



January 2008

country summary

## Georgia

After several days of large-scale peaceful opposition demonstrations in November, the Georgian government initiated a violent crackdown on protesters, causing a serious human rights crisis. This crisis occurred in the context of an emerging but dominant view among the governing political elite and its supporters that short-term, supposedly minor sacrifices in human rights are justifiable to build a stronger state, which can better protect human rights in the long term. This approach, however, is leading Georgia away from international standards and represents a gamble with freedom. Prison conditions remain poor, and fair trial and property rights are restricted. Against international recommendations, in 2007 Georgia lowered the minimum age of criminal responsibility.

### Freedom of Expression and Assembly

After several days of large-scale peaceful opposition protests in Tbilisi, the Georgian government initiated a violent crackdown on opposition protesters and instituted a nine-day state of emergency, saying that this was in response to a coup attempt. Riot police used excessive force to attack demonstrators, dispersing them with water cannons, large amounts of tear gas, and rubber bullets. Many policemen also beat individual protesters. According to official statistics over 550 protesters and 34 police were hospitalized with injuries. President Saakashvili announced snap presidential elections for January 2008, which helped diffuse the immediate political crisis.

According to the general prosecutor's office, 75 people were arrested for petty hooliganism and resisting police orders with regard to the November 7 events; of these, 21 were held in misdemeanor detention and 54 fined and released. In the lead-up and aftermath to the November 7 demonstration, unidentified attackers assaulted numerous opposition activists, and police detained several people on questionable charges such as hooliganism. For example, three activists from the

Equality Institute, a human rights organization, and one from the youth wing of the opposition Republican Party were arrested during a peaceful protest in Tbilisi on October 16. On October 28 unidentified men, believed to be security officials, attacked protestors, injuring at least two severely, as they were leaving a demonstration in Zugdidi, a town in western Georgia. On November 8 police used excessive force to disperse students gathering in the Black Sea town of Batumi to protest the previous day's violence in Tbilisi.

On the evening of November 7 riot police raided the private Imedi television station, held the staff at gunpoint, destroyed archives, and smashed equipment. Both Imedi and another private station, Kavkasia, were taken off the air. The government then declared a state of emergency that lasted nine days, limiting freedom of assembly and banning all broadcast news programs except by the state-funded Georgian Public Broadcasting. The government lifted the state of emergency on November 16, but suspended Imedi's broadcasting license for three months.

The truncated pre-election period, the restrictions on assembly and media imposed during the state of emergency, and the absence of one of Georgia's key alternative media outlets all marred the pre-election campaign.

## **Prison Conditions**

Despite a presidential pardon of 772 inmates in November 2007, overcrowding persists in almost all of Georgia's penitentiary facilities, leading to many human rights violations, including inadequate nutrition, medical care, and exercise. Although the courts began to use bail more frequently as a pretrial restraining measure, the number of prisoners rose monthly by an average of 400 in 2007. As of October 1, the prison population was 19,441, a 50 percent increase in one year, a result of the government's important crime-fighting campaign. The government's response to overcrowding has for the most part been to build new prisons, rather than explore more alternatives to pretrial custody. More inmates are expected to be released pursuant to an amnesty planned for the end of 2007. Its impact on overcrowding is unclear.

As of this writing, the government has not concluded an investigation into possible excessive use of force during the March 2006 disturbances in Tbilisi Prison No. 5, which resulted in the deaths of at least seven inmates and injuries to another 17.

## **Juvenile Justice**

In May 2007 the government lowered the minimum age of criminal responsibility from 14 to 12 for certain crimes, further weakening the protection of children in conflict with the law. Although the decrease will come into effect in June 2008, Georgia has yet to build a juvenile justice system capable of rehabilitating young offenders.

A disturbance in the juvenile prison in August, which officials described as “a scuffle between several inmates,” left at least 12 inmates and one guard injured. One hundred and seven children were transferred to a prison for adults where 64 remained for three months as punishment for the disturbance. They were deprived of the right to education and subjected to restrictions on meeting with their families.

## **Restrictions on Fair Trial**

Thirteen persons from small opposition political organizations affiliated with fugitive ex-security chief Igor Giorgiadze were sentenced in August 2007 to prison terms of up to eight years and six months for plotting a coup. Citing witness protection needs the authorities closed the entire trial, thereby limiting public scrutiny of the evidence.

Irakli Batiashvili, leader of the very small opposition Forward Georgia movement, was sentenced to seven years' imprisonment in May 2007 for failing to report a crime and assisting a coup attempt by providing “intellectual support” to the leader of an illegal militia. Georgia's ombudsman, Sozar Subari, criticized the trial on the basis that the defense had inadequate access to the prosecution's evidence. For example, the defense was only given a transcript of tape recordings that were key to Batiashvili's conviction.

## **Restrictions on Property Rights**

The government failed to adequately compensate owners for property confiscated for urban renewal or private development. Many cases related to property issues are pending in the courts.

In January and February 2007 the Tbilisi mayor's office confiscated and demolished small shops, booths, and stalls around metro stations and at other locations, saying they tarnished the city's image. In most cases the owners received verbal warnings, but their property was destroyed before they could challenge the demolition in court.

Another wave of property confiscations forced restaurant owners in Tbilisi and a nearby town to "voluntarily" hand over their property to the state or face criminal charges for obtaining their property through corrupt deals with officials during the era of former president Shevardnadze. In April 2007, several owners held a protest rally in Tbilisi, claiming that authorities pressured them into "gifting" their property to the state.

Residents of an apartment building in downtown Tbilisi were forcibly evicted by police in July 2007 after the city determined the building to have been built with construction violations. The building was demolished before residents could mount a court challenge. Residents believed that the reason for the eviction was the sale of the land to a foreign investor. They ultimately received a settlement from the investor which they believe is inadequate, and which they felt they were pressured into accepting.

In November 2007 the Georgian parliament passed a resolution instructing state agencies to cease probes into disputed properties, except in cases of "special interest" to the state. The effects of this resolution on property rights remain to be seen.

## **Key International Actors**

Key actors made public statements condemning the November 7 violent dispersal of peaceful protestors. The US State Department and the Council of Europe called for the state of emergency to be lifted and media freedoms be restored; the European

Union called for constructive dialogue between the government and the political opposition, NATO for restraint and respect for the rule of law, and UNHCHR expressed concern over the disproportionate use of force against the demonstrators.

But prior to the events, most international actors resisted robustly challenging Georgia's compromises on human rights. While calling for reform, they mostly gave the benefit of the doubt to a government that had come to power on the reform promise of the Rose Revolution, and that had a strong stated commitment to human rights and the rule of law. As part of the European Neighborhood Policy (ENP) Action Plan signed by the EU and Georgia in 2006, the two parties adopted a European Neighborhood Policy Instrument (ENPI) for financial assistance. The EU-Georgia Cooperation Council met in October 2007 to discuss the country's progress in the ENP implementation process, following which the EU "underlined the importance of ... protection of human rights and fundamental freedoms as essential elements in the EU-Georgia bilateral dialogue."

Matyas Eorsi and Kastriot Islami, co-rapporteurs of the Parliamentary Assembly of the Council of Europe's Monitoring Committee, called on the government to "fully restore the normal democratic practices and functioning of the institutions." They had also visited Georgia in September 2007, and commended the government for ratifying a number of Council of Europe instruments, but also called for reforms of the election code, judiciary, and penitentiary system. The co-rapporteurs made an urgent visit to Georgia in November following the government's November 7 crackdown on demonstrators.

An important, unambiguous statement about human rights in Georgia was the October report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT), which noted progress in preventing ill-treatment of people in police custody, but stated that overcrowding is undermining any "efforts made to create a humane penitentiary system."

In its concluding observations on Georgia, in October 2007, the United Nations Human Rights Committee praised the government on legislative and institutional reform, while calling for improvements on a wide range of issues including improvement of prison conditions and promotion of freedom of speech.

The United States is one of Georgia's strongest allies and has openly supported Georgia's NATO aspirations. Prior to the November events, the US resisted publicly criticizing Georgia on its human rights record, though it did publicly call on the government to implement reforms on property rights, an independent judiciary, and the criminal procedural code.