

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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### Annual reports

Events of 2005

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Since the Rose Revolution at the end of 2003, the government has had an uneven record on human rights. In 2005, it continued to prioritize its campaign against corruption and for territorial integrity. Its ambitious reform agenda is supported by the international community. However, at times it carries out reforms hastily, without broad and open consultation and without the thoroughness or detail necessary to eradicate entrenched human rights problems. As a result, human rights abuses continue unchecked in many spheres, following patterns established under former governments.

On a range of issues, including religious and political freedom and independence of the judiciary, government reforms are producing mixed results. Although the media is now relatively free, it has become less critical and there are signs of increasing government influence on media content. The government has taken some positive steps to prevent torture but torture and due process violations continue to be reported. Refugees remain vulnerable to abuse.

#### ***Mixed Results on Reform***

Constitutional amendments adopted in 2004 increased the president's influence over the judiciary, further eroding judicial independence. In April 2005, after months of uncertainty, a presidential decree changed the Tbilisi court structure and led to the dismissal of significant numbers of judges. The decree, administered by the High Council of Justice, a body headed by President Saakashvili, did not set out criteria for deciding which judges would be removed from their positions. The arbitrary decision-making process heightened the sense of executive prerogative.

The environment for religious freedom has significantly improved since the change in government when violent attacks against minority religions began to subside, suggesting that the attackers were somehow linked to the former government. In a positive move the authorities arrested Vasili Mkalavishvili, the leader of many of the attacks, and in January 2005, he was convicted and sentenced to six years in prison. In another positive step, the parliament passed amendments to the civil code in April 2005 making it easier for religious organizations to be registered. Discrimination against unregistered religious groups had been a major obstacle to religious freedom in Georgia.

#### ***Torture***

Torture, impunity, and denial of due process remain serious problems in Georgia. By 2005, the government had begun to acknowledge these long-standing concerns and took some steps to combat them.

Legislative amendments to criminal laws in 2005 made out-of-court statements inadmissible as evidence unless confirmed in court and reduced pretrial detention time limits (to take effect from 2006). Further, the authorities prosecuted several police officers for torture or other ill-treatment and helped to set up a monitoring system for police stations under the framework of the Public Defender's Office. According to Georgian nongovernmental organizations (NGOs) and those involved in the monitoring program, by mid-2005 there had been a reduction in the number of complaints of torture in the capital, Tbilisi. They told Human Rights Watch, however, that there had been a corresponding increase in police violence at the time of arrest and during transportation to the police stations. They also said that the widespread problem of torture in other parts of the country remained largely unaffected by government measures, in part because

resources were lacking to monitor effectively police stations in the regions.

### ***Media Freedom***

Since the Rose Revolution, the government has improved legislative protections for freedom of expression, including by decriminalizing libel, but the media has become more pro-government and less critical than it was during the Shevardnadze era. Newspapers remain relatively free of government pressure. However, major television channels are biased in favor of the government in their news and current affairs coverage. Journalists, NGOs, and representatives of international organizations have told Human Rights Watch that the government uses its influence with the owners of the major television channels to control the content of their programs. The owners give little editorial independence to staff and sometimes censor programs that are critical of the government.

On April 3, 2005, the owner of Imedi television, Badri Patarkatsishvili, ordered the station not to broadcast a story on police corruption on the weekly television program *Droeba* (Time). The next day, Patarkatsishvili explained why he had refused to allow the program to be broadcast, saying if I want to tell something to the government, I can tell it personally and directly. NGOs and representatives of international organizations told Human Rights Watch that the presidential administration sometimes directly contacts chief editors, telling them how to cover certain issues. Journalists, however, are reluctant to speak publicly about government interference with or efforts to influence the content of their work. There are reportedly few protections against unfair dismissal, and journalists are rarely willing to risk their positions by speaking out publicly.

### ***Refugees***

Chechen refugees remain vulnerable to abuse in Georgia. They lack adequate housing, medical care, and employment opportunities. Refugees are subjected to police harassment and threats of refoulement.

In March 2005, two Kists (ethnic Chechens from Georgia), who were Russian citizens, reportedly went to the Ministry of Refugees and Housing in Tbilisi, seeking asylum. Officers from the Ministry of Interior arrested them and took them to the border with Azerbaijan, where Azerbaijani authorities reportedly refused them entry unless they agreed to return to Russia. They spent several weeks in the neutral zone between the Georgian and Azerbaijani borders before returning to Georgia. On May 28, 2005, Russian authorities organized the repatriation of eighteen Chechen refugees from Georgia. Although no force was used, the United Nations High Commissioner for Refugees did not consider the repatriation voluntary due to the lack of access to objective and accurate information about conditions in the country of origin.

Although Georgia passed amendments to its refugee law in April 2005 and has ratified the 1951 Convention relating to the Status of Refugees, its laws and practice in refugee determination and protection do not comply with international standards. For example, pre-screening mechanisms prevent registration of asylum claims, and there are insufficient protections against refoulement for refugees and for those who may have been excluded from refugee status, but who would risk torture or ill-treatment if returned.

### ***Human Rights Defenders***

Although the government works closely with a number of human rights NGOs, it has excluded some of the country's most critical human rights defenders from important initiatives, such as the monitoring of prison facilities and police stations. In December 2004, unidentified persons made several threatening calls to the offices of an NGO called Former Political Prisoners for Human Rights, and in 2005, representatives of the Human Rights Information and Documentation Center told Human Rights Watch that government officials had telephoned their offices and warned them to stop work on particular cases.

### ***Key International Actors***

The European Union (E.U.), pursuant to its European Neighbourhood Policy, decided to go ahead with plans to prepare action plans for countries of the south Caucasus, including Georgia. This is the first time that the E.U. has offered Georgia closer economic, political, and cultural relations in exchange for measurable human rights progress. As such, it marks a significant opportunity for the E.U. to encourage human rights improvements in Georgia. The potential of the initiative to trigger meaningful reforms will depend, however, on the nature and specificity of the human rights benchmarks included in the final action plan document, which was still being negotiated between the Georgian government and the E.U. at this writing.

In 2005, the Council of Europe extended deadlines for Georgia's compliance with its commitments and obligations, due to the change of government after the Rose Revolution. Council of Europe experts continue to provide opinions on how proposed legal reforms comply with European and international human rights standards. However, the government does not always take into account their recommendations. In June 2005, the Council of Europe recommended that the government address the problem of discrimination against the Azerbaijani minority in Georgia.

U.S. backing of President Saakashvili's government has led to a less critical attitude toward human rights abuses in the country. In a speech during his highly publicized visit to Georgia in May 2005, President Bush claimed that Georgia is a place where free speech flourishes, the rights of minorities are respected, and a vigorous opposition is welcomed, ignoring significant evidence to the contrary. In his speech, Bush did not raise any human rights concerns. The U.S. provides substantial support to Georgia through its assistance and military cooperation programs. In 2005, the U.S. approved U.S.\$300 million in aid to Georgia over the next five years under the Millennium Challenge Account. Georgia has 850 troops serving in Iraq.

In 2005, relations with Russia remained difficult due to increased tensions over the breakaway republics of South Ossetia and Abkhazia, Georgia's joint initiatives with Ukraine to promote democracy within the region, and intense negotiations over the withdrawal of Russian military bases, which ended in agreement and a timetable for withdrawal.

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