices. The report noted, however, that these bodies were often ineffective in identifying violations and that the majority of public institutions had not established clear internal mechanisms for whistleblowing.

NGOs noted it remained difficult to define and detect official corruption, in part because the gain realized by corrupt officials could involve benefits such as votes, contracts, or insider information rather than cash. Transparency International viewed some aspects of civil service reform legislation passed in November 2015 as a positive development, for example, the introduction of a standardized system to verify asset declarations. Some NGOs raised concerns that the reforms did not address the reported overuse of "acting" and "temporary" staff to circumvent regulations on the competitive hiring of staff to fill vacant government positions.

In January 2015 the government established a specialized unit within the Chief Prosecutor's Office to investigate and prosecute high-level corruption. The unit began operating that March. As of December the unit was investigating 58 total cases, of which 12 were initiated during the year. In February the chief prosecutor created a "consultative council" of supervising and line prosecutors, one of the functions of which was to review disciplinary matters and make recommendations for sanctions to the general inspector.

The State Audit Office monitored the legality and transparency of political financing for the 2016 parliamentary elections and reviewed 1,016 election donations by individuals and 84 by legal entities. The State Audit Office summoned 120 donors for questioning and fined eight for illegal donations. The State Audit Office reported political parties received 2,464 donations during the election period totaling \$13 million. Georgian Dream received 65 percent of the total donations. Transparency International reported the State Audit Office audits were impartial, transparent, and fair.

Corruption: In January Transparency International gave the country a score of 52 (out of the maximum 100) in its corruption perceptions index, a figure that showed little change from previous years, despite new checks to prevent corruption. In a March report, the Institute for the Development of the Freedom of Information (IDFI) assessed the government's implementation of its 2015-16 anticorruption strategy positively. IDFI concluded the government had undertaken many of the reforms outlined in its *Anticorruption Action Plan*, including reforms affecting civil service pay, asset declarations by public officials, and public procurement. In 2015 Transparency International reported the council's effectiveness and influence over policy suffered from its limited mandate and resources.

From January to June, the Anticorruption Agency in the State Security Service identified 14 cases of corruption and detained 19 public servants. The Ministry of Internal Affairs reported 37 cases of corruption (including those from the State Security Agency) during the same period.

Accusations of corruption continued to surround the Tbilisi city council. In July the deputy head of the security service at the Tbilisi city hall was detained for demanding a reported \$22,000 bribe from a foreign citizen to accelerate the auction of a land plot in Tbilisi.

Financial Disclosure: The law requires public officials to submit yearly declarations of their financial incomes and property for tax inspection, which were posted online. Declarations were not subject to verification during the year. The Bureau of Declarations receives financial declarations, and the Prosecution Service of Georgia investigates government corruption cases.

Public Access to Information: While the law provides for public access to government meetings and documents, the government sometimes did not provide access to persons or organizations. The law restricts third-party access to information on cases involving the government in international courts.

IDFI reported it sent 7,430 freedom of information requests to 294 public institutions during the year. Of these, 4,458 were fully satisfied, 404 answers were incomplete, 26 requests were refused, and 1,139 were ignored. Fifty-five of the institutions scored 100 percent in providing access to public information. According to IDFI, the least open institution was the Ministry of Justice and its 12 subordinate bodies, which did not answer any of IDFI's 346 requests.

## **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 noted that officials were cooperative and responsive, while others reported they were under intense criticism and verbal attacks from the government and other sources, including the judiciary, the political opposition, and opposition-affiliated media sources. Various NGOs issued statements expressing concern that comments made by current and former government officials against NGO activities could negatively influence the sentiments of government officials and politicians toward democratic institutions and cooperation with NGOs. NGO concerns about the narrowing space for open political dialogue in the period leading to the country's parliamentary elections and their criticism that the selection and appointment of judges was nontransparent and not merit based also resulted in tension between authorities and human rights NGOs.

In April the secretary of the High Council of Justice publicly criticized NGOs after they claimed the judicial selection and appointments lacked transparency and accused them of conspiring with the president against the judiciary. The secretary threatened the NGOs, telling them to stop their criticism or else the secretary would release information on who is "financing the NGOs" and who is "really" supporting their efforts.

In September a former prime minister publicly called the NGO sector "dirty and polluted" after NGOs rebuked the government for filing legal charges against former government officials within weeks of the parliamentary elections.

The United Nations or Other International Bodies: While there was little official information on the human rights and humanitarian situation in South Ossetia due to limited access, allegations of abuse persisted. With the exception of a human rights assessment conducted by an independent expert commissioned by the EU special representative for the South Caucasus--who visited Abkhazia a half dozen times during the year--access to Abkhazia was also limited.

Government Human Rights Bodies: NGOs viewed the Public Defender's Office, which has a mandate to monitor human rights and investigate allegations of abuse and discrimination, as the most objective of the government's human rights bodies. The public defender's authority does not include the power to initiate prosecutions



or other legal actions, but he can recommend action, and the government must respond. While the office generally operated without government interference and was considered effective, the public defender reported that the government often responded partially or not at all to inquiries and recommendations, despite a requirement to respond to information requests within 20 days. 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 also have mandates to investigate claims of human rights abuses.

The public defender retains the right to make nonbinding recommendations to law enforcement agencies to investigate particular human rights cases. As of September the public defender had examined 104 complaints concerning discrimination, of which seven were deemed inadmissible and 42 not to involve discrimination.

The public defender must submit an annual report on the human rights situation for the calendar year but can also make periodic reports. The office may not report allegations of torture unless the victim gives clear consent or a monitor from the office witnesses the torture. De facto authorities in the occupied territories did not grant representatives of the Public Defender's Office access.

The law charges the chief prosecutor with protection of human rights and fundamental freedoms. The human rights unit of the Chief Prosecutor's Office 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 recommendations of national and international institutions involving human rights.

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

### **Women**

Rape and Domestic Violence: Rape is illegal, but criminal law does not specifically address spousal rape. Criminal cases of rape could generally be initiated only after a complaint by the victim. A first-time offender may be imprisoned for up to seven years, while a repeat offender or rapist with multiple victims may receive up to 10 years. 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 in any of these cases is a minor, the sentence may be

increased to 20 years. During the year authorities initiated investigations in 54 rape cases, the same number as in 2015.

Domestic and other violence against women remained a significant problem. According to the Ministry of Internal Affairs, 16 women died during the year as a result of domestic violence. The Public Defender's Office reported there were 20 investigations initiated between January and July into killings or attempted killings of women. Of these, 10 involved domestic or gender-based violence.

In cases that do not result in injury, penalties for domestic violence include 80 to 150 hours of community service or deprivation of liberty for up to one year. Repeated acts of domestic violence or acts of violence against a pregnant woman, a minor, or a person with disabilities or that take place in the presence of a minor or against two or more persons may be punished by 100 to 200 hours of community service and restriction or deprivation of liberty for one to three years.

The Ministry of Internal Affairs reported it opened 1,727 cases of domestic violence during the year, compared with 1,151 cases from January to September 2015 and 636 in 2014. The Supreme Court reported 981 domestic violence cases were adjudicated in 2016. The Chief Prosecutor's Office reported initiating 1,380 domestic violence prosecutions in 2016. Despite increased public awareness, NGOs believed cases of domestic violence were underreported. According to the Public Defender's Office, despite a number of domestic violence awareness campaigns, legislative and institutional safeguards, and the criminalization of domestic violence, many persons continued to reject intervention by "outsiders" into domestic violence and continued to prefer resolving it within a closed social circle such as the family. The Public Defender's Office also attributed the reluctance of domestic violence victims to report abuse to concern they would not receive help and because they mistrusted police.

According to a special report on domestic violence by the Public Defender's Office, the role of social workers remained critical but underresourced. In June the UN special rapporteur on violence against women noted social workers were not given sufficient resources to support domestic violence victims. The special rapporteur also highlighted the need for teachers, doctors, and social workers to have adequate training in domestic violence prevention.

Domestic violence laws mandate the provision of temporary protective measures, including shelter and restraining orders that prohibit an 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. In September the NGO Article 42 of the Constitution reported that police in a number of cases failed to enforce restraining orders.

During the year authorities provided domestic violence training, including on the investigation of cases, to 92 law enforcement officers.

Local NGOs and the government jointly operated a 24-hour hotline and shelters for abused women and their minor children, although space in the shelters was limited and only four of the country's 10 regions had such facilities. The domestic violence hotline continued to function, but its operators did not speak most minority languages. All shelters adhered to the same general standardized regulations and provided the same services. The shelters included crisis centers that offered victims psychological, medical, and legal assistance. Shelters also provided high-quality primary care and safety services but were inadequate in terms of providing rehabilitation and help in finding long-term housing.

In 2015 the Public Defender's Office reported the State Fund for the Protection and Assistance of Victims of Human Trafficking made several improvements to its shelters, including revising and extending their list of food products and adding a nurse in each unit. The Public Defender's Office also noted, however, that shelters were unable to provide sufficient compensation to victims whose social allowances had been terminated and lacked the resources to assist victims who were drug users.

Female Genital Mutilation/Cutting (FGM/C): FGM/C was not a widespread practice and generally prohibited by law. In November the Public Defender's Office released a statement confirming instances of FGM/C on girls under the age of 18 in three villages in the eastern part of the country. The statement explained the practice was conducted in homes and that the local population was not aware of FGM/C risks and possible health complications. The Ministry of Internal Affairs started an investigation but found no evidence of a crime. Authorities formed a working group to address the problem.

Other Harmful Traditional Practices: Kidnapping women for marriage occurred in remote areas and ethnic minority communities but was very rare. Police rarely took action in these cases, because there was usually no way to distinguish whether the event was a kidnapping or an arranged elopement.

Sexual Harassment: Sexual harassment in the workplace was a problem. The law provides for gender equality in labor relations and gives a general definition of harassment, but it does not provide a legal sanction for such harassment.

Reproductive Rights: Couples and individuals have the legal right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence.

Discrimination: The law provides the same legal status and rights for women as for men but was not always respected. Discrimination against women in employment was reported. The law provides for the establishment of a gender equality council, enhancement of women's security, and strengthening of women's political participation. It provides that the government should engage in gender-responsive planning and budgeting. The Public Defender's Office monitored gender equality cases.

Three ministries designated a full-time officer to handle gender equality issues, while the remaining ones assigned gender equality matters as an additional duty to existing elements. While representation of women in leadership positions in local governments remained limited, women comprised the majority of staff employees of local councils, executive bodies, and mayor's offices.

The Public Defender's Office reported it received up to 10 complaints as of October regarding discrimination against women in employment in both the job selection process and the content of job criteria posted in vacancy announcements. The Public Defender's Office issued three recommendations based on these reports, including two cases regarding a pregnancy and one regarding gender.

Gender-biased Sex Selection: According to the most recent data from the Georgian National Statistics Office, in 2015 the gender ratio of children born in the country was 109 boys for every 100 girls. The skewing of the gender ratio was particularly acute for the birth of a woman's second or third child, but neither the public nor the medical society considered gender-biased sex selection to be a serious problem. There were no known government actions to address the imbalance.

## **Children**

Birth Registration: By law citizenship derives from parents at birth or from birth within the country's territory. It applies to children of stateless individuals. According to the UN Children's Fund (UNICEF), 99 percent of births were registered before the child reached the age of five.

In 2015 UNHCR reported a widening documentation gap in Abkhazia, noting that fewer residents of Gali District held valid documents due to expiration and nonissuance of documentation by de facto authorities, and it reported that more than 400 returnee children born since 2013 had not been issued birth certificates because their parents lacked valid documents required for registration. In June UNHCR visited 29 villages in the eastern part of Abkhazia and identified four children without birth certificates.

Education: Children of noncitizens often lacked the documentation to register in school, impeding registration in some cases. The level of school attendance was low for children belonging to disadvantaged and marginalized groups, such as street children and children with disabilities or in foster care. The Public Defender's Office reported that violence, negligence and other forms of mistreatment were still acute in educational institutions.

In June parliament adopted a law on early and preschool education aimed at creating a stronger legal basis and national standards for inclusive treatment of all children through increased central government monitoring support to municipalities.

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 Internal Affairs, as of August authorities opened investigations into three cases of rape, 144 cases of sexual intercourse with children under 16, two cases of sexual abuse involving violence, and three cases of the production or sale of child pornography. The ministry investigated 173 alleged cases of child abuse as of August. The Public Defender's Office of Child's Rights reported high rates of violence against children in various forms. The main problems facing authorities included an inability to establish whether acts of violence took place, a lack of professional psychologists working in social services, and insufficient cooperation among relevant institutions.

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.

Early and Forced Marriage: The legal minimum age for marriage for both men and women is 18. Forced marriage of an individual under the age of 18 was punishable by two to four years' imprisonment. As of September the Public Defender's Office reported it was reviewing 11 instances of potential early marriage and that two investigations had been launched by the Chief Prosecutor's Office of alleged forced marriage. In December 2015 the government abolished the exception allowing parents or guardians to authorize marriage at 16. Reports of child marriages continued throughout the year, although there were no official statistics. Child marriages reportedly occurred more frequently among certain ethnic and religious groups.

Sexual Exploitation of Children: Commercial sexual exploitation of children and child pornography are punishable by up to five years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation.

The minimum age of consensual sex is 16. The law classifies sexual intercourse with a juvenile as rape, provided the perpetrator is shown to be aware of the victim's age. The penalty for violation is imprisonment of up to nine years; the government generally enforced the law. Other sexual crimes carry increased levels of punishment if the victim is a juvenile.

Displaced Children: Difficult economic conditions contributed to the problem of street children, although it was unclear how many were geographically displaced. The Public Defender's Office reported a lack of information about street children and noted inadequate resources were devoted to them.

In July new legislative measures went into effect to mitigate street begging in Tbilisi. According to the Ministry of Labor, Health, and Social Affairs, mobile teams established contacts with 700 children working or living on the streets. As of September more than 400 of these children were provided with targeted services, including 40 who were enrolled in the education system, 42 who were transferred to the care of social services, 90 who were provided with personal documentation, and up to 42 who were enrolled in social programs.

In April the UN special rapporteur on the sale of children, child prostitution, and child pornography emphasized that, despite the government efforts to protect children from abuse, violence, and exploitation, significant problems remained for children living and working on the streets. The special rapporteur noted the lack of

long-term assistance for children who leave state-run shelters when they turn 18 and criticized the government's methods of identifying and referring homeless children to social services, including temporary shelters.

The government had not finished replacing large-scale orphanages with smaller foster-parenting arrangements. According to UNICEF, during the year 320 children were housed in 47 small-group homes and 1,354 children were placed in different forms of foster care. The government provided grants for higher education for institutionalized and foster care children, including full coverage of tuition and a stipend, and provided emergency assistance to foster families.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

Observers estimated the Jewish community to be no more than 6,000 persons. There were no confirmed reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

While the constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, as well as access to health care, the judicial system and right to a fair trial, and the provision of other government or private-sector services, the government was not effective in enforcing the provisions. The Public Defender's Office reported persons with disabilities continued to encounter barriers to participating in public life as full-fledged members of society. Many families with children with disabilities considered themselves stigmatized and kept their children out of public view. Discrimination in employment was also a problem.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. Very few public facilities or buildings were accessible, although the building of the Ministries of Internal Affairs, Justice, and Education, and the Public Defender's Office complied with the law. Public and private transportation generally did not accommodate persons with disabilities, but the Tbilisi mayor's office introduced new buses equipped with disability access. Sidewalk and street-crossing accessibility was poor.

The Public Defender's Office reported the infrastructure of preschool institutions failed to accommodate the needs of children with disabilities. Only a limited number of preschools among the 165 monitored by the Public Defender's Office in Tbilisi were accessible to children with disabilities.

In January the Ministry of Labor, Health, and Social Affairs, the Social Services Agency, and UNICEF signed a memorandum on creating alternative, smaller, family-like institutions that provide services for children in need of care and with more-significant disabilities. As of December, however, there was no unified standard regulating accessibility of preschools.

According to UNICEF, the government lagged in its plan for deinstitutionalizing the two remaining state-run institutions caring for children with disabilities in Tbilisi and Kojori and shifting to small-scale, family-type alternative services that NGOs and UNICEF believed would result in more efficient, affordable, and higher-quality care. While some children with disabilities in state care were deinstitutionalized, the number in unregulated orphanages run by the Georgian Orthodox Church was unknown.

The Public Defender's Office reported that, despite state programs on childcare and social rehabilitation, many persons with disabilities, especially those living outside of Tbilisi, lacked information regarding access to social, medical, and other programs. The universal health-care program did not cover all needs for such persons, particularly with regard to provision of medication. The Public Defender's Office stated that inclusive education remained a major challenge. Despite the introduction of inclusive education in professional and general educational institutions, preschool and higher education were not part of the system.

The Public Defender's Office reported various problems remained for children with disabilities living in mountainous regions, in particular the lack of access to services and medicine provided free of charge under universal health care. In



January a law on the development of mountainous regions entered into force that grants persons who receive government assistance an additional 20 percent supplement. The Public Defender's Office reported that local councils focused on addressing disability-related problems were established in 22 municipalities as part of the government's 2014-16 *Action Plan on Equalization of Opportunities for Persons with Disabilities* but that the councils' effectiveness remained to be seen.

### **National/Racial/Ethnic Minorities**

The Public Defender's Office and NGOs reported some instances of discrimination against minority communities. In its 2015 annual report, the Public Defender's Office noted that full-fledged protection of ethnic minorities remained a problem. Minority rights NGOs reported that victims rarely registered claims due to a lack of knowledge about their rights and criticized authorities for not raising greater awareness in minority communities.

According to the Ministry of Internal Affairs, there were no reports of crimes committed on the basis of race, nationality, or ethnicity during the year. It also reported no such crimes in 2015. In contrast, a March report by the European Council against Racism and Intolerance (ECRI) on the country for the five-year period through mid-June 2015 stated that physical attacks against ethnic and religious minorities "occur with worrying frequency."

Although NGOs did not observe major patterns of violence against national, racial, or ethnic minorities during the year, numerous cases of hate speech targeting minority groups were reported in print media and on television. The NGO Media Development Foundation reported several dozen instances of xenophobic statements in media, mostly of an "Islamophobic" and "Turkophobic" nature. The March ECRI report noted "hate speech against ethnic and religious minorities continues to be a widespread problem in Georgia and these groups are still often viewed mainly through a security lens."

Weak Georgian-language skills was the main impediment to integration for members of the country's ethnic minorities, although political, civic, economic, and cultural obstacles to integration also remained. Ethnic Armenians, Azerbaijanis, Abkhaz, Ossetians, and Russians usually communicated in their native languages or Russian in the areas where they were the dominant groups. The law provides that citizens have the right to be public servants, provided they have "adequate command of the official language." Some minorities asserted that this law excluded them from participating in government.

The government continued its “4+1” program for ethnic minorities to study the Georgian language for a year prior to their university studies. Under a quota system, the government assigned 12 percent of all bachelor or higher certificate-level placements to students with ethnic minority backgrounds. Ethnic Armenian and Azerbaijani communities each received 5 percent of the slots, while Ossetian and Abkhazian communities received 1 percent each.

In December the Public Defender’s Office noted the involvement of ethnic minorities in civic and political life remained a serious challenge. As a result of the redistricting of electoral districts for the October elections, the majoritarian districts of Akhalkalaki and Ninotsminda-Samtskhe-Javakheti (towns with compact ethnic-Armenian population) were combined, diminishing the number of majoritarian members of parliament from the area.

The law permits the repatriation of Muslim Meskhetians, a national minority group deported in 1944. According to the Ministry for Internally Displaced Persons from the Occupied Territories, Refugees, and Accommodations, 1,533 of more than 5,840 applications were approved by August. Of this number, 494 applicants received “conditional citizenship,” which, according to a presidential decree, will grant them “full Georgian citizenship” upon renouncing their current citizenship. In August the government extended the deadline for applicants to submit official documentation proving their abandonment of foreign citizenship from two to five years.

Ethnic Georgians living in the Gali District of Abkhazia faced problems receiving an education in the Georgian language. According to the EUMM in Georgia, some Gali students seeking to attend school in government-administered territory faced difficulties at the start of the school year crossing the administrative boundary to attend school. In September 2015 de facto authorities shifted the language of instruction for students in grades one through four in Lower Gali to Russian. According to the Abkhaz government-in-exile, in the Tkvarcheli and Ochamchire zones, Russian was the only instructional language and, since the 2008 conflict, the de facto government had prohibited Georgian language instruction. Teachers who did not speak Russian had to memorize lessons in Russian, although some continued to instruct students informally in Georgian. Local communities had either to pay for teachers, arrange for teachers to cross from undisputed government territory to teach, or send their children across the administrative boundary for Georgian-language lessons. To take university entrance exams, graduates had to cross the administrative boundary line.

Georgian language instruction was being steadily replaced by Russian in Gali schools by order of the de facto authorities. The Public Defender's Office noted that in Gali, Ochamchire, and Tkvarcheli Districts, ethnic Georgian students and teachers had poor command of Russian and therefore Russian-only instruction had significantly affected the quality of their education.

According to the Public Defender's Office, the situation in the occupied Akhalkalaki District of South Ossetia was also unchanged. Of the 11 schools in the district, six were Georgian and five were Russian.

### **Acts of Violence, Discrimination, and Other Abuses based on Sexual Orientation and Gender Identity**

The constitution provides for fundamental equality before the law, and a variety of laws or regulations contain antidiscrimination provisions. The criminal code makes racial, religious, sexual orientation, and other bias motives of an offender an aggravating factor for all crimes. According to NGOs, the government rarely enforced the law, and law enforcement authorities lacked robust training on hate crimes.

Societal prejudices against LGBTI individuals remained strong. NGOs reported that most LGBTI persons concealed their sexual orientation for fear of harassment, and few organizations worked openly because of extensive societal stigma. Victims of discrimination and violence also were reluctant to report incidents to police due to fear of disclosing their sexual orientation or gender identity to family members and of homophobic reactions by police. The Women's Initiatives Supportive Group (WISG) reported the LGBTI community lacked trust in police.

According to NGOs, political controversy during the year over amending the constitution to define marriage as the union of a man and a woman pushed LGBTI issues to the forefront, leading to further stigmatization of LGBTI individuals and more frequent attacks against members of the community. As of October WISG reported there had been up to 20 attacks on transgender persons and concluded there was a trend of increased violence. In one example, in October a transgender woman was attacked in Tbilisi and died from her injuries in the hospital in November. A suspect was detained on a charge of murder. NGOs and the Public Defender's Office called on the government to investigate the attack as a potential hate crime. An investigation into the attack continued as of December.

LGBTI organizations were not able to hold a rally on May 17 to mark the International Day against Homophobia (IDAHO) because the Ministry of Internal Affairs allegedly could not guarantee a safe environment on Rustaveli Street or Freedom Square. NGOs noted that the Georgian Orthodox Church had already reserved the area for a procession to mark Family Day. Activists reportedly were offered a different location to hold a rally but turned it down.

On the morning of May 18, law enforcement officers detained a group of 10 LGBTI activists for vandalizing various locations of downtown Tbilisi with graffiti, including a wall of the administrative headquarters of the Georgian Orthodox Church, which condemned same-sex sexual activity. The activists fled the scene and subsequently claimed the law enforcement officers who detained them were not in uniform, did not identify themselves, and some used homophobic language against them. The activists were charged with resisting arrest and painting graffiti without permission. In June a judge found the 10 activists innocent of resisting arrest but fined some for graffiti.

LGBTI organizations also reported that on May 18, law enforcement officers arrested two additional LGBTI activists for narcotics use. The activists stated that police ordered them to take drug tests. When they complied and were taken to police precincts for testing, they were charged with resisting arrest and taken to court. Both activists tested free of narcotics, and a judge acquitted them of resisting arrest.

LGBTI organizations documented cases of anti-LGBTI violence throughout the year, including three of domestic violence due to homophobic bias. In May NGOs reported documenting approximately 10 cases of physical and verbal abuse around the time of the May 17-18 incidents.

According to LGBTI organizations, the Ministry of Internal Affairs appealed a December 2015 Tbilisi City Court ruling that the ministry did not ensure the safety of activists in the 2013 IDAHO rally. The appeals court had not issued its ruling as of December.

According to the LGBTI community, the law provides for gender recognition for transgender persons. NGOs reported, however, that the Civil Registry Office and Service Development Agency applied a discriminatory standard that requires applicants to present proof of gender reassignment surgery to change gender status in their documents. LGBTI rights NGOs reported that LGBTI community members were not able to apply to change their gender identity status due to a lack

of procedural knowledge. WISG also reported that one court ruled against a request to overturn the requirement for gender reassignment surgery as a prerequisite for changing gender status and that two gender recognition cases were pending with the Supreme Court.

### **HIV and AIDS Social Stigma**

Stigma and discrimination against persons with HIV/AIDS were major barriers to HIV/AIDS prevention and service utilization. Negative social attitudes and low public awareness also remained obstacles. NGOs reported that social stigma caused individuals to avoid 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/AIDS status from employers due to fear of losing their jobs.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The labor code and its related regulations and statutes generally provide for the right of most workers, including government employees, to form and join independent unions, to legally strike, and to bargain collectively. Employers are not obliged to engage in collective bargaining, even if a trade union or a group of employees wishes to do so. The law permits strikes only in cases of disputes where a collective agreement is already in place. While strikes are not limited in length, the law limits lockouts to 90 days. A court may determine the legality of a strike, and 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 does not explicitly require reinstatement of workers dismissed for union activity. In January 2015 parliament passed a law on labor migration that stipulates the rights of migrant workers and regulates issues concerning migrant labor, including relationships between employers, laborers, and the state bodies authorized to address issues concerning migrant labor.

The Georgian Trade Union Confederation (GTUC) reported certain categories of workers related to “human life and health,” as defined by the government, were not allowed to strike and noted the government provided no compensation mechanisms for this restriction. According to GTUC, the prohibition on strikes by some professions was contrary to International Labor Organization standards.

The government did not effectively enforce laws that provide for worker's freedom of assembly and prohibit antiunion discrimination, and violations of worker rights persisted. There were no effective penalties or remedies for arbitrarily dismissed employees, and legal disputes regarding labor rights were subject to lengthy delays. Without a fully functioning labor inspectorate and mediation services in the Ministry of Health, Labor, and Social Affairs, the government was not able to enforce all collective bargaining agreements (as required by law) or provide government oversight of employers' compliance with labor laws. Employees who believed they were wrongfully terminated must file a complaint in a local court within one month of their termination.

The prime minister authorized the minister of health, labor, and social affairs to chair the Tripartite Commission, which facilitates social dialogue among representatives from industry and organized labor. The body met in April.

Workers generally exercised their right to strike in accordance with the law but at times faced management retribution. GTUC reported the influence of government-sponsored "yellow" unions in the case of the Educators and Scientists Free Trade Union of Georgia (ESFTUG) was more limited than in previous years, and it noted that ESFTUG functioned in conformity with legislation and international norms. As of October ESFTUG and the Ministry of Education were in negotiations to sign a sectoral agreement. GTUC also reported that the Postal Workers' Union continued to require each member to deposit five lari (\$1.91) per month as a membership fee. NGOs promoting worker rights did not report government restrictions on their work.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government's enforcement of the laws was not always effective. Forced labor is a criminal offense punishable by imprisonment for seven to 12 years, with offenders barred from occupying their previous positions for up to three years. This punishment is increased to imprisonment for 12 to 15 years if the offense is committed on more than one occasion, against two or more persons, against a pregnant woman with prior knowledge of her pregnancy, through abuse of official authority, by taking a victim abroad, through coercion that threatens life or limb, or against a vulnerable person or a person who is financially or otherwise dependent on the offender. If forced labor is committed by a group and results in the death of a victim, the punishment may be increased to imprisonment for 15 to 20 years with offenders barred from occupying their previous positions for three years. While these

penalties would be sufficient to deter violations, the low number of investigations into forced or compulsory labor, particularly involving human trafficking for sexual exploitation, offset the effect of strong penalties and encouraged the use of forced and compulsory labor.

The Ministry of Labor, Health, and Social Affairs reported that it found no cases of forced or compulsory labor, but it identified vulnerable groups that included persons employed in the industrial, entertainment, and hotel industries. There were reports, however, that forced labor occurred, and GTUC claimed there were no improvements in the government's efforts to combat forced labor. The law permits the Ministry of Labor's inspection department to make unannounced visits to businesses to inspect suspected cases of forced labor or human trafficking. The ministry reported at least 70 businesses were inspected on suspicions of human trafficking and forced labor during the year. The ministry reported, however, that no evidence of criminal conduct was uncovered.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum legal age for employment is generally 16, although in exceptional cases children may work with parental consent at age 14. Children under the age of 18 may not engage in unhealthy, underground, or hazardous work; children who are 16 to 18 years of age are also subject to reduced work hours and prohibited from working at night. The law permits employment agreements with persons under age 14 in sports, the arts, and cultural and advertising activities.

The Ministry of Labor, Health, and Social Affairs reported that it found no cases of child labor law violations during the year. Depending on the offense, child labor is punishable by fine, removal of operating permits, community service, probation, or imprisonment. The low number of investigations into child labor made it unclear how effectively the government enforced the law. The lack of a labor inspectorate with the authority to levy fines seriously undermined enforcement efforts. Many children under 16 worked and performed chores on small, family-owned farms. In most cases this work was not considered by authorities as abusive or categorized as child labor. In some ethnic minority areas, family farm obligations reportedly interfered with school attendance. Some observers suggested school participation by ethnic minority children was especially low. Some families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there was also a significant

ethnic Azeri population) worked on distant pastures for six to nine months a year, so their children seldom attended school. Estimates of the number of children affected were not available.

In July new measures went into effect to help improve the condition of children engaged in street begging in Tbilisi (see section 6, Displaced Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment based on race, color, language, religion, membership in an ethnic or social group, national origin, economic condition or status, place of residence, age, sex, sexual orientation, marital status, political opinion, disability, and membership in religious, public, political groups or any union, including professional unions. It does not specifically prohibit discrimination based on HIV-positive status or other communicable diseases or social origin. The law further stipulates that discrimination is considered to be “direct or indirect oppression of a person that aims to or causes the creation of a frightening, hostile, disgraceful, dishonorable, and insulting environment.”

As there was no legal basis for labor inspection and labor inspectorate with the authority to impose fines, the government did not effectively enforce the law.

Discrimination in the workplace was widespread. GTUC reported cases of discrimination based on age, sexual orientation, and union affiliation. Companies and public workplaces frequently reorganized staff to dismiss employees who had reached the qualifying age to receive a pension. In addition, vacancy announcements often included age requirements as preconditions to apply for a particular position. GTUC reported widespread instances of harassment in both the public and private sectors based on union affiliation, notably in the Georgian Railway and the Postal Service.

While the law provides for equality in the labor market, NGOs stated, and the Ministry of Labor, Health, and Social Affairs agreed, that discrimination against women in the workplace existed and was underreported. Although some observers noted continuing improvement in women's access to the labor market, women were largely confined to low-paying, low-skilled positions, regardless of their



professional and academic qualifications, and salaries for women lagged behind those for men.

There was some evidence of discrimination in employment based on disability. While the government was unable to provide statistics on the level of employment of persons with disabilities, in 2015 IDFI reported there were only 24 persons with disabilities employed in the many public agencies it reviewed. Of the 24, five were employed at ministries, 18 in local governments, and one at a state agency. According to the Public Defender's Office, the state had not developed a policy to address the problem of providing employment opportunities for persons with disabilities.

Many members of ethnic minorities faced discrimination in employment based on education and language because they lacked proficiency in Georgian, a requirement for public-sector jobs.

#### **e. Acceptable Conditions of Work**

The monthly minimum wage for public-sector employees was 135 lari (\$52). The minimum wage for private-sector employees was 20 lari (\$8) per month but was not applied in practice. The official subsistence income level was 156 lari (\$66) per month for the average individual and 277 lari (\$117) for a family of four.

The law provides for a 40-hour workweek and a weekly 24-hour rest period unless otherwise determined by a labor contract. The law provides for 24 calendar days of paid annual holidays. Overtime is defined as work by an adult employee in excess of the regular 40-hour workweek, based on an agreement between the parties. An executive order establishes essential services in which overtime pay may not be approved until employees work more than 48 hours a week. Shifts must be at least 12 hours apart. Employees are entitled to 24 calendar days of paid leave and 15 calendar days of unpaid leave per year. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. Minors who are 16 to 18 years old may not work in excess of 36 hours per week. Minors who are 14 or 15 may not work in excess of 24 hours per week. Overtime is only required to "be reimbursed at an increased rate of the normal hourly wage...defined by agreement between the parties." The law does not explicitly prohibit excessive overtime. No occupational, safety, and health standards were established. A draft law to establish these standards had not yet been presented for parliamentary review by year's end.

Without a legal framework for labor inspection, the government did not effectively enforce minimum wage, hours of work, occupational safety, or health standards in any sector. In February the prime minister renamed the year-old Labor Monitoring Department within the Ministry of Labor, Health, and Social Affairs the Department of Labor Inspection. Inspection remained voluntary, and employers received five days' notice before labor inspectors visited worksites. Inspectors did not have the ability to levy fines or other penalties on employers for substandard working conditions, in part because the law does not stipulate acceptable conditions of work. Penalties were inadequate to deter violations. As of September the ministry reported it had 25 inspectors and that 75 companies had been inspected, and it noted that companies' willingness and readiness to participate in the state program was increasing. The number of inspectors was insufficient to enforce compliance. A law governing entrepreneurial activity also inhibited labor inspectors' access to enterprises by disallowing unannounced visits by inspectors except in cases of suspected trafficking in persons.

Violations of worker rights persisted, and it was difficult for workers to remove themselves from hazardous situations without jeopardizing their employment. Workers hired on fixed-term contracts frequently feared that calling employers' attention to situations that endangered health or safety would be cause for employers not to renew their contract.

Conditions for migrant workers were generally unregulated. While the government did not keep specific statistics of migrant laborers in the country, during the year the Public Services Development Agency issued 9,580 work residence permits, and the Ministry of Foreign Affairs issued 517 long-term work visas (more than three months) and 3,452 short-term visas (less than three months). According to the International Organization for Migration, most migrant workers were either employed at large, foreign-financed projects where they lived at the worksite or arrived in the country without previously secured employment.

A significant number of workers were employed in the informal economy. Because of the frequent lack of employment contracts in the informal economy, exploitative conditions occurred. Such conditions were common among those working as street vendors or in unregulated bazaars.

According to the Ministry of Internal Affairs, 33 persons were killed and 40 were injured in workplace and industrial accidents from January to June. The mining sector remained especially dangerous.