

BLOODSHED IN THE CAUCASUS

Violations of Humanitarian Law and Human Rights in the Georgia-South Ossetia Conflict

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(formerly Helsinki Watch)**

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Human Rights Watch/Helsinki was established in 1978 to monitor and promote domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. It is affiliated with the International Helsinki Federation for Human Rights, which is based in Vienna, Austria. Jeri Laber is the executive director; Lois Whitman is the deputy director; Holly Cartner and Julie Mertus are counsel; Erika Dailey, Rachel Denber, Ivana Nizich and Christopher Panico are research associates; Christina Derry, Ivan Lupis, Alexander Petrov and Isabelle Tin-Aung are associates; Željka Markić and Vlatka Mihelić are consultants. Jonathan Fanton is the chair of the advisory committee and Alice Henkin is vice chair.

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PREFACE

This report is based on a two-week fact-finding mission to the Caucasus (including Vladikavkaz (North Ossetia), Tskhinvali (South Ossetia, Georgia) Tbilisi (Georgia), and Gori (Georgia)) in December 1991. Participants in the mission were Jemera Rone, Staff Counsel to Human Rights Watch, and Rachel Denber, Research Associate for Helsinki Watch. They interviewed more than seventy refugees and about twenty officials, journalists, and hospital employees.

Events precluded interviews with many USSR and Georgian government officials. The USSR ministries — and the USSR itself — were in the process of being dismantled.¹ Helsinki Watch's visit to Tbilisi came at a time of extreme political and social chaos. The Georgian government building was barricaded, and Georgian government officials refused to receive Helsinki Watch on the grounds that the latter "was not registered in the Republic of Georgia." Five days later a violent coup began that eventually toppled the government of President Zviad Gamsakhurdia.

This report was written by Rachel Denber. Jemera Rone wrote the appendix.

¹ Internal Ministry officials in Moscow repeatedly refused to be interviewed. One such official pleaded over the telephone he was like one of Gogol's "dead souls."

A NOTE ON GEOGRAPHY

South Ossetia was an autonomous region (*oblast*)¹ within the republic of Georgia from 1923 until December 1991. Located along Georgia's northern frontier in the Caucasus Mountains, it borders North Ossetia, an autonomous republic within the Russian Federation. Ossetians make up three percent of Georgia's total population of 5.4 million. Before the conflict began, of the 160,000 Ossetians in Georgia, 60,000 lived in South Ossetia. The population of South Ossetia before the violence began in 1991 was 90,000: two thirds were Ossetian, one third, Georgian. Tskhinvali, South Ossetia's capital, had a population of 40,000. Ossetians also live in the North Ossetian Autonomous Republic, which is on the northern slope of the Caucasus within the Russian republic. North Ossetia's population of 600,000 has a variegated ethnic composition, including Russians, Ingush, Georgians and others.

Georgia was a Union republic within the USSR. Its population includes a wide array of ethnic minorities, including Armenians, which constitute 7.7 percent of Georgia's population, Russians (6.5 percent), Azerbaizhanis (4.6 percent), Abkhazians (1.8 percent) and Greeks (1.8 percent).

Georgians and Ossetians are separate nationalities. Ossetians are descendants of the Alanian and Scythian tribes that migrated from Persia to the Caucasus in the early Middle Ages, speak Ossetian, an Iranian language, and practice Orthodox Christianity. Georgians are an ancient people, whose language does not belong to any of the major language families. Rather, it "descended from an original, proto-Georgian language that began to break into several distinct ... languages about four thousand years ago."² They also practice orthodox Christianity.

¹ In the Soviet system of territorial administration autonomous *oblasts* had the smallest degree of political autonomy, and were subordinate to the next-highest administrative unit, either the autonomous republic (for example, North Ossetia or Chechen-Ingushetia) or the Union republic (such as Georgia or Ukraine).

² Ronald Grigor Suny, *The Making of the Georgian Nation* (Bloomington: Indiana University Press, 1988), p. 4.

EXECUTIVE SUMMARY

Tensions between Georgians and Ossetians began in late 1989 and by 1991 took the form of armed conflict between South Ossetian and Georgian paramilitary groups. At the root of the conflict is South Ossetia's desire to separate from Georgia and be part of the RSFSR (later the Russian Federation).¹

Throughout 1991 Helsinki Watch received alarming reports about human rights violations in the violent conflict. The armed conflict in South Ossetia included the shelling (by both sides) of both Georgian and Ossetian villages, blockades, and hostage-taking, claiming at least 250 lives, and wounding at least 485². As the armed conflict unfolded, Ossetians suffered retaliatory attacks in the Gori, Bourdjumi, and Kareli districts of Georgia, as well in Tbilisi. About 100,000 refugees fled to North Ossetia from these regions and from war-torn South Ossetia. About 23,000 Georgian refugees from South Ossetia, now living mostly in Tbilisi and Gori, fled similar reprisals in Tskhinvali and villages in the Tskhinvali and Dzhava districts. Nearly 100 villages in South Ossetia are reported to have been either evacuated or destroyed.

CONCLUSIONS AND RECOMMENDATIONS

This report documents rules of war violations and human rights abuses committed during the conflict, following the introduction of the Georgian militia into Tskhinvali in January 1991.

Rules of War Violations

We conclude that the Georgian government allowed and indirectly encouraged paramilitary groups to pursue a guerilla war against the rebel defense forces of South Ossetia, in which both sides - Ossetian and Georgian - violated customary rules of war.

Local fighters, both Ossetians and Georgians:

- committed acts of violence against the civilian population, including torture, plunder, outrage against personal dignity, and summary executions;**
- forced the evacuation of civilians of the other side;**
- engaged in indiscriminate shelling of Tskhinvali and other Ossetian locations (by Georgians) and of Georgian villages (by Ossetians), causing civilian casualties and damage to civilian structures that had no clear military significance;**

¹ Helsinki Watch takes no position on the Ossetian claim for independence from Georgia and took no position on the Georgian claim for independence from the USSR.

² According to USSR Interior Ministry estimates.

- frequently engaged in hostage-taking, often beating and sometimes killing their captives.

The CIS (formerly USSR) Interior Ministry (MVD) troops, acting as peacekeepers in the conflict zone, provided inadequate protection of Georgians in South Ossetia.

RECOMMENDATIONS

All parties to the conflict in South Ossetia are responsible for upholding the rules of war spelled out in common article three and Protocol II of the Geneva Conventions.³ We therefore call on them to end:

- summary executions and looting, torture, and other mistreatment of civilians;
- the shelling of civilians and civilian objects;
- the taking of hostages;

and to secure the safe return of all hostages.

We further call on the troops of the CIS to provide equal protection to all people living in the conflict zone.

Human Rights Violations

We hold the Georgian government responsible for human rights violations against Ossetians in other parts of Georgia outside the conflict zone of South Ossetia, where paramilitary groups systematically attacked, looted, and evicted Ossetian residents, and denied their freedom of movement. During the period covered in this report:

- the Georgian militia took no measures to protect the Ossetian population and in some cases collaborated with the offenders by, for example, allowing hostages to be brought to police stations in Gori and Tbilisi;
- the Georgian government allowed widespread job discrimination against Ossetians;
- as a form of harassment against rebellious Ossetians in South Ossetia, the Georgian government implicitly sanctioned the blockading of South Ossetia, including the cutting of power and gas supplies as well as telephone connections.

There is no legitimate government in South Ossetia that, as a subject of international law, can be held accountable for human rights violations committed against Georgians. Nevertheless, we condemn both the job discrimination against Georgians and the lack of police protection for the Georgian population that the self-proclaimed government of South Ossetia sanctioned.

The Georgian government (including the local authorities in South Ossetia) has a duty to respect

³ See Appendix for a discussion of the specific obligations of the parties to the conflict.

the rights of minorities, to refrain from discrimination and to compensate the victims of discrimination. This duty is enshrined in article 26 of the International Convention on Civil and Political Rights, which forbids discrimination and requires governments to grant equal protection before the law.⁴ This duty also derives from article 32 of the Georgian Constitution, which declares all citizens "equal before the law irrespective of origin, . . . racial and national affiliation, sex, education, place of residence. . . ." The United Nations Code of Conduct for Law Enforcement Officials, accepted as customary law, also obliges the Georgian police to provide full protection to all people in Georgia.⁵

RECOMMENDATIONS

The government of President Zviad Gamsakhurdia, which presided over the conflict in South Ossetia, is no longer in power. Helsinki Watch calls on the current Georgian government, which readily recognizes that it has inherited this conflict, and on the local authorities in South Ossetia, to the degree they are legally competent, to:

- provide compensation for damage to civilian objects destroyed in the course of actions prohibited by the rules of war;**
- protect and compensate victims of the forced evacuations and pogroms described in this report;**
- prosecute the perpetrators of these attacks and the parties guilty of rules of war violations;**
- take administrative and criminal action against members of the militia who collaborated with or sanctioned these acts;**
- end discrimination against ethnic minorities and guarantee equal police protection to all people living in Georgia;**
- end the blockade of South Ossetia and Georgian villages within it.**

⁴ **Article 26 states: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."**

⁵ **Article 1 states: "Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession."**

SUMMARY OF EVENTS

The Ossetian nationalist movement was renewed in 1988 with the formation of Ademon Nykhaz, the South Ossetian National Front.¹ One of the earliest incidents that sparked tensions between Ossetians and Georgians was an open letter from the leader of Ademon Nykhaz, Alan Chochiev, to the Abkhaz people expressing support for their claims for independence from Georgia. The letter infuriated Georgians and provoked rumors of skirmishes between Ossetian and Georgian informal armed bands.²

The focus of the movement in South Ossetia was a campaign to enhance the status of South Ossetia as an autonomous oblast. On November 10, 1989, the *oblast* council of South Ossetia formally requested the Georgian Supreme Soviet to grant the region the status of Autonomous Republic. Georgia views the demands for higher political status and independence as an illegitimate claim that threatens its territorial integrity. (South Ossetia makes up one-sixth of the territory of Georgia.) Both sides use history to support their claims. South Ossetians believe that their presence in the region over the past few centuries entitles them to self-determination. Many Georgians express the view that Ossetians are "guests" on Georgian territory, since they have lived there for only the past few centuries.³ In interviews with Helsinki Watch, members of the Georgian opposition (and one Gamsakhurdia aide) consistently pointed to alleged Ossetian collaboration with the Bolsheviks during the early 1920's, when the Republic of Georgia was trying to maintain its short-lived independence from Russia,⁴ as the historical origin of the conflict. Georgia further believes that Moscow either inspired or exploited South Ossetia's opposition to Georgian independence from the USSR.

¹ In an interview with Helsinki Watch, Notar Notadze, leader of the Popular Front of Georgia, suggested that in 1956 and 1978 activity in the Georgian nationalist movement sparked discrimination from the Ossetians and Abkhazians, who reportedly reacted by removing Georgians from high-level jobs.

² See Elizabeth Fuller, "South Ossetia: Analysis of a Permanent Crisis," in *Report on the USSR* (Radio Liberty), February 15, 1991, p. 21.

³ The notion that Ossetians were ungrateful "guests" of Georgia was part of Gamsakhurdia's anti-Ossetian propaganda campaign. Georgians interviewed by Helsinki Watch often said that the Ossetian population of Tskhinvali in 1897, the time of the first census, consisted of six Ossetian families. This census, however, does not categorize people by nationality - such as Georgian or Ossetian - but by religion -- Christian Orthodox, Muslim, and the like.

⁴ Interviews with Notar Notadze, leader of the Georgian Popular Front, Tengiz Sigua, Prime Minister of Georgia, Gela Chorgulashvili, member of the Georgian parliament, and Georgii Gachechiladze, Special Advisor to Gamsakhurdia on nationality affairs, in December 1991. Also, a January decree of the Georgian Supreme Soviet cited as the cause of the conflict "the artificial creation of a national state autonomy on territory that had been Georgian from time immemorial, following the occupation of Georgia in 1921." At the same time, the parliament reaffirmed the right of all nationalities in Georgia to cultural autonomy.

The South Ossetian demand for upgraded status (and later total independence from Georgia), and the restrictions on Georgians living in the autonomous *oblast* generally fuelled outrage both in the Georgian government and among the public. The language issue also contributed to tensions between the Georgian government and the local government in South Ossetia. In August 1989 the Georgian government drafted regulations that would have made Georgian the sole language of public life throughout Georgia. The South Ossetians believed that this would have affected South Ossetia, where Ossetian is used (though not exclusively) in schools, the media, theaters, and the like. Georgians claim that during this time the South Ossetian government began linguistic discrimination against Georgians. In response to these issues, groups of Georgians held a series of "friendship meetings" in South Ossetian villages to discuss the independence of Georgia and the rights of Georgians in South Ossetia. These meetings were attended by both Georgians and Ossetians, but they did more to exacerbate tensions than to alleviate them.

NOVEMBER 23 RALLY

In the last of these meetings, on November 23, 1989, Georgians planned a march on Tskhinvali. The gathering was truly massive in scale and led to violence between Ossetians and Georgians. Between 12,000 and 15,000 people (estimates from Ossetian interviewees rose to 40,000) arrived in a caravan of busses and cars, seeking to enter Tskhinvali from the south. They were met by a mob of Ossetians who, along with the militia and soldiers from the 8th regiment of the Soviet Army, prevented the caravan from entering the city.⁵

Some Ossetians interviewed by Helsinki Watch viewed this gathering as an attempt to invade the city. Georgians interviewed maintained that they envisioned a peaceful meeting that would promote understanding between Georgians and Ossetians. Regardless of the motive behind the meeting, retaliatory violence between Ossetian and Georgians in the two days following it led to the death of six people; twenty-seven people sustained gunshot injuries, and 140 were hospitalized.⁶ Groups of both armed Georgians and Ossetians took hostages.

The violence eventually subsided, but South Ossetian demands for more autonomy intensified in late 1990. Meanwhile, Georgia was preparing for its first multi-party parliamentary elections. Under a law adopted by the Georgian Supreme Soviet in August 1990, parties whose activities were not Georgia-wide would be banned from the elections. South Ossetia viewed this measure as an attempt to prevent Ademon Nykhaz from participating in the elections. The South Ossetian *oblast* council responded on September 20 by adopting a resolution on South Ossetia's sovereignty as a democratic republic within the USSR.

⁵ Accounts of the confrontation between the people trying to stage the meeting and the Ossetians vary. One witness told Helsinki Watch that he was part of an unarmed human chain that alone was responsible for turning the throng back from Tskhinvali.

⁶ According to *Komsomolskaia Pravda*, December 26, 1990, p. 1. (FBIS, January 4, 1991, p. 51.)

The October 28, 1990, parliamentary elections in Georgia brought to power the Round Table coalition, led by Zviad Gamsakhurdia. A fiercely nationalist grouping of dozens of political parties, the Round Table staunchly advocated complete independence from the Soviet Union and popularized the slogan, "Georgia for Georgians". The South Ossetians, for their part, sought independence from Georgia, unification with North Ossetia, and continued membership in the Soviet Union.

In December the South Ossetians held elections for deputies to a republic supreme soviet, which under Georgian law had no legal foundation. The Georgian government annulled the elections, and on December 11, its Supreme Soviet adopted a resolution liquidating the South Ossetian Autonomous Oblast.⁷

STATE OF EMERGENCY DECLARED

The Georgian government declared a state of emergency in the Tskhinvali and Dzhava districts on December 12. The immediate pretext for the state of emergency was the murder - under mysterious circumstances - of two Georgians (both bearing gun permits) and one Ossetian in Tskhinvali. USSR MVD troops were dispatched to maintain order in the region. At this time, according to one Ossetian official, Tskhinvali stopped receiving food supplies from Georgia.⁸

The Georgian government objected to what it considered Moscow's meddling in Georgia's internal affairs, and demanded that the USSR MVD troops be withdrawn and replaced with Georgian Interior Ministry forces.⁹ Moscow ignored the Georgian demand, and on January 5 the Georgian government dispatched between 3,000 and 4,000 militia¹⁰ to Tskhinvali to maintain order in the Tskhinvali and Dzhava districts. On January 7, USSR President Mikhail Gorbachev issued a decree that declared unconstitutional both South Ossetia's September 20 proclamation and the Georgian government's state of emergency, and ordered all armed units except the USSR MVD troops to withdraw from South Ossetia.¹¹ The Georgian government rejected Gorbachev's decree, calling it "gross interference in Georgia's internal affairs and encroachment on its territorial integrity," and refused to withdraw its police units.¹²

GEORGIAN MILITIA CRACKDOWN IN TSKHINVALI - JANUARY 1991

⁷ Georgians refer to the region as Samochabolo, the ancient Georgian term used for it. This report refers to the region as South Ossetia as a matter of convenience and consistency, not as a matter of principle.

⁸ See interview with the then-chairman of the city executive committee in FBIS, January 10, 1991, p. 73.

⁹ See "Georgia: Polarization of Forces," in *Izvestiia*, January 3, 1991, p. 4. (FBIS January 8, 1991, p. 54.)

¹⁰ Some reports suggested that among the militia sent to Tskhinvali were members of paramilitary groups. Znaur Gassiev, temporary leader of the South Ossetian council, claimed that all those wearing new uniforms were amnestied criminals who were feared by the militiamen themselves: "The first who were killed [in Tskhinvali] had in their pockets a document of amnesty and a militia i.d. card . . . I personally saw how Georgian militiamen - colonels and majors - were afraid of those who had epaulets on a brand-new uniform."

¹¹ For a text of the decree, see FBIS, January 8, 1991, p. 53.

¹² See "Georgian Supreme Soviet Rejects Decree," *Izvestiia*, January 10, 1991.

Chaos and urban warfare raged in Tskhinvali for the following three weeks. Ossetians considered the militia presence an "occupation," which they resisted by engaging in shoot-outs with the Georgian militia and tossing home-made bombs. They built barricades using concrete slabs, sandbags, and trolley busses to block off key streets, effectively dividing Tskhinvali into Georgian- and Ossetian-controlled zones. Distances between the two sides were reported to be only 100 to 200 meters. The following testimony from an Ossetian fighter illustrates the kind of skirmishes that took place:

On January 7, we heard rumors that USSR MVD troops would free the city. We had a meeting and decided to abandon our arms and let [the MVD troops] clean out the city. When the Georgians started to fire, Ossetians ran behind houses. Those who had guns went home to get them to shoot Georgians. Georgians got in APC's and tried to flatten the barricades. We destroyed one APC with a Molotov cocktail. They threw grenades. Ossetians began to shoot from their homes . . . The Georgians would shoot Ossetians in the back streets. We would burn the houses that Georgians had been shooting from.

Beginning on January 6, Georgian residents began to flee en masse from Tskhinvali because of both the street fighting and Ossetian violence against Georgians. At about the same time Georgian paramilitaries began similar retaliations against Ossetians in other parts of Georgia. Ossetians began fleeing, mainly to Vladikavkaz, in December 1990. The flow was intense in early 1991, dwindled in the summer, and renewed at the end of the year.¹³

NEGOTIATIONS

After informal negotiations with the USSR MVD, the Georgian militia withdrew from Tskhinvali on January 26;¹⁴ the armed conflict, however, continued sporadically throughout 1991. Violence fell off during periods of cease-fires, which were arranged informally between paramilitary and political leaders.

¹³ Interview with N. Kusov, Chairman of the Executive Committee on Inter-Ethnic Relations in North Ossetia, December 9, 1991. We received no statistics or documents from the Georgian government on the flow of Georgian refugees, and were told by opposition leaders that the government, in its state of chaos, had no statistics.

¹⁴ See Elizabeth Fuller, *op. cit.*, p. 22.

The first high-level meeting involving Georgia, the RSFSR, and North Ossetia¹⁵ took place in March, but did not deter the violence in South Ossetia. The meeting resulted in an agreement declaring that, in conformity with the Helsinki Accords, all existing borders would be respected, and that North Ossetia had no territorial claims on South Ossetia. The group agreed on Georgia's sovereignty over South Ossetia, and on the replacement of USSR MVD troops with Georgian and Russian MVD troops. The RSFSR Supreme Soviet rejected the agreement because the RSFSR government did not have the authority to deploy troops in the territory of other republics.¹⁶

Later negotiations involving Georgia, North Ossetia, the USSR, and the RSFSR succeeded in temporarily defusing the violence. In late May 1991, supreme soviet members from these four entities formed a Joint Commission to resolve the conflict. The Joint Commission issued a protocol on May 31, which recognized that the conflict in South Ossetia hindered the reestablishment of Georgian independence. It called on the Georgian government to resolve the conflict through political means, and urged the creation of a coordinating committee to, among other things, resettle refugees in their homes, to help bring an end to hostage taking, and to examine the MVD internal troops' activities. It also advocated the disarming of all illegal armed formations in the state of emergency zone, to be carried out jointly by USSR MVD troops and the Georgian militia. Significantly, it sought to bring to justice people who participated in looting, arson, and inciting inter-ethnic violence.

These proposed measures were a step toward rectifying the human rights violations that had taken place in the region. Indeed, during the months of May, June and early July, 1991, while the Commission was at work, South Ossetia was reasonably peaceful. The Commission received individuals' complaints of ethnic discrimination and visited villages affected by inter-ethnic violence.

According to the chairman of the Georgian Foreign Affairs Committee, Tedo Paatashvili,¹⁷ efforts failed to re-establish the commission after the summer vacation and the August coup in Moscow, mainly because the Georgian parliament refused to participate.¹⁸ No negotiating took place in the fall and early winter of 1991, which witnessed worsening violence in South Ossetia. Indeed, at that time President Gamsakhurdia, who used the conflict in South Ossetia to enhance his nationalist appeal, rejected both parliamentary proposals to renew the

¹⁵ Participants in the meeting included, from the RSFSR, Boris Yeltsin, RSFSR Interior Minister Viktor Barranikov, and RSFSR Supreme Soviet Deputy Galina Staravoiteva; from Georgia, President Gamsakhurdia and Georgian Interior Minister Dilar Khabuliani; and from North Ossetia Prime Minister Khetagorov and the Chairman of the North Ossetian Supreme Soviet.

¹⁶ This was Tengiz Sigua's explanation. Tamerlan Tsoriev, an Ossetian who is consultant to the North Ossetian Legislative Committee on Nationality Affairs, suggested that the agreement failed because it "sold out" the South Ossetians.

¹⁷Helsinki Watch interviewed Mr. Paatashvili on December 17.

¹⁸ By this time Gamsakhurdia had established quasi-dictatorial powers.

Joint Commission's activities and calls from the opposition to form a multi-national commission to resolve the conflict.¹⁹

SINCE THE FALL OF GAMSAKHURDIA: THE POSITION OF THE PROVISIONAL GOVERNMENT

On December 22, 1991, Georgian opposition forces led by rebel elements of the Georgian National Guard began an armed struggle to oust Zviad Gamsakhurdia. They succeeded in driving Gamsakhurdia from power on January 8, 1992, and established a Provisional Government headed by Tengiz Sigua and a Military Council led by Dzhaba Ioseliani. During the two-week long military showdown in Tbilisi, violence in South Ossetia was limited to sporadic gunfire outside Tskhinvali. Most observers linked the calm to the departure of certain Georgian paramilitary to Tbilisi to defend the embattled Gamsakhurdia.

On January 19, 1992, the South Ossetians participated in a referendum on the independence of South Ossetia from Georgia, in which the vast majority of voters²⁰ favored independence (from Georgia) and unification with Russia. The Georgian government vehemently objected to the resolution, which it considers a clear infringement on the territorial integrity of Georgia. The Georgian Foreign Ministry on January 18 reconfirmed its commitment to a peaceful resolution to the crisis, but upheld its right to "defend its territorial integrity by all available means, including military means."²¹

The new Georgian government seems genuinely committed to a peaceful resolution to the conflict it inherited from Gamsakhurdia.²² In late December, a few days before the Georgian opposition seized power, Tengiz Sigua assured Helsinki Watch of this commitment and said that Ossetians who fled regions in Georgia proper would be reinstated in their homes (provided they had not sold their homes), with all their rights protected. Recent measures taken by his provisional government attest to this commitment. Negotiations have been renewed between a Temporary Commission of the Georgian government and officials from South Ossetia, who agreed to discuss a cease-fire, an end to roadblocks, and a plan to bring international observers to the region. At a January 25 meeting in Gori, the Georgian government promised Ossetian refugees who fled the Gori district that they may return to their homes. Meanwhile, however, the armed conflict continues sporadically in South Ossetia.

On the issue of the political status of South Ossetia, Sigua, like his predecessor, refuses to restore the *status quo ante*.

We offer [Ossetians] total guarantees of cultural autonomy. . . They should have their own language, schools, theaters, and the like. The town council [of Tskhinvali] should also continue to exist. These things should be totally restored. But political autonomy — never.

¹⁹ Interview with Tengiz Sigua, December 18, 1991.

²⁰ The vote drew 98.2 per cent of the oblast's population. Villages in South Ossetia that have a Georgian majority did not participate in the referendum.

²¹ See FBIS, January 22, p. 98.

²² See "South Ossetia: Hopes for a Peaceful Outcome," in *Rossiskaia Gazeta*, January 27, 1992, p. 1.

This autonomy was a reward. If we allow all nationalities to have political autonomy, then little of our land would be left for Georgia.²³

²³ **Interview with Helsinki Watch, December 18, 1991.**

ARMED CONFLICT AND RULES OF WAR VIOLATIONS

INTRODUCTION

Combatants¹

USSR MVD TROOPS

About 500 troops of the USSR Ministry of the Interior (MVD) were deployed in South Ossetia in December 1990 to "stand between the two sides in the conflict and prevent clashes and bloodshed."² They were not given the authority to return fire against attacking forces until the spring of 1991, when they also gained the authority to disarm illegal armed formations.

According to an Ossetian journalist, "the MVD does not defend the people from the Georgians. As a rule they do not interfere. Only in cases when the Georgian artillery shells the town with rockets do they react."³ The MVD troops frequently aided local populations to evacuate troubled villages and remove their wounded. They also provided protected accompaniment across village checkpoints in armed personnel carriers, and served as intermediaries in hostage exchanges.

Helsinki Watch received reports from Georgian refugees that the USSR MVD troops harassed Georgian civilians and refused to aid those in distress, or would do so only if they were offered a bribe. A 30-year-old bus driver from Kekhvi, for example, said that the MVD would permit as many as three Ossetian busses per day to pass through the road to Gori, but in order to let his bus through even once a day he had to pay a bribe of 250 rubles. It is not known, however, whether the MVD troops exacted bribes from Ossetian in return for accompaniment.

SOUTH OSSETIA

The Republican Guard of South Ossetia was formally organized only in late November 1991⁴ and reportedly has about 2,400 men, not all of whom are armed. Their activities include the defense of Tskhinvali and other Ossetian villages in South Ossetia,⁵ which includes shelling Georgian villages where they think Georgian fighters are and manning checkpoints along roads.

¹ For an explanation of why Helsinki Watch considers the conflict in South Ossetia an armed conflict and of the legal accountability of the parties, see Appendix.

² Interview with Vitalii Garelov, commander of the MVD troops in Tskhinvali. On the role of the USSR MVD troops as combatants, see Appendix.

³ Interview with Igor Dzientiev, December 14, 1991.

⁴ Zviad Gamsakhurdia's November 23 call-up of 17,000 men to go to South Ossetia served as a catalyst for the formation of the Republican Guard. Before December, they were a loosely organized group of guerilla fighters.

⁵ Georgian and Ossetian residents of South Ossetia participated in the defense of their villages without necessarily belonging to any of the enumerated armed groups.

The South Ossetian troops not only have no official status, but are considered by one Russian Federation official as "illegal bandit groups."⁶ Georgians we interviewed routinely claimed that the South Ossetian fighters got some degree of help from the USSR MVD; Ossetians vigorously deny this assertion and insisted that the two were completely independent.

The South Ossetian Militia number about twenty-eight men and, until late 1990, were subordinate to the Georgian Interior Ministry. After the Georgian government dissolved the South Ossetian *Oblast*, it cut that militia's funds. The latter is now subordinate to the South Ossetian "government" and now has no links with the Georgian militia. After the January 6 militia's events in Tskhinvali, the South Ossetian militia's "mandate" shifted from law and order functions to preventing the Georgian militia from penetrating the area and taking hostages.⁷ Although they did not explicitly coordinate their activities, the militia allowed the Ossetian rebels to perform their defensive tasks. Militia members also participated in the Republican Guard during "off hours".

GEORGIA

A wide variety of Georgian informal paramilitary operated in South Ossetia, facilitated by the easy availability of arms. As many as six paramilitary groups may have participated in the conflict: the White Eagles, White George, White Falcons, Black Panthers, the Kutaisi National Guard, and the Merab Kostava Society. Also referred to by South Ossetians as "informals" or "*neformaly*," these groups represent a confusing array of affiliations. Some were loyal to Gamsakhurdia; some (e.g., White George) were rumored to be common criminals;⁸ some (e.g., White Eagles) were a splinter group of the National Guard.⁹ Another, the Merab Kostava society, is an anti-Gamsakhurdia political party and a paramilitary wing with a mandate they described as protecting Georgians. The various paramilitary groups, which are each quite small in number (often counting between fifty and 200 men), do not coordinate their activities in the villages, and operate where they feel government forces are inadequate.¹⁰

⁶ Helsinki Watch interview with Viacheslav Kommissarov, Deputy Minister of the Interior for the Russian Republic, December 7, 1991.

⁷ Helsinki Watch interview with Valerii Bukulov, chief of the South Ossetian Militia, December 10, 1991.

⁸ On November 23, 1990, the Georgian government amnestied various groups of criminals serving time in Georgian prisons. See *Akhali Sakartvelo*, November 23, 1990. It was widely rumored that the amnesty was granted in exchange for fighting in South Ossetia.

⁹ Tengiz Sigua told Helsinki Watch that the branch of the National Guard that broke from Gamsakhurdia was not participating in the conflict.

¹⁰ According to Vladimir Toliashvili, the head of the Gori branch of the Merab Kostava Society, that group has been defending Georgian villages along the southern border of South Ossetia for the past three years. Their efforts intensified in late 1991 because both the Georgian and the National Guard and the militia were concentrated in Tbilisi to protect Gamsakhurdia. Helsinki Watch interviewed Mr. Toliashvili on December 18, 1991.

President Gamsakhurdia publicly disavowed the Merab Kostava's actions in South Ossetia. Generally, however, President Gamsakhurdia at the very least approved of, and even encouraged, vigilante military activities of other paramilitary organizations. This approval was most boldly, and irresponsibly, stated in a November 1991 address to a rally, which amounted to a call to arms. Mr. Gamsakhurdia exhorted: "all Georgians capable of bearing arms should join the march against Tskhinvali! The storming is to start on the morning of November 23!"¹¹

The Armed Conflict

Guerilla warfare throughout 1991 was punctuated by periods of intense fighting. Most of the fighting consisted of shelling and other artillery fire between Ossetian fighters located in Tskhinvali and their Georgian counterparts in Nikozi (one km south of Tskhinvali) and in several Georgian villages to the north of Tskhinvali (including Kemerti, Kekhvi, Tamarasheni, and Kurta). Weapons used include unguided missiles, rocket-propelled grenades (RPGs), and large-caliber machine guns.¹²

Paramilitary groups also conducted guerilla raids on each other's villages, terrorizing inhabitants. They continue to control road access to their respective areas, principally villages in which their population predominates.

ROADBLOCKS

Both Ossetian and Georgian fighters blocked entrances to protect and defend their cities and villages. These checkpoints ("*pikety*") unfortunately prevented militias from entering and aiding villagers in distress, and effectively cut off villagers from relatives and loved ones. In order to travel safely along the road, one had to be accompanied by USSR MVD troops; for Ossetians, this came at the risk of provoking reprisals from Georgian paramilitary groups. Georgian civilians were often unable to convince MVD troops to help them. To get food and other provisions, both Ossetians and Georgians had to travel on alternative routes through the forest and mountains that were hastily dug, circuitous, and treacherous.¹³

¹¹ See FBIS, November 25, 1991, p. 99.

¹² Both Georgians and Ossetians are reported to fire rockets from Alanzi guns, which are intended for use as anti-hail and anti-avalanche equipment.

¹³ After the Georgian government declared a state of emergency in the Tskhinvali and Dzhava regions in December 1990, the Dzhava-Tskhinvali road was frequently blocked by Georgian paramilitary groups. Humanitarian aid from Vladikavkaz - food, fuel and medicine - intended for Tskhinvali had to go by this route. The attacks were particularly frequent in the last months of 1991, before the total breakdown of the "gentleman's agreement."

Medea, a Georgian woman from Kemerti, described what it was like to live in blockaded conditions: "We have no groceries, no food, and no way to bring goods in. There is only one road to Tskhinvali, and soldiers shoot along it. To get food we have to go 15 km through thick woods, and it's dangerous." A 30-year-old man from Kekhvi said that once a week someone goes through the woods to Gori to fetch supplies for the entire village.

While setting up checkpoints is considered legitimate military activity, the checkpoints were sites of illegal activities, including summary executions, interference with medical personnel, and seizing hostages.

BLOCKADES

Power and gas lines to supply South Ossetia run through the territory of Georgia proper, and telephone connections go through Tbilisi. From the beginning of hostilities in January 1991, the Georgian government intermittently cut electricity and gas supplies to South Ossetia. Telephone service was possible only through special military lines.¹⁴ When electricity supplies were cut, lighting and other electrical needs were provided by individual generators.

According to Valerii Bukulov, chief of the South Ossetian Militia in Dzhava, during the winter of 1991 Dzhava and Tskhinvali had no electricity. Beginning in the summer of 1991, following the earthquake that devastated the region in April 1991, an effort was made to connect Dzhava's electricity lines with those of North Ossetia. It succeeded only in early December. Tskhinvali was frequently without electricity and gas, including, reportedly, for the ten days prior to Helsinki Watch's visit. Bukulov asserted that the gas lines, which ran through Georgian villages, were blown up in January 1991. Since he did not know who blew up the lines, it is difficult to say with certitude that they were destroyed intentionally to cut off Ossetian villages.

The most extreme explanation of the blockade, expressed by the Deputy Minister of the Interior of North Ossetia, Soslan Sokoyev, was that it was part of the Georgian government's attempt to "eliminate" the South Ossetian population. The Georgian explanation for the lack of electricity, expressed by Notar Notadze,¹⁵ is that a strike at a Georgian power station "irresponsibly led by the trade union" cut electricity to Tskhinvali for several days. The strike was intended as a protest against the plight of Georgians living in South Ossetia.¹⁶

Georgians from the villages to the north of Tskhinvali reported that electricity was indeed sporadic; one witness asserted that the power lines are routed through Tskhinvali, and that the Ossetians switched it off. Yet since power is supplied to Tskhinvali through Georgia, the lack of power in these villages might also be explained by the lack of power in Tskhinvali.

Electricity, oil, and gas supplies grew increasingly unpredictable in 1991 as the regional economy (and that of the entire USSR) veered towards collapse. Bearing this in mind, Helsinki Watch believes that the lack of power and gas in Tskhinvali was in part the result of an effort implicitly sanctioned by the Georgian government to harass residents of South Ossetia and to break their political resistance. Although the strike at the power plant may explain why power was cut for a few days, it cannot explain why power was cut to Tskhinvali continually

¹⁴ According to Kazbek Tsakhilov, Chairman of the Nationalities Commission of the North Ossetian Supreme Soviet.

¹⁵ Interview with Helsinki Watch, December 17, 1991.

¹⁶ This explanation also was reported in the press. See FBIS, February 4, 1991, p. 83.

throughout 1991. Moreover, it is unlikely that a strike at a power plant could have taken place without the explicit sanction of the Georgian government.

The blockade of gas and electricity and the impassibility of the Dzhava-Tskhinvali road imposed hardships that were reportedly more severe than those faced by people living in other parts of the former Soviet Union. Homes in Tskhinvali, normally heated by gas, had no heat at all. When cooking gas was available it came in very small amounts; often there simply was none.

On December 11, 1991, Helsinki Watch visited the hospital in Tskhinvali, which as a result of the lack of electricity was left virtually paralyzed. The 620-bed hospital was reduced to about twenty-five percent of its pre-January 1991 work capacity: whereas before 1991 it typically had between 400 and 450 patients, in December 1991 it had only 160, and it could treat only critical cases. Because it uses electric heat, the hospital had been without heat sporadically throughout the past year. The lack of electricity destroyed the hospital's central heating system, and consequently the water pipes burst. Mairom Beteev, the Chief Doctor, also reported to Helsinki Watch that the hospital had been without electricity as recently as December 3 through 9 (confirming reports of other Tskhinvali residents). The hospital was quite cold, about thirteen to fourteen degrees centigrade. Under normal circumstances, it is eighteen to twenty degrees. The cold made operations very risky. Dr. Beteev told of having to operate on a five-month-old patient in twelve degree temperature, with no electricity and no hot water. Newborns in the maternity ward reportedly died in January and February 1991 as a result of exposure to the cold. According to Dr. Beteev, thirty-three of the 105 inhabitants of Tskhinvali's nursing home died of exposure.

SPECIFIC VIOLATIONS

1. Pillage, Outrage Against Personal Dignity, Torture, Violence to Life and Person, and Forced Displacement of the Civilian Population.

By Georgian Paramilitaries

Georgian paramilitary groups committed acts of violence against Ossetian civilians within South Ossetia that were motivated both by the desire to expel Ossetians and reclaim villages for Georgia, and by sheer revenge against the Ossetian people. As a consequence of this violence, between sixty and 100 villages in South Ossetia are reported to have been burned down, destroyed or otherwise abandoned.

Violence was especially gruesome in the Georgian enclave north of Tskhinvali and the villages near it, which include Tamarasheni, Tliakana, and Artsevi. Attacks against Ossetians in these villages were reportedly organized by an informal paramilitary group that had a headquarters in Eredvi. Ossetian refugees frequently told Helsinki Watch that the attackers were heavily armed and often wore some pieces of military garb. Their precise identity is unknown.

Ossetians developed a system of guard duty in which they would warn one another when Georgian informals were coming. This was not a very effective defense because, according to participants, they had no guns. In the winter of 1990-1991 the Ossetian villagers would

frequently sleep in the woods or hide in their cellars to protect themselves from anticipated attacks.

In these circumstances, elderly people were commonly the last to leave, both because they were more resistant to the notion of moving and because they believed that their age would deter hostile forces from attacking them. Yet the attackers took advantage of their old age in cruel and gratuitous ways.

TAMARASHENI

Expulsion of villagers. Located about 1 km north of Tskhinvali, Tamarasheni had about 350 families, and was two-thirds Georgian, one-third Ossetian. According to the testimony of two villagers — a 73-year-old Ossetian woman who fled to Tskhinvali, and a Georgian man who was defending the village — beginning in January 1991, all of Tamarasheni's Ossetian villagers were forced out. Ksenia Bachaeva, the 73-year-old woman, reported that on February 15 "*neformaly*" circled the village, going from house to house announcing (in Georgian) that Ossetians had to leave. They reportedly said they would permit Ossetians to take with them only money, but no possessions. When they came to Bachaeva's house, she asked them where she was supposed to go and was told: "Go to Tskhinvali." I told them I didn't have anyone there. One got out of the car, took off his belt and started to beat me on my back. I don't know who he was."

The Georgian man, interviewed in Gori, confirmed that Georgians had forced the Ossetians to leave:

The Ossetians left and went to Tskhinvali when the Georgians left Tskhinvali in January 1991. We forced them out of the village because the Georgians were forced out of Tskhinvali. We told them to go away and live with the Ossetians, like the Georgians had to go away from Tskhinvali.

Looting and Beating of Civilians. Georgian paramilitaries systematically raided Ossetian homes in Tamarasheni. Bachaeva's livestock had been hauled away a few days before the above event, and five days afterward a group of three broke into her home. The raiders apparently suspected that Bachaeva had money buried in her yard, and beat her brutally to force her to find it for them. They finished by setting Bachaeva on fire:

They asked me where the money was. They wore heavy boots and beat me badly, kicked my ears with their boots. There were two beds. They tied my legs to one bed and my hands to another. They put a knife to my throat and then I gagged me. I was unable to breath through my mouth. They continued to beat me. They took the kerosene lamp and poured kerosene onto my bosom. Then they took a match and lit me on fire. Then they left.

Bachaeva was able to free herself and put out the fire. She then went to a nearby construction site where she said a Georgian guard treated her kindly by warming her up and calling a doctor. Fortunately, she suffered no burns because she had been wearing several layers of clothing. Helsinki Watch representatives saw the burned sweater she had been wearing as a first layer, which still smelled of kerosene. She spent three months in the hospital in Tskhinvali to recover from bruised ribs and other injuries sustained during the beating. Her house was burned down the morning after the raid.

TLIAKANA

Tliakana is an all-Ossetian village thirteen km from Tskhinvali that was attacked in March 1991. Helsinki Watch interviewed three people from Tliakana, who separately reported that the village had been raided several times during the winter of 1990-1991, and that fourteen or fifteen houses had been burned

on March 26, 1991. As a result of this raid, six villagers were killed, some of their bodies badly charred.

Among the villagers who died was Nadezhda Tsakhilova, age 65. We spoke with her son and husband, who had fled the village. Rumors of the raid prompted the middle-aged son to go to the village on the evening of March 26. When he arrived,

I saw the corpse of my mother. Her head had been cut off and her body bore traces of bullets. I thought they tried to burn her inside her house; when she rushed out, maybe they tried to shoot her. She was six meters away from the gate, outside the courtyard in the street.

Ruslan Kulumbegov, whose parents also lived in Tliakana, accompanied the man to the village and also saw Tsakhilova's body. In a separate interview, Kulumbegov said, "Her head was cut off. Nadia lived in the village. It looked like there were bullets inside the body, but I'm not sure."

Tsakhilova's son also reported: "I saw about fifteen houses, all Ossetian, that were still burning. They didn't even let the cattle go..."

Tsakhilova's 77-year-old widower, who was quite ill and spoke in a weak voice, told Helsinki Watch that his house had been robbed and "turned upside down" sometime before the March 26 raid:

The Georgians came at noon. There were 15 of them. No one resisted. They took 6,000 rubles and took away the mattresses, towels, etc. They went from house to house and stayed in the village about five hours. They came back twice after that, and [the third time] they killed my wife.

The parents of Ruslan Kulumbegov, Grisha Kulumbegov and Taisa Dzhabieva, were also killed during the March 26 raid:

As I entered the remnants of [my parents'] house I saw dead bodies. It was obvious from the pieces of flesh on the bones that they were burned... I saw the houses that were still [smoldering].

Kulumbegov was able to identify his father from the capped teeth that remained on the corpse; his mother's body had been reduced to ashes. He also went around to the other burned houses in Tliakana and saw the charred corpse of a 90-year old woman.

Kulumbegov asserted that the troubles in Tliakana began in the winter of 1989, when Georgian bandits would come to the house demanding money. His parents, like many elderly people in the villages, decided not to leave:

My parents thought that because they were old people no one would hurt them. Many other people got frightened and left the village. My parents were often told that this was Georgian land and that they had to leave and go where they belonged.

ATREVI

Grigorii Dobusov, a retired collective farm chief from Atrevi, an all-Ossetian village fifteen km north of Tskhinvali, testified that his village was raided repeatedly, beginning in December 1990. After he fled the

village at the end of March, all of the fifty houses of Atrevi were burned. The attackers came both from neighboring villages and from the Gori district. They were armed, came in large numbers, and during their raids, said "that [Ossetians] had no right to live on the land, and we should free it for them."

Both Dobusov and Hariton Kaziev separately attested that raiders remained in the village after the murder of three villagers (see below, under Indiscriminate Attacks). Kaziev said that the Georgians "occupied and robbed the houses," although his house was not robbed during this raid.

Dobusov averred that "the invaders stayed two hours in the village. They went around the whole village ... and went into the houses." After his home was plundered in two raids, robbing him of everything, including his livestock, furniture, and money, he and his wife fled. Their house was burned after they left.

ARTSEVI

Artsevi had about 700 houses, many of them Georgian, and was surrounded by other Georgian villages. According to separate accounts of three refugees from Artsevi, not a single Ossetian remains in the village. All three reported that beginning in January 1991, Georgian "informals" began to invade and plunder the village, and that the Ossetians would sleep in the forest at night to avoid the danger of an encounter with them. All had been robbed of their livestock, household belongings, clothing, and the like. The paramilitaries also apparently fired indiscriminately at night in the streets and at Ossetian houses, terrorizing their inhabitants, and targeted Ossetians whom they suspected of seeking aid from the USSR MVD troops.

The paramilitaries burned down many of the Ossetian houses in Artsevi. A 53-year old man who left Artsevi in September 1991 reported that half of the houses in the village had been burned. He witnessed the burning of houses, and was able to describe the remains of the burned houses. He did not, however, witness the lighting of the fires:

Half the houses in the village of Artsevi were burned down by the Georgians. I saw some of them were on fire. They burned one or two one night, then more the next night. There was no one in the houses when they were set on fire. The inhabitants of the houses had gone by then. They first stole the things in the houses and then set the houses on fire.

The village had houses of two stories, made of brick. The floors were of wood and the Georgians poured petrol or kerosene on the floors to burn the houses. There was nothing left inside. Even the brick was ruined, cracked by the fire, and cannot be restored. The roofs ... burned like a match. It caught on fire quick and made a big fire, like a war.

Another refugee from Artsevi, a young woman who had worked as an accountant in Tskhinvali, also described the burning of houses:

I do not remember how many houses were burned. People recently said that all the Ossetian houses were burned. By the time I left (in April), there were many burned houses. There were about five or six houses, all Ossetian, on my street that had been burned.

They set fire to the ceiling and floor, which was of wood. The house burned from the inside and the brick walls were left standing. These were one and two story houses. Many had two story houses and many of them were new.

TSIPOUR

Helsinki Watch interviewed a family who said they were the last to leave Tsipour, a tiny village in the Tskhinvali district. Their house was raided three times. The first time, in March 1991, about eight "bandits" came, wearing half civilian, half military clothes and carrying automatic rifles and carbines. They led away one of the sons, who was found two days later dead in the snow. The cause of his death is uncertain, as his corpse bore no traces of abuse or violence.

The family reported that on the second raid, the attackers stole virtually everything, including livestock, mattresses, and food supplies. During the third raid, which occurred in October 1991, the raiders tied up the elderly father and beat him with rifle butts. The family testified that they saw his bruises.

After the first raid the family sought help from the South Ossetian militia, who said that since Tsipour was surrounded by Georgian villages they considered it too dangerous to go there. The family also approached the USSR MVD, who informed them that they were "not able in this situation to go to the village." When asked why they did not go to the Georgian militia, the family laughed and said, "the Georgian militia was busy hunting down Ossetians; it would be crazy to go there."

LENINGORI

Helsinki Watch interviewed a woman who fled the main village of Leningori on September 26, 1991. She reported that sometime that month her house had been raided by about twenty "informals", who demanded money and then went looking for her sixteen-year-old son. The woman followed the informals after they found the boy and led him outside, and saw them beat him with their rifle butts. The informals returned demanding money every night after that. During their raids they would tell the couple that they had to leave, that they were on Georgian soil and were drinking Georgian water.

On the fourth visit, the couple escaped and ran to the police station. The militiamen, including both Georgians and Ossetians, called an ambulance for the woman, who was feeling ill, and drove the man home. They recommended that the family leave Leningori because "they will try to force you to leave. There is nothing we can do against *neformaly*."

The woman reported that paramilitaries also harassed her husband at the power plant where he worked. He did not know which organization was operating in Leningori, but he said that the "leaders" warned him several times that he should not be working on Georgian soil.

ZNAURI

Znauri reportedly had about 300 Ossetian houses and was hard hit by the violence. The village was raided on March 3 by Georgians paramilitaries, who mainly shot off weapons but did not destroy property. According to two eyewitnesses, the informants returned on March 18 and burned many Ossetian houses, whose owners were hiding in the forest.

By Ossetians

TSKHINVALI

Introduction. The situation of Georgians living in Tskhinvali began to deteriorate after the aborted march on Tskhinvali in November 1989, and worsened sharply toward the end of 1990. One Georgian refugee interviewed by Helsinki Watch complained that Georgians

had problems getting bread in shops. [We] couldn't even get into shops. Ossetians wouldn't let us in. The shopkeepers would know we were Georgians because we were speaking Georgian. Whoever didn't speak Ossetian didn't get served.

Others reported that they were not permitted to speak Georgian. Olga Gobieva, who is half Russian and half Ossetian, said:

In September, October, and November [1990] there were strikes against having to learn Georgian. You couldn't speak Georgian there anymore. Not a single lesson [in schools] was conducted in Georgian all year.

Another woman, who was a teacher in one of the four Georgian schools in Tskhinvali, said that towards the end of November Ossetian thugs came every day to the school where she worked and beat up Georgian boys.

The school administration couldn't cope with the situation, and there was no one we could turn to for help. When we called the militia, they would say, "Get Gamsakhurdia to help." They refused to come. Sometimes Georgian teachers would call, sometimes Ossetian teachers would. The school's administration was Georgian.

Violations. The majority of the Georgians Helsinki Watch interviewed fled Tskhinvali in early January 1991, after the arrival of the Georgian militia. With Tskhinvali essentially divided into a Georgian zone and an Ossetian zone, Georgians living on the Ossetian "side" were easy targets. Ossetian bands, consisting mainly of armed young men in civilian clothes, were reported to have repeatedly and systematically threatened Georgians (who frequently were their neighbors), beat them up, and looted their homes.

After the mass exodus of Georgians, Ossetian "guerrillas" robbed their homes bare; moreover, an estimated sixty-two Georgian homes were burned. Sometimes the burning of

homes was purely gratuitous. On other occasions, the guerrillas targeted those Georgians they suspected of fraternizing with or billeting the Georgian militia.¹⁷

A South Ossetian guerilla readily admitted that fighters would "burn Georgian houses because the Georgian militia shot at Ossetians [from houses] in the back streets. We could burn the houses that Georgians had been shooting from." However, many of the burnings occurred after the Georgian militia withdrew, when the houses could no longer be considered military targets.¹⁸

A fifty-one-year-old woman told Helsinki Watch that she and her family left on January 7 because "the atmosphere was tense. There was shooting everywhere and we were afraid. There was no one to protect us." After she and her family left, the house was robbed. The May 27 burning of her house was broadcast on television on May 29. Notably, her son was in the Georgian militia.

A Georgian woman who remained in Tskhinvali after January 26 said that a rash of house burnings began then, and listed eleven addresses where houses had been burned during the night of January 26-27. She saw the remains of these houses, and suggested that they were acts of revenge for the mysterious burning of two Ossetian homes. She further suggested that the Ossetian guerrillas targeted homes of Georgians who had, for example, given the militia water or allowed the militia to use the bathroom.

One of the houses Ossetian paramilitaries raided and ransacked on the night of January 26 belonged to Natalia Saipina, a Russian schoolteacher married to a Georgian. Saipina went to both the local government and the USSR MVD troops for help, but they offered none:

When my house was robbed I went to the city executive committee. [Torez] Kulumbegov said he was helpless because the bandits were out of control, and couldn't promise anything. We asked the USSR MVD troops for help, but they refused. But they would help Ossetians. When we ask the soldiers to accompany us they refused and would give no guarantees. When my house was robbed, the man on duty at the garrison said, "You started this porridge, now eat it up!"

Saipina was interviewed in Moscow early in December. During Helsinki Watch's later visit to Tskhinvali, we inquired about Saipina's house. The head of the Information Committee of South Ossetia, Stanislav Kochiev, admitted openly that Ossetians had indeed burned down Saipina's house as an act of revenge: her son allegedly had killed an Ossetian in Eredvi.

The home of a middle-aged couple, whose son was reportedly in a paramilitary group based in Megvrekisi, was burned in the winter of 1991:

We lived on Ostrovkii Street. Previously we got along quite well with our neighbors, but then suddenly it was all changed. Our house was robbed several times before we left on January 8. After we left my eighty-year-old mother stayed. When they burned down the

¹⁷ Giorgii Gachechiladze, President Gamsakhurdia's Special Assistant on Nationality Affairs, confirmed in an interview on December 21 that Georgian militiamen would stay in the homes of Georgians living in Tskhinvali.

¹⁸ For a full discussion of the rules of war applied to the South Ossetian conflict, see Appendix.

house the neighbors took her out. She was almost dead.

On January 27 at about 1 p.m. a gang of about thirty Ossetian youths set fire to the house of Guram Okroperidze. Okroperidze was about to sit down to lunch at the home of his neighbor, Giorgii Maskhelishvili, when they saw the house go up in flames. The armed youths attacked Maskhelishvili's house, shooting at the windows, and lobbing Molotov cocktails and grenades. Okroperidze later died as a result of injuries from grenade explosions.

Maskheleshvili told Helsinki Watch that about twenty armed youths stormed the house and severely beat him with rifle butts:

They demanded that I give them a gun, but I hadn't any gun; I'm a teacher. . . One of them bashed me over the head with a carbine so hard that I finally lost consciousness. I woke up in the hospital. I don't know how I got there.

Maskhelishvili, who was a witness at the trial of Torez Kulumbegov,¹⁹ had scars on the bridge of his nose and on his forehead, and a had a four-inch scar along his right arm. He spent three and a half months recovering in a Tbilisi hospital.²⁰

Okroperidze was apparently singled out because he "gave cigarettes to the Georgian militia", who, according to his widow (whom Helsinki Watch interviewed separately, in Gori), were living in busses on their street. She said that they had been threatened repeatedly after the Georgian militia's arrival.

Another Georgian family who lived on the Ossetian side of Tskhinvali's barricades was twice threatened in their home on the 10th and 11th by heavily armed Ossetian youths. The youths screamed at her, "Why haven't you left yet? Don't you understand that this is not your land?" Their telephone line was mysteriously cut. The family fled the next day, and when they returned to Tskhinvali on January 14 they found their apartment had been totally looted and smashed up. There was no one to turn to for help, for "the local militia either wouldn't have come or would have done worse."

A 36-year-old woman was at her parents' house when she heard that her apartment had been broken into. She told Helsinki Watch that after she ran over and began to clean up the mess, eight armed men entered the apartment. They called her a "Georgian pig," and began punching and kicking her. They also beat her with "heavy sticks," and rifle butts. The beating damaged her kidneys and left bruises on her thighs, legs and upper body. They threatened her sexually, saying "You typical Georgian swine, you deserve

¹⁹ Torez Kulumbegov was a political prisoner for nearly a year. The chairman of the South Ossetian Supreme Soviet, Kulumbegov was arrested by the Georgian militia on January 29, 1991, and later charged with "inciting racial hatred." In its indictment of Kulumbegov, the Georgian government sought to prove first, that South Ossetia was Georgian territory; second, that the Ossetian people were the guilty parties in the conflict between Georgia and South Ossetia; and lastly, that Kulumbegov was not a political leader but a common bandit. He was released in early January 1992 by the Provisional Government of Georgia.

²⁰ He was originally brought to the Tskhinvali hospital, where he said he received generally good treatment from a doctor he had known since his childhood. "We grew up together. They protected me. But others insulted me using bad words. [One doctor] said, `you're a Georgian swine. They should have killed you. All Georgians should be killed.'"

to be raped." After she fled Tskhinvali her apartment was robbed.

Mziia Makatsiriie told Helsinki Watch that after the militia's withdrawal Ossetian informals threatened her and her family many times. In February they broke her door down, shot off their guns, robbed the house, and threatened to kill her. She requested help from the city government, the local militia, and the Ossetian self-defense units. All promised that they would be protected. Despite these promises, her husband was murdered (under mysterious circumstances) on March 2. The local procuracy, she reported, did not investigate the case.

A 66-year-old woman told us that her son ran a co-op in Tskhinvali that sold fruit juice, cheese pies, and other snacks. In December 1990, her son received a rash of threats from Ossetian youths, who demanded money and broke the window panes. The co-op was burned down in January 1991. She and her family fled with few of their belongings, thinking they would soon return. After they left, however, their house was looted completely, and she claimed that Ossetians currently were living in it.

In some instances Ossetians helped protect their Georgian neighbors from attackers. A Georgian reported that his family's home was attacked on the night of January 9-10, 1991 by a gang of five young men, who attempted to break the door down:

The house was attacked on the night of January 9-10, 1991 by five men about twenty to twenty-one years of age. . . . When I looked out the door, at about 11 p.m., I saw several of these armed boys, yelling at the house, calling us pigs and scoundrels, and saying that we should leave. They were knocking at the door, trying to break the door in.

The Ossetians who lived next door . . . made the men go away. They did not return that night but they did come back and repeat the same scene the next night. Then the Ossetian neighbor took an axe and threatened to kill them if they did not go away. The neighbor was in Ademon Nykhaz, but he still defended us.

The family fled two days later.

IN THE VILLAGES

Helsinki Watch interviewed victims and eyewitnesses of anti-Georgian attacks in only one South Ossetian village, although others were reported in the media.

Gudjabari. A 66-year old Georgian man who remained in Gudjabari until March 15 described it to Helsinki Watch as a village with 300 Ossetian and 100 Georgian houses. The man, who worked at the Tskhinvali railway station, reported that throughout 1990 Ossetians routinely robbed their Georgian neighbors, who had no one to turn to for help. The robberies and violence intensified after the Georgian militia crackdown in Tskhinvali: "I did not undress a single night when I went to sleep because I always expected them [Ossetians] to come, demanding food and wine."

On March 15, of a group of armed Ossetians reportedly assaulted the man's home and beat him. His son's home was attacked that same evening, and the son sustained a bullet wound from the attack (it is not known whether the son was armed). This wave of violence convinced all of the Georgians to flee the village the next day. The Georgian portion of the village was totally abandoned. "We left because the Ossetians were restricting us . . . intimidating us with weapons, taking our food and wine, abusing and humiliating

us."

Press reports related that three houses in Gudjabari were burned down.²¹ According to the same eyewitness, fifteen Georgian houses were burned down in Gudjabari while he was living there. "They were set on fire at night. I saw the flames and smoke. They burned to the ground. Just the walls were left, which were made of brick and blocks. They were burned on different nights."

In April, Valeko Chamburidze, a 60-year old Georgian man, was brutally murdered on the village road. Family members who saw Chamburidze's body, interviewed separately, attested that he had between eighteen and nineteen knife wounds in his chest and abdomen. Since there were no eyewitnesses, the circumstances of his murder are unknown. His daughter told Helsinki Watch:

He was warned several times to leave his house [in Tskhinvali] but he refused. He was beaten several times between January 1991 and his death in April 1991 for not leaving the house. He was beaten by Ossetians.

2. Indiscriminate Shelling and Artillery Fire

By Georgians

On January 7, during the crackdown on Tskhinvali, the Georgian militia fired at Ossetian residents gathered on Oktiabrskaja Street to observe the scene. We interviewed an Ossetian, Ivan Tskhuvrebov, a 65-year-old man who was shot:

Everybody came out of their houses. They watched, as if it were a circus. [The Georgian militia] shot in the air to frighten people, but the people didn't disperse. Then they started shooting at people. Someone next to me fell. I was shot. The bullet went in and out.²² When the militia started firing at people, they scattered. Some fell. I spent ten days in the hospital. There I saw four others wounded. One of them said he was also wounded on Oktiabrskaja Street. I wasn't armed. None of us was armed.

Much of the later Georgian shelling of Tskhinvali was indiscriminate and destroyed civilian objects that are protected by the rules of war.²³ Civilian structures that were hit do not pass the two-fold test of a legitimate military target: first, such a target must contribute to the enemy's military capability or activity, and second, its destruction or neutralization must offer a definite military advantage.

Helsinki Watch representatives saw a residential area that had been damaged by rocket fire. Two large holes pierced both sides of a seven-story tenement house that had been hit in early October 1991. Another building was hit on September 29, causing damage to its walls and balconies. We spoke with two of the building's residents:

²¹ See FBIS, March 15, 1991, p. 79.

²² Mr. Tskhuvrebov had a scar on the left side of his chest and was on the Tskhinvali hospital list of people brought in with gunshot wounds.

²³ See Appendix for a list of legitimate military targets in Tskhinvali.

The first rocket hit the garage (which was completely destroyed). Then we all went to the basement. We could feel the whole building shake. Another rocket went through the building. We had to get the wall repaired. No window glass was left whole. No one was injured.

We visited the apartment of another resident, a young woman in mourning.²⁴ She also described the September 29 shelling:

When the rocket came, it hit the gas pipeline (in the kitchen next to the balcony) and dust and gas started to come out. We couldn't breathe. We started to run out, but when we got to the door another rocket hit the corner of another building. We couldn't open the door, so we climbed through the window.

ATREVI

In January 1991, Georgian paramilitaries killed three unarmed Ossetians and then proceeded to plunder the village (see above). The incident took place on a bridge just outside the village. Both Grigori Dobusov and Hariton Kaziev were eyewitnesses to the shooting and gave separate accounts of it. Dobusov reported that he was at home when he heard that Georgians were coming to the village. He said that twelve armed Georgians approached the village by foot and were met by a group of Ossetians, who were allegedly unarmed. Kaziev claimed that "the Ossetians told the Georgians they did not mean any harm. One Georgian started to shoot at the Ossetian crowd with his automatic weapon, simply because they were Ossetian." He saw the raiders throw from the bridge the bodies of the dead, whom he identified as Sadul Kaziev, Walikol Kaziev and Wolah Kaziev. A fourth person, Usep Kaziev, died later from his wounds.

Dobusov was 300 meters from the bridge during the shooting:

I was watching my grandchildren playing on the ice on the river when a neighbor woman called out, 'Take your children, a big group of Georgian warriors is coming.' I took them inside the house. I heard one man choke (when he was hit by a bullet). This happened at about 6 p.m. I was about 300 meters from the place and when the shooting started, I ran away and hid. Everyone in the gathering place ran to the field, scattering everywhere.

When the shooting stopped, I cried out, 'Help, someone, where are you?' but no one answered. Some six hours passed by before people returned from their hiding places. It was about midnight.

Those who were killed were all members of the Kaziev family: a woman, fifty-five, her husband, in his fifties, and the husband's male cousin, about fifty. Dobusov said that he had seen the corpses, which were "shot full of bullets, like a sieve," and helped prepare them for the funeral the next day.

ARTSEVI

²⁴ Her husband was the victim of a summary execution. See page 36.

A young woman from Artsevi (also interviewed on page 21) described to Helsinki Watch a shooting that occurred in the village one night in March, when she and her husband tried to sleep in their house, rather than in the forest.

We had gone to the forest for the night at midnight. My husband's mother was old and ill. [My husband] said it would be better to go home, since his mother was alone. [On the way to the house] we passed a group of Ossetian watchmen on the street (they did not have any weapons). Later that night, my husband saw many cars near our house. He went outside, under my protest. When he stepped outside, they started to shoot, and he was wounded in the leg.

There was heavier shooting. Everyone in the house got down on the floor: my neighbor, me, and my husband's mother. . . They shot the house up, with bullets that went through the windows. The walls were of brick. The next day an APC came to the village, which they do often after shooting to pick up the wounded. It came into our yard. We were afraid to leave the house because we knew that the "informals" were watching. They always watch to see which house the APC comes to. Since we did not respond to the APC, it left.

The "informals" came anyway, and arrested us that afternoon. They were six men in civilian clothes, armed. They accused me of cooking pies for the military, and welcoming them. I do not cook because I never have any food. But they blamed us for cooperating with the military, even though we did not leave the house. I was afraid. I do not remember much else. I was always afraid.

The Georgian neighbor of ours, one of the informals, let me go shortly after that. The Georgians asked my husband why the APC came up to our house and asked him where I had gone and when I was going to come back. He told them he did not know. He tried to persuade them that the APC had not come for him, and they left.

After that we left the house and did not return. The next time that the APC came, they picked my husband up and took him to the hospital.

ZNAURI

The Znauri district was reportedly hard hit by indiscriminate Georgian shelling in early October. A grenade and rocket damaged a child care center, killing a three-year-old child and wounding four others.²⁵ A shopping center was also reported to have incurred damage.²⁶

Vitalii Garelov, commander of the USSR MVD forces in Tskhinvali, confirmed that the Znauri district center was destroyed by Georgian rocket fire.²⁷ Helsinki Watch interviewed one resident who was in Znauri at the time of the shelling, an 18-year-old woman. Although she was not an eyewitness, she told us about the shelling of the day care center:

²⁵ See FBIS, October 15, 1991, p. 66.

²⁶ *Ibid.*

²⁷ Helsinki Watch interview, December 11, 1991.

A rocket landed near the (day care center) . . . they were not firing at the kindergarten specifically, they were just shooting off rockets and they hit the kindergarten. The boy, Tibilof, was killed when shrapnel hit him in the head. I saw his coffin when it was brought for burial. I didn't see the body.

A twenty-three-year-old man whose family had fled from Gori to Znauri was wounded near his house on December 8. Helsinki Watch visited him in the intensive care ward of the Tskhinvali hospital:

A rocket blew up right in front of me. I was standing near the house. There were several of us. We were chatting. When the shooting began we scattered. There were many rockets. It went on for half an hour. After the rockets, they started to shoot automatic weapons. You could see the places where they were firing from because of the flashes of gunpowder.

The young man said that he was not in any self-defense unit, and that he was the only person injured in that attack. According to his doctor, bullet wounds damaged his liver, intestines, and kidneys.

By Ossetians

During 1991, South Ossetian military units attacked Georgian villages (which they suspected as the sources of fire on Tskhinvali and other Ossetian villages) with unguided rockets and sniper fire. The rockets seem to have been launched indiscriminately, and have been reported to have landed on villagers' homes, churches, and other civilian structures. Georgian opposition leader Notar Notadze, who did not personally eyewitness any attacks, said that several thousand Georgian villagers still live in Nikozi, Achabeti, Tamarasheni, and other villages that are the targets of Ossetian artillery fire.

KEMERTI

Kemerti has about 300 houses. A woman who had been in Kemerti in early December told Helsinki Watch that rockets frequently landed near her house. Her house was unaffected, but the explosions so frightened her daughter that she had to take her to a doctor in Gori. On the night of December 9-10, a rocket landed on a chapel, and tore off the corner of a house where people were still living. On the same night, snipers shot automatic rifles from the woods behind the chapel and along the main road in the village.

KEKHVI

Kekhvi has about thirty-five families, all Georgian, according to a thirty-year old bus driver from the village who was part of Kekhvi's self-defense unit:

They shoot at us from Tskhinvali, they attack the villages. They shoot whenever they feel like it - during the day or at night. They shoot, then people hide and eventually flee.

(On December 17) I was on my way back from Gori. I saw an APC come toward our village, and it shot at all the houses, where people were at home. One bullet hit the leg of a woman.

Civilian Casualties of Shelling and Gunfire

Helsinki Watch has documented statistics only on Ossetian casualties, in the form of a list of names provided by the Tskhinvali hospital.²⁸ According to this list, 415 "civilians" injured in connection with hostilities were admitted in 1991, of whom twenty-seven died in the hospital. The corpses of seventy-three people who died from gunshot or other war-related actions were brought to the hospital. This list recognizes an individual as military personnel only if he wears a uniform when he is admitted to the hospital. Most of the guerilla fighters, however, did not wear uniforms, and it was impossible to ascertain that each person whose name was on the hospital list was indeed *hors de combat* when he or she was wounded.

Helsinki Watch has no statistics on Georgian casualties. Notar Notadze claimed that the Georgian government had no such statistics, mainly because the Press Center of the Georgian Interior Ministry was poorly informed.

3. Interference with Medical Personnel: Violations by Georgians.²⁹

Customary international humanitarian law forbids combatants' interference with the delivery of medical aid.³⁰ Helsinki Watch interviewed witnesses to two separate attacks on ambulances traveling on roads.

²⁸ According to Mairom Beteev, ninety percent of those treated at Tskhinvali's hospital are those who were wounded in the war.

²⁹ Helsinki Watch received no reports of interference with medical personnel by Ossetian parties. This does not exclude the possibility that such violations may have occurred.

³⁰ For a full description of this violation, see Appendix.

On October 29, 1991, an ambulance answered a call from Dminisi to fetch a woman in labor. At the village of Eredvi, a group of about twenty-five Georgians, some armed with automatic rifles, reportedly stopped the ambulance and beat up and dragged away the Ossetian drivers (who were still missing at the time of our interview). The "informals" kept the vehicle and scratched off the letters identifying it as a Tskhinvali ambulance. An eyewitness, who in December was still so traumatized she could barely speak, told Helsinki Watch that the crowd asked the ambulance workers, "don't you know you're in a Georgian village?" A Georgian militiaman, acting privately, later helped the woman return safely to Tskhinvali.

On January 26, 1991, the Tskhinvali ambulance station received a call to collect a man called Kochiev, injured with a broken back, in Kurta. When first asked, the Georgian militia (who at that point were still in Tskhinvali) reportedly refused to accompany the ambulance, claiming it was too dangerous. They later agreed, supposedly after Dilar Khabuliani (then Interior Minister of Georgia) applied pressure.³¹ The ambulance and its crew picked up Kochiev. At the village of Tamarasheni, a gang stopped the ambulance, which was still accompanied by a Georgian militia APC.

A nurse who was in the ambulance told Helsinki Watch:

We were driving along with no problems until we got near the village of Tamarasheni. Then the driver got nervous because he noticed a car following us. Then the car passed in front. . . At Tamarasheni people were standing around aiming rifles at us. Japoridze (another Georgian official inside the APC) said, "What are you doing? We're transporting an injured man." Then the gang said, "We'll show you a piece of our mind for helping Ossetians!"

According to separate testimonies of both the nurse and another witness, the gang shot at the ambulance. The nurse said that the Georgian militia looked on, perhaps in fear, and refused to intervene as the gang beat up some of the passengers (including herself; as a result she spent a week in the hospital), and killed Kochiev, the patient with the broken back. The militia eventually intervened to prevent the gang from beating up Kochiev's son.

4. Hostage-taking

International humanitarian law strictly forbids the taking of hostages.³² Both Ossetian and Georgian irregulars took and exchanged hostages, although it is not clear which side began the practice. The first hostages were seized in the aftermath of the attempted rally on November 23, 1989. Hostage-taking escalated in 1991 and became a common practice in the guerilla war. In some cases individuals were captured while defending their villages. In others, however, unarmed individuals were taken either from their homes or on the road. On some occasions entire busloads of passengers were reported to have been taken hostage.

Both sides openly admitted that they took hostages to exchange for hostages taken by the other side or to raise money. Typically, family members would receive information through informal channels

³¹ The nurse alleged that Khabuliani was related to the wounded man in Kurta.

³² See Article 3 common to the 1949 Geneva Conventions, and Protocol II additional to the Geneva conventions, Article 4 (2)(c).

that a family member had been taken hostage, and would have to find someone from the other side to offer in exchange. (If, for example, a Georgian was seized, his family would have to track down Georgians who were holding an Ossetian hostage to offer in exchange for the seized person.) Hostages themselves related to Helsinki Watch that their captors told them they were being held to avenge the violence carried out against "their" ethnic group.

Hostages were beaten, threatened, and were sometimes killed.³³ In an especially cruel practice, irregulars would hold the corpses of hostages ransom, forcing family members to pay large sums of money to have them returned.

Irregulars often took advantage of road checkpoints to seize hostages. The following example, related by the 30-year-old bus driver from Kekhvi, interviewed above on page 30, illustrates this. He told Helsinki Watch that he was driving his bus to Gori in October (when there was supposed to have been a gentleman's agreement to allow free passage along the road). USSR MVD troops accompanied the bus, yet forty to fifty armed Ossetians blocked it at Tskhinvali, apparently intending to take hostages. "They swore at us, saying, 'you can't live here.'" The MVD troops called the MVD headquarters, which dispatched an armed personnel carrier. The APC towed the bus safely to the road to Gori.

By Georgians

The seizing of Ossetian hostages was carried out principally by Georgian "*neformaly*"; the Georgian militia and National Guard apparently were not directly involved in hostage-taking. However, in some cases, they reportedly played an indirect role by, for example, allowing hostages to be brought to prisons.

A hostage seizure that took place on September 19 resulted in the death of Meir Bukulev and the disappearance of a boy called Sanakoev. Stanislav Medoev, a young man who was a student in Nalchik, told Helsinki Watch that he was captured on the evening of September 19 on the road from Dzhava to Tskhinvali. Fourteen men in the truck with him were also captured. They were stopped at a roadblock set up by Georgian informals at Kurta, where a white Zhguli (a Soviet automobile) opened fire, wounding three of the Ossetians. Forty people then surrounded them, dressed in civilian clothes and armed with, among other things, carbine guns.

Medoev said that he, along with Meir Bukulev and a man called Bestaev, tried to escape but were caught in the woods. Their captors beat them with rifle butts and tied their wrists with wire. Medoev was then brought to a house, where he remained with ten of the other captives. The group was again split up. At 5 a.m. on the morning of September 20, Medoev said that he, along with three other hostages, was blindfolded and brought to the militia station in Gori.

Medoev testified that the four of them were kept in a room with a small window for two days without food or water, and that they were periodically beaten by militiamen. He also said that bullets were planted in their pockets. They were then brought to a prison in Tbilisi, where they were separated and kept for four days in investigative isolation (*sledstvenniy izoliator*). Medoev said that militiamen beat him every morning and said, "you're killing us, you Ossetian extremists." They were brought food three times per day

³³ Znaur Gassiev, head of the South Ossetian Supreme Soviet, reported that more than 100 Ossetian hostages had been killed. This number could not be confirmed.

in prison.

On the fifth day, all four hostages were driven by militiamen to a USSR MVD post in Megvrekisi, a village at the entrance to Tskhinvali, where an exchange of hostages took place. Although Medoev did not witness the exchange of hostages,³⁴ other reports of the incident confirm that such an exchange took place.

Slanislav Kochiev, the head of the Information Center of South Ossetia, reported to Helsinki Watch that nobody contacted the Ossetians to arrange an exchange of hostages; rather, Ossetians took eight Georgian hostages "as soon as they knew their people were taken hostage." In Kochiev's account, "They merely stopped some Georgian cars near the city and took eight people from the two cars they caught. . . . They just captured the first Georgians who came down the road. They did not care who they took."

Kochiev averred that the USSR MVD mediated the exchange of hostages at its post in Megvrekisi. He also claimed that the Georgian hostages - who included a woman and two young boys - were not harmed, although this report could not be confirmed.

Amiran Sanakoev, a 60-year-old state farm manager, reported to Helsinki Watch that he was seized on January 14 on the road to Gudjareti. While he was walking to work in the early morning, a jeep pulled up; two men jumped out, aimed machine guns at his head, pulled him into the car, and put a hood over his head.

They drove to the village of Kimoti, where they removed Sanakoev's blindfold and asked him for information about the bus that regularly passed through that road. When the bus arrived, they stopped it and picked up thirteen more hostages, who, along with Sanakoev, were put into an ambulance and blindfolded. On the road their captors told them they would be exchanged for Georgian hostages, frequently accused them of helping Ossetian extremists in Tskhinvali, and repeated that Ossetian territory was theirs and that Ossetians were "guests."

Sanakoev recognized his captors as "*neformaly*," and knew by face two of the Georgians from his own district. The Ossetians were taken to the paramilitary's headquarters in Tbilisi, which Sanakoev believed was the former home of Laverenti Beria, the infamous head of the KGB during Stalin's time. Sanakoev was interrogated for twenty minutes.

Sanakoev related the following excerpts from his interrogation:

"Why did you give money to Ademon Nykhaz?"

"I didn't."

"We know you have a weapon. Where do you keep it?"

"I don't own a weapon. You can come to my home and search for it."

"Maybe you buried it. Maybe your neighbors have weapons."

"I don't know whether they do."

"Ossetians are killing Georgians in Tskhinvali. Why don't you tell them not to kill

³⁴ Medoev only saw an ambulance and another car approach. The militia man who had been with Medoev got into the ambulance and was joined by five other people who had been in the other car.

Georgians?"

Sanakoev was also asked where his children were, and how many lived in Tskhinvali.

Sanakoev was not beaten, but said that at least one of the other men, a private store manager from Gori, was terribly beaten. He saw the man's bloody nose and other traces of violent treatment.

In the end, the group was not exchanged for Ossetian hostages. According to Sanakoev's account, the paramilitaries said they needed to find Ossetian hostages from Tskhinvali and not Bourdjumi, where this group came from. Members of the group were forced to sign statements saying that they were not harmed during their captivity, and were put on a train to Gori at about 11 p.m. Sanakoev added that the villagers of Gudjaretti put intense pressure on the local informals, among whom they had close acquaintances, to secure their release. This account was confirmed by another witness from Gudjaretti.

According to rumors reported by many refugees, hostage-taking was especially common on that portion of the road from Tskhinvali to Vladikavkaz that passed through Georgian villages. A middle-aged Ossetian man from Tskhinvali told Helsinki Watch that he was kidnapped in late March at the village of Kekhvi in a convoy of three or four other cars. Twelve of the passengers were also seized. In typical fashion, the paramilitaries shot at the cars and forced their passengers out.

The Ossetians were reportedly captured in revenge for the death of a Georgian who had been killed allegedly by Ossetian guerillas. The witness said that they were brought to the wake of the dead Georgian, and were told that one of the men would be sacrificed on the grave of the deceased.

The group did not make good on this gruesome threat; the man was held for three days and beaten once during his captivity. He said that he was supposed to be ransomed for 40,000 rubles but somehow managed to escape.

By Ossetians

An elderly man who asked us not to use his name was captured near his home in Tskhinvali in early March 1991, and held for about two weeks. His captors, who were quite young and armed, held him in various basements in Tskhinvali. In one of these basements, two other hostages were also being detained. He was not beaten, but one of his captors aimed a gun and shot a blank close to his head. He said that his captors muttered to each other that all Georgians should be killed.

An Ossetian contacted the man's wife the day he was captured, and instructed her to find an Ossetian hostage to exchange for her husband. She told Helsinki Watch that she went to the Georgian militia outside Tskhinvali, who told her they could not help her find hostages. A few days later, while trying to leave Tskhinvali, she was seized by Ossetian guerillas, who brought her to a boarding school they used as their headquarters in Tskhinvali. Between twenty and forty guerrillas were there. They detained her for half an hour, swore at her, and threatened her, telling her "it's not your land, get out of here." She was released unharmed.

She was unable to find Ossetian hostages, and secured her husband's release by paying 60,000 rubles.

A middle-aged Georgian couple from Tskhinvali told Helsinki Watch that their son, Zurab, was captured twice. The first time, on October 20, 1991, he was defending the village of Megvrekisi, but was apparently not captured in the course of military activities:

He was captured during the day. He was driving his car on the road. Ossetian relatives told us he was captured. The first time he was captured . . . he was wounded and taken to the hospital in Tskhinvali. The Ossetians put a price on him - 100,000 rubles. They . . . released him after five days. We gave the money to some Russian.

He was captured again in late November, and his mother was still awaiting news of him: "No one has contacted me about my son."

In some cases, captives were held at first for money, but when relatives could not come forth with the demanded sum, they were told that the captive could be exchanged for someone from the other side. Helsinki Watch interviewed a victim of this type of kidnapping. An elderly Georgian man, who feared reprisals and requested that the details of his case be dropped to conceal his identity, was kidnapped from his home in Tskhinvali in mid-September. He was blindfolded and taken to a basement, where he was held for eight days. He was beaten regularly at the beginning of his captivity, and was given very little to eat.

The man's family could not amass the ransom money, so a family member negotiated his release in exchange for an Ossetian hostage. Unlike the above case, the intermediaries were the Georgian MVD and a local procurator.

5. Summary Executions

By Georgians

A Georgian paramilitary group executed Meir Bukulev, a 27-year old man who was neither in the resistance nor in the militia. Bukulev, along with Stanislav Medoev and thirteen other men, was captured on September 19 at Kurta.³⁵ There are no witnesses to the killing. Bukulev's body was delivered to the morgue at the Tskhinvali hospital; his entry in the hospital

³⁵ See above, pp. 32-33.

list, however, indicates only that his corpse was brought there, and does not describe his wounds or the cause of death.

The Ossetians believe that both Bukulev and Sanakoev, another hostage, were killed on the day they were captured because, unlike the other hostages, they were not taken to Gori. A Georgian living in a nearby village was rumored to have seen the two killed. Sanakoev's body was never found and no one could confirm his death.

In this incident the Georgian captors reportedly demanded one million rubles in ransom money for the corpse of Meir Bukulev. Mr. Bukulev's father said that the city raised 500,000 rubles and succeeded in getting back Meir's body on October 8.

On February 4, Georgian informals pulled over a bus traveling from Tbilisi to Tskhinvali and took away some of the passengers. We spoke to the widow of Laverntii Dziguev, a 44-year-old Ossetian who had been on the bus:

There were *pikety* [checkpoints] on the road, but people had been told there weren't any checkpoints left. . . . When they reached Tkoyavi [in South Ossetia] the bus was stopped. People came on and demanded that all [male] passengers show their documents, or something that could show who was Georgian and who was Ossetian. I wasn't there, but my brother was. He saw three people being led away. My brother somehow escaped. When they saw my husband was Ossetian they asked him to leave the bus, because it was the territory of Georgian villages. I heard that the other two people were tortured. My husband's head was mutilated, . . . and his body was badly burned.

By Ossetians

We have no confirmed reports or reports from close relatives of victims, of summary executions committed by Ossetians from eyewitnesses or close relatives of victims. This does not exclude the possibility of their occurrence.

DISCRIMINATION AND VIOLENCE AGAINST OSSETIANS IN GEORGIA

POLICE IMPUNITY AND COLLABORATION BETWEEN OFFICIAL AND UNOFFICIAL ARMED UNITS

Most of the abuses described in this section were carried out or facilitated by various armed formations, including rag-tag bands and unofficial paramilitary groups.¹ In specific localities, for example in the city of Gori, paramilitary groups operated with police impunity, and in some cases reportedly with police collaboration. Georgian and Ossetian interviewees told Helsinki Watch that the Georgian militia feared these groups. This, however, does not release the police from their duty to protect all people living in Georgia.

The Georgian police allegedly did little or nothing to protect Ossetians. When asked if they sought police protection after having received threats, many refugees scoffed and said either that the militia were just as bad, or that it would have done them no good. Ossetians who did seek help from the police reported that the most the police would do for them was to tell them that it would be better for their safety to leave.

The government of Zviad Gamsakhurdia did not acknowledge that these attacks on Ossetians in Georgia took place. When Helsinki Watch asked why he thought so many Ossetians had fled their villages, Giorgii Gachechiladze, President Gamsakhurdia's Special Assistant on Nationality Affairs, replied:

They felt uncomfortable morally. Some of them sold their houses and simply started to migrate. They were under no pressure to leave. In certain situations there were clashes between neighbors, but these things happen. There was no official involvement.²

ATTACKS AND OTHER FORMS OF HARASSMENT AGAINST OSSETIANS

Acts of reprisal against Ossetians began in January 1991 in other parts of Georgia (outside South Ossetia), where they were systematically and on a wide scale threatened, robbed, beaten, and forced to leave their homes.³ Threats were carried out by armed Georgians, usually in groups of four or five, who were either acting privately or as members of paramilitary organizations. Frequently the victims knew or recognized the raiders, who wore mostly civilian clothes, but sometimes wore some camouflage garb. Often individual homes were raided repeatedly, and often the armed Georgians would demand that the inhabitants leave.

Beginning in January, paramilitary groups set up village checkpoints intended to check villagers

¹ For a description of Georgian paramilitary groups, see page 14.

² This interview with Helsinki Watch took place at the Georgian Permanent Representation in Moscow on December 21, 1991.

³ Significantly, refugees consistently told Helsinki Watch that previously they had never been robbed or suffered these kinds of attacks.

for arms and perhaps to prevent outsiders from discovering the incidents that were occurring within their boundaries. The "guards" at these checkpoints harassed and sometimes beat Ossetian men and women, which made leaving the village even to fetch groceries an ordeal for many Ossetian residents, and made fleeing the villages a traumatic experience.

Ossetians began to flee Georgian villages in February 1991, although the elder among them remained until May and even later. Helsinki Watch interviewed refugees who fled villages in the Bourdjumi, Kareli, and Khashuri districts of Georgia. These refugees were particularly reluctant to give their names, either because they feared their relatives still in Georgia would suffer reprisals, or because they hoped someday to return to their homes.

Bourdjumi District

According to victims and eyewitnesses, virtually all of the Ossetians living in nine Ossetian villages of the Bourdjumi District (about 40 miles west of Gori) were forced to leave.

GUDJARETTI

Helsinki Watch interviewed five separate families from Gudjaretti, a collection of nine small villages (and one collective farm) in a mountain gorge. This campaign of raids and evictions began in the spring of 1991, and by May, according to one witness, not a single Ossetian was left.

Summary Execution. A key event that seemed to have initiated the terror against the Ossetians in Gudjaretti was the murder of Tamara Sanakoeva, a 50-year old woman. In early April at about 2 a.m., a band of armed men allegedly came to Sanakoeva's house looking for her son, who was in the South Ossetian militia. Mrs. Sanakoeva, who was home alone, ran out to the balcony to shout for help and was shot. An eyewitness who helped prepare her body for the funeral attested that "one bullet entered her collarbone and exited, and her head was smashed up," the result of allegedly being beaten with a rifle butt.

Expulsions. Soon after the shooting, according to B, a 66-year-old refugee, the entire village was occupied by irregulars who "stood in the streets and said we had to leave within three days." Another refugee reported:

Some Georgians told us they received an order. If they did not kill Ossetians, they would be killed themselves. . . . It was an order to expel all Ossetians. For the nine villages in the gorge, they gave only five days for everyone to move.

P.T., a thirty-two-year-old-refugee from Gudjaretti, reported that gunmen again in May ordered the Ossetians resident to leave within 24 hours.

Although the witnesses were not in a position to know if this expulsion of Gudjaretti villagers was officially organized, the local government did nothing to prevent it. Indeed, in mid-April the head of the district executive committee, Onaprishvili, accompanied a group of armed men who were giving Ossetians orders to leave the village. A forty-eight-year-old woman from the village told Helsinki Watch that she and a group of other women accosted Onaprishvili:

He was an instructor for four or five years in this district, then later the head of the district. I worked in the school cafeteria, so I knew him from the time he was an instructor, and

from time to time he visited the schools, whose work he [supervised]. So I started to plead with him. He did not give any reasons for why we had to leave. We just wanted to be able to take our possessions away safely, but this was not allowed. Onaprishvili replied, "My dear, I do not know if you will still be alive by 5 p.m. tomorrow. My advice is to leave as you are."

Raids. The systematic raiding and plundering of Ossetian homes in Gudjaretti began after the shooting of Sanakoeva. One eyewitness described how, on one morning in early May when he was working in his barn, he could see groups of Georgians "separating and going by groups into different houses simultaneously." The armed men forced him to load all of his livestock onto a truck, which was then driven away.

After her house had been robbed the first time in April, refugee A fled, leaving her 104-year-old mother-in-law in the house alone. The latter reported to Helsinki Watch that armed raiders returned to the house three times, clearing it out of appliances, furniture, and the like. As they left the house on one visit, one of the men aimed his rifle at her face. When the older woman started to pray for them not to kill her, he hit her on her right shoulder and ear with a rifle butt.

Refugee J, who worked in a shop, was robbed of all of his property, valued at 180,000 rubles, including livestock, appliances, china, and porcelain. The robbery took place in May when he and his family were hiding in the woods.

Another fairly well-off family was robbed of all their possessions, including their furniture, over the course of three "visits" in April. The husband told Helsinki Watch that during the second visit, eight armed Georgians

told my wife, "We're giving you twenty-four hours to leave the village." He had a grenade in his hand and said, "I'm going to put it in your pocket if you don't obey. This is our land; just look how nicely you live on our land. You are an Ossetian - you shouldn't live on this land."

During the third visit,

my wife was beaten. Four of them came. . . One Georgian had a grenade in one hand and the other had a machine gun. They said, "You're still here? We gave you twenty-four hours." They forced us to leave the house and carried away all the furniture. One Georgian beat [my wife] with his fists and threw her out of the house, saying "there's nothing for you here."

This couple did not approach the militia for help, based on stories related by their neighbors, who after being robbed were reportedly told by the militia, "Look what is happening in Tskhinvali. . . It's no use worrying about your furniture."

Checkpoints. Beginning about February 1991 (before the systematic raids began), checkpoints set up and manned by a paramilitary group blocked off the village of Gudjaretti.⁴ According to refugee F, two or three posts were set up along the main road. Ossetians, especially men, were routinely checked. Refugee B told Helsinki Watch that to avoid the checkpoints, which he intensely feared, he simply did not do errands, and that he would ask someone else to do his shopping.

Ossetians could not take their possessions with them as they fled because the guards at the checkpoints would not let moving vans or cars and trucks into the village. The guards, who would don masks when they saw people approaching, wore civilian clothes and had hunting rifles. They were apparently looking for firearms and checked mostly men, but were also reported to have checked women as well.

Checkpoints made fleeing Gudjaretti even more difficult. Refugee C reported:

All the roads were blocked when we were ordered out, and the snow was melting. We had to get out through the mountains. Georgian villages were in the valley and they would not let us pass through. They had armed checkpoints and stopped everyone coming from our villages and made them return.

Many villagers of Gudjaretti eventually fled to Armenia, where they were housed, fed, and given airline passage to Vladikavkaz.

OTHER VILLAGES IN BOURDJUMI

Mitarbi. Mitarbi is a small village of about thirty houses that was apparently raided in April. A fifty-three-year-old Ossetian man from Tbilisi told Helsinki Watch that he had twice attempted to go to Mitarbi and check up on his mother when he heard of the raids in Gudjaretti. He said that militia and National Guardsmen attending the checkpoints in the village of Kimutisurbani stopped him and told him that no one lived in Mitarbi any more. He returned the next day and managed to convince the guardsmen to let him pass. He found that armed Georgians had raided his mother's house four days previously. According to his account, she and other villagers had been forced to sell their livestock at prices that were well below their value. According to this man, "she did not want to sell but she had no choice."

Bakuriani. The news of the raid on Mitarbi spread to the village of Bakuriani, raising fear among its Ossetian inhabitants. One family from Bakuriani told Helsinki Watch that they had heard about the raids on Gudjaretti and other villages, but believed they were in danger only when they got word of the raid on Mitarbi. A middle-aged woman who lived in Bakuriani for twenty-two years said that the district authorities called the Ossetians together in May and announced:

⁴It is unknown which paramilitary group operated in Gudjaretti. According to refugee P.T., some of the "*neformal*" were members of the National Guard, although this claim could not be confirmed. He also believed them to be members of a paramilitary organization that had its headquarters in Tsargrevi, a village twenty-four km away.

"We are not throwing you out but we are not responsible if you are killed or something happens to you, so it would be better if you left." This warning was given to the Ossetians by Khadjapuradze, the chairman of the district.

Life was becoming hard in the village because after rationing coupons were introduced about March 1991, the authorities would not give the Ossetians any. Before, I received money for the children, and afterward they cut me off.

After this meeting Ossetians rushed to sell their houses and made plans to leave:

It was as if it was a state of war. When we were leaving they would not let us sell our houses. . . . No one could sell their houses. The Georgians decided not to buy anything from the Ossetians. If anyone managed to sell something, such as a cow, at night his house would be attacked and the money taken from him.

The mother of the family returned periodically to check on their house. During her last visit, in November 1991, the house was raided by five men armed with pistols and rifles, who were looking for arms and Ossetian guerrillas. Nothing was stolen, however, because the house was already empty:

They asked me where I had hidden the weapons and who I hid there. They asked why I helped the Tskhinvali people. They asked all Ossetians the same questions. They thought that every Ossetian in Georgia helped Tskhinvali. That is the main reason why they wanted us to leave, in my opinion.

As in Gudjaretti, roadblocks prevented Ossetians from freely entering and leaving the village. The refugee family reported that the gunmen stopped and searched everyone who attempted to cross. Many neighbors told her that they were robbed when they tried to flee with their belongings.

Gori District

In early January the press reported that Ossetians in Gori had gone on a hunger strike to protest the conflict in South Ossetia.⁵ The testimony of Leili Gorbareva, a twenty-three-year-old woman whose parents had lived in Gori since the mid-1960's, confirmed reports that Ossetians were pressured into demonstrating against the events in Tskhinvali. There was apparently a special place at the city executive committee where Ossetians were supposed to stage a hunger strike. Ossetians were also pressured into going to other cities to stage such strikes. Leili Gorbareva told Helsinki Watch:

In January the Georgians made Ossetians who live in Gori go to Tbilisi and have a hunger strike there in protest against what the Ossetians were doing to the Georgians in Tskhinvali. My parents refused and they were forced to leave Gori. Representatives of different informants came to my parents and told them they should leave. Some of them came to our house.

Ossetian residents of Gori were robbed repeatedly by armed bands of Georgians. A young Ossetian

⁵See FBIS, January 10, p. 101 and January 11, p. 68.

woman told Helsinki Watch that toward the end of January 1991 her home was raided and robbed three times before she and her family finally decided to leave Gori. The first time, four or five Georgians armed with machine guns and pistols broke in while she was at home, and stole crystal and 4,000 rubles. They spoke Georgian, were unshaven, and wore civilian clothes and red hats with pins of Georgian flags in them. "They swore, stole everything they could carry, and broke things they couldn't carry. When they saw that things were broken, they left." Two days later, two or three of the men returned, again after 9 p.m., and carried away more of their possessions.

On the third visit the raiders asked the young woman "are you still here?" She asked them what they wanted, to which she says they responded:

"Look what Ossetians are doing to Georgians in Tskhinvali. We are doing the same thing." They put a machine gun to my mouth and said, "If you don't leave soon we will kill you." I don't know why they came to my house. I didn't do any harm to anybody or bother anyone.

She did not go to the police, and related why. Two days before she was robbed, her neighbors had experienced the same kind of attack. She had gone to the neighbor's house, had seen the mess that was left, and had been present when the neighbor called the police. She reported that when the neighbor told the police they were Ossetians, the police responded, "It's not our business."

Another family interviewed by Helsinki Watch testified that they were robbed little by little beginning March 19. In this and in other cases, the "informals" seemed to be looking for male members of the household, whom they suspected of participating in the guerilla war in Tskhinvali:

Georgians came, with knives. They said they would give me three days to leave everything and leave Gori. By that time my sons were already in Vladikavkaz. They asked about my elder son, and looked under the beds for him. I knew three of the invaders. They started to ask us our names and who our relatives were. My son-in-law is Georgian, my sister-in-law is Georgian, I have many Georgian relatives. That is the main reason why they did not kill me.

They did not take everything on March 19 — just what they could get into two cars. First the carpets on the floors and walls, then the clothes, the clocks, everything they found they took.

One month later, the raiders returned. They told the father that they had given him three days to leave on March 19, and wanted to know why he had not left.

I told them I was waiting to sell the house. They said we could not sell the house, they would not permit it. . . They had pistols and one had a silencer on it. I was beaten on the head with the silencer. They also beat my head against the wall, and hit me with their fists. One of them beat me and one held by hands behind my back while the others stood and watched.

That time they robbed the house again. They even took the plates. They went into the cellar and took the vegetables, fruit, wine, vodka, three sacks of flour, and 500 liters (four

buckets) of wood. I also had carpentry tools that cost me 3,000 rubles and they stole those as well.

Once they sold their possessions and homes (if they were able to), Ossetians were targeted again in a systematic way, since Georgians knew that they had recently acquired money. A sixty-year-old Ossetian woman reported that in May 1991, upon returning home after having "sold" her family's house,

there were eight men who came and robbed our money. Some of them, four or five, were acquaintances. Some of them had been guests in our home before. They were Georgian informals and had no uniforms. They had automatic weapons. If they did not have any guns, we would not have been afraid of them. They robbed us as we were preparing to leave, as we were on the front steps. Many neighbors were around and some even saw. They were afraid, too, and they could not defend us.

On at least one occasion the militia and paramilitaries collaborated on a weapons search of an Ossetian home. A thirty-eight-year-old man who declined to give his name told Helsinki Watch how he had been robbed during an alleged weapons search in March:

One day they came to my house. There was one militia man and three "*neformaly*" in civilian clothes (one of the "*neformaly*" was a relative of my neighbor). One had a pistol, one had a rifle, the other, a revolver. I do have a rifle, which the militia already knew because I was on a list of people who have guns at home. The militia man showed me the document stating that I had a gun. They were surprised that an Ossetian in Georgia would dare to have a gun. "This is enough to get you killed," they said. I said, "I didn't steal it, state authorities gave me this gun." They said, "what do you mean, state authorities — you haven't got a state. The Ossetian state is in Vladikavkaz, so you'd better go there."

I gave them the gun and they began to search the house. They took everything they wanted: videotapes, imported lighters, my beautiful hunter's knife, etc. They didn't steal any money.

I have another house in Gori. They made me go there with them because they heard I had a pistol there. Then they took me to a headquarters. There I was surrounded by "*neformaly*." They began to ask where my rifle was. One of the Georgians said, "If he doesn't answer, we'll tear his toenails off. Then he'll talk."

A Georgian friend of his who was a member of the paramilitary group intervened and released him.

One paramilitary group, the Merab Kostava Society, was particularly powerful in the Gori district, a fact that Helsinki Watch confirmed in an interview with the Society's Gori leader. They and perhaps other groups engaged in different forms of harassment against Ossetians, including raiding homes, threatening Ossetian workers⁶ and harassing school children. Helsinki Watch received testimony from one woman from the village of Dainiskheti who said that unnamed men informally went to her children's school to identify and harass Ossetian schoolchildren.

⁶See section on job discrimination, below.

Kareli District

Helsinki Watch interviewed one refugee from Akhalsopeli village in the Kareli District, whose home was raided several times. The first unwanted visit was on March 20, 1991. Four men, one of whom was armed with a rifle, demanded money, pointing a gun at her mouth, and threatening to shoot her and her husband if they did not bring money. Her husband brought them 7,000 rubles. They took the money and said, "Next time we'll take your livestock."

They made good on their promise. In April other bands, consisting of about five each time, came and took all the victim's bulls, cows, and other livestock.

In all, I was robbed of two cows, two pigs, two bulls, eleven piglets, two young cows, two baby bulls, and I didn't even count the chickens. We left after that because we were frightened. They took everything they could, even the lamps.

The victim herself was not harmed and did not seek help from the police. She was frightened because the thieves threatened to kill her if she sought police help. Moreover, she believed that the police did not want to listen. She had been told by her neighbors that Prefect Shubelidze had told them, "You Ossetians must leave our region."

Khashuri District

Helsinki Watch interviewed Tanya Kokoeva from Kobi, in the Khashuri District. Kobi is a small village in a larger town called Tselis, where the vast majority of the population is Georgian. According to Kokoeva, "Kobi has about thirty homes, all of them are Ossetian, and there is nobody left." When Kokoeva recently returned to the village, she saw that all of the houses were empty, and that six had been burned.

Kokoeva's home was raided about six times before she fled to Vladikavkaz in early February 1991. Three of her children lived in Tskhinvali:

On each visit, the Georgians who came to the house would say, "Your children are killing Georgians in the war in Tskhinvali and you are to blame." They came about six times; each time there were between five and eight of them. If you look at the ceiling of our house you can see the traces from the bullets.

She described the first visit:

They came at about 10 a.m. There were a lot of them; I couldn't count them. They had submachine guns. The Ossetians [who were on guard duty] tried to prevent them from going into the yard. The Georgians began to fire warning shots. They told us to get out of the village. They said, "You're Ossetian and you shouldn't live on Georgian land." They didn't steal anything, just made a mess of everything and left.

On other visits the Georgians came looking for guns, but did not steal anything. On the sixth visit, three Georgians came, the same ones who had come on earlier raids. They cut her son with a knife and hit Kokoeva so hard she passed out:

They stabbed my son and shouted, "Does it really hurt?" One of them poured salt on it. I saw it myself. They took the boy into the next room and pointed a gun at his head. I ran up to the Georgian and told him if they wanted to kill him let them kill me. I tried to hit the Georgian, but he hit me on the head and I lost consciousness. My son says they dragged me out into the yard and then poured cold water on my face. [When I woke up] I could feel blood.

They made my sons tell them what we had in the house that they might be interested in. They took clothing, a tape recorder, shoes, coats, good cloth, roofing tiles, and money.

Kokoeva related that beginning in January,

all the roads had already been blocked by Georgian guards and they didn't let Ossetians go anywhere. . . . Even when we wanted to buy bread they didn't let us go. We had flour in the house and made our own bread. In January my husband was beaten when he tried to buy bread. Georgians caught him and asked him where our son was. They took my husband to their headquarters . . . and beat him, punched him, and aimed machine guns at him. They didn't keep him long, and an acquaintance of his got him off the hook.

Tbilisi

Raids on Ossetian homes and harassment of Ossetians were not as common in Tbilisi as in other parts of Georgia.

A fifty-three-year-old man told Helsinki Watch that his home had been "visited" twice, beginning in May 1991:

The first time, there were four men with guns, bandits in civilian clothes, in a Neva jeep. They said they were looking for Ossetians. Since I have a Georgian surname - really an Ossetian name but with a Georgian ending - my wife said we were Georgian. The men said they could come back and check. They came back a second time . . . After that, I left immediately. . . I did not want to take any chances.

A middle-aged woman from Tbilisi who asked us not to use her name reported that beginning in May her house had been raided several times by armed men:

The first time, there were about three of them. They came during the day and said, "do you want us to burn your house down? Do you want to be killed?" The same men came back again, and said "you shouldn't stay any longer."

She left for Vladikavkaz without seeking police help and claimed that it would not have done any good:

There was nobody to turn to. I never tried to go to the police. Everybody knew who was an Ossetian. . . ZhEK' [the housing authority] gave their lists to everybody. When we were in line for food, salesmen would say, "If there are Ossetians in line you shouldn't stay."

MILITIA INVOLVEMENT IN KIDNAPPING

Kidnapping, in which the captive is held for ransom, was widely practiced. In almost all cases, the victim was male; in many, the captors were members of informal paramilitary groups. The captors frequently brought the victim to their headquarters, where s/he would be detained for a few days. The victims were sometimes beaten and abused verbally, but were not interrogated. In some instances, the "neformaly" brought the victim to militia or National Guard headquarters.

Helsinki Watch interviewed an elderly man who was kidnapped November 28, 1991, on the road as his family was fleeing from Gori. He was held for three days while his wife had to round up the money demanded by the informals. His son told us that they arranged his release "through acquaintances." He was not beaten.

The man spent most of his three-day captivity in a car while his captors drove around the woods. On the third day,

They took me to a base in Nikozi where there were troops and military vehicles. It was a National Guard base. I saw only the guard. It was about midnight. We stayed there five minutes. They wanted to scare me and threatened me. They said they had a gun and would kill me. Other people came into the car, also wearing uniforms.

One of the boys who stopped the car lived in our building. He was a member of Merab Kostava. They wear special khaki uniforms. I saw him in this uniform before I was captured. He was a full-time member of the National Guard and part-time ambulance driver for an outpatient clinic. I saw him go in and out of their headquarters.

In another kidnapping incident in Gori, a twenty-five-year-old man told Helsinki Watch that he had been taken from near his home in mid-May by five armed informals. They brought them to their headquarters, where they were holding another Ossetian and a Russian, both for a 50,000 ruble ransom. The man was beaten and cut with a razor. When it became clear that his family could not produce the ransom money, the informals put the man in the truck of a car and drove off, according to the victim, "to throw him in the Kura River." He managed to escape to safety.

¹ *Zhivitel'niy Eksploitatsionnyy Kontrol*

OTHER FORMS OF HARASSMENT: THE "SELLING" OF HOMES

Frightened by these events, some Ossetian families decided to flee, but did not want to sell their homes, often intending to return when the situation improved. Helsinki Watch received a disturbing report from Kazbek Tsakhilov, Chairman of the Nationalities Commission of the North Ossetian Supreme Soviet, who said that members of paramilitary groups in rural areas forced Ossetians to sign documents indicating that they sold their homes. According to Tsakhilov, refugees then claimed that they received no money from the phony sale. Substantiating these claims is particularly difficult since in rural areas notarization is not required for the sale of houses. None of the refugees Helsinki Watch interviewed reported that paramilitaries had forced them to sign phony sale documents. Ossetian residents encountered other problems related to selling their homes that amounted to harassment or discrimination by local authorities.

Often refugees had no choice but to sell their homes to local authorities at extremely unfavorable prices. Although the chaotic economy in Georgia makes it difficult to define a fair price for real estate, local authorities sometimes set prices which were only one-third the market rate at the time. The lack of any alternatives substantiates the claim that discrimination was involved. A sixty-year-old widow from Gori told Helsinki Watch that

We intended to leave everything as it was, without selling anything. Later the mayor's office came and said that we could not leave things as they were. We had to give the house to the prefect's office. They gave us a receipt that they bought the house from us. They gave us only 10,000 rubles for three big rooms.

The local authorities, representatives from the prefect's office, gave the family of Leili Gorbareva 15,000 rubles for their apartment, which the family claims is worth 50,000 rubles. Ms. Gorbareva pointed out that they were not "emigrants": "We did not leave on our own free will. We were forced to leave."

After their house had been raided three times, another Ossetian family from Gori decided to try to sell their house and leave. However, when they went to the city agency that manages the purchase and sale of houses, "they wouldn't let us [sell] because we were Ossetian. We tried to sell it but when we went to ZhEK (where documents for buying and selling houses are prepared) they said, "You are Ossetian, you aren't allowed to sell."

JOB DISCRIMINATION

AGAINST OSSETIANS

Job discrimination during the period covered in this report occurred mostly in the cities and took several forms. Some refugees claimed that they were told outright by their superiors that they had to leave because they were Ossetian; others said they were gently pressured into resigning. Employees often chose to resign rather than to risk being fired. At the time of these events, all citizens were still required to maintain a labor book, in which all records of hiring, firing, and resignations were maintained. Because being fired made it very difficult to find work and a residence permit for another city, many Ossetian resigned under the pressure.

Many of these interviewees preferred not to give their names to Helsinki Watch, either because they fear reprisals or because they hope to get their jobs back when circumstances permit.

Tbilisi

A man who asked us to conceal his identity was dismissed from his job as a driver at the Tbilisi Repair and Construction Company in January 1991:

I was invited to the staff department. They suggested I write a letter of resignation and put the car in the garage. I was told I should not report for work in the morning.

This was an order from the head of the organization, whose name was Tsigenchelashvili. My direct supervisor told me of this order (I do not want to give his name). The order was that all Ossetians should be dismissed. There were not many Ossetians working there, but all were dismissed on the same day. Not a single one was left. I wrote the letter of resignation. Otherwise, they could dismiss me and my documents would be spoiled. I did not receive any severance pay or other payment.

After that, I tried to find work in many other places, but I was always refused. Nowhere was I accepted. Everyone told me they had orders not to hire Ossetians.

A thirty-six-year-old Ossetian woman who worked in a shop in Tbilisi told Helsinki Watch that all of her family members had been fired from their jobs. In January 1991, her supervisor told her that there was an order to fire Ossetians from their jobs. The supervisor did not say who gave the order, but hinted that it came from higher authorities. The supervisor apparently did not want to fire the Ossetians but had to.

The woman reported that her husband, mother-in-law, father-in-law, two sisters-in-law, and a brother-in-law all worked in different places and were fired at different times within the space of one month, around January 1991. They left for Vladikavkaz in March because they had no work and no income.

The woman added that she did not appeal the firing because she heard from others that this would be useless. Her sister-in-law, who worked at the Ministry of Communications, appealed through various channels up to the Procurator of Georgia, and even requested a meeting with Gamsakhurdia. The appeals

produced no results.

Margo Kasayeva, who fled Tbilisi November 20, 1991, reported that her husband was fired from his factory job about a year ago:

Not a single Ossetian was left working there, and only because they were Ossetian. They were told, "If you want to live in Russia, you can, but not in Georgia." He looked elsewhere for a job, but no one would take him, and they would tell him it was because he was Ossetian.

Gori

Paramilitary organizations were influential in the garages of Gori, where several Helsinki Watch interviewees worked. The "informals" pressured garage supervisors to fire Ossetians, and on at least two occasions visited garages to harass Ossetian employees and to intimidate them into signing what amounted to loyalty oaths. A sixty-year-old woman told Helsinki Watch that her son, who worked as a driver at a garage, was fired in March, 1991:

They took my son's car. He did not have any work for three months before he left. They asked him for a bribe of 2,000 rubles and they said if he paid, they would let him continue to work. If not, then he would be fired. He did not pay so he was fired. It was the informals who asked for the money. The leadership of the garage where he worked was pressed by the informals who went to the head of the establishment and demanded that no Ossetians be allowed to work there. Even if he had given a bribe, in a short time he would have been fired anyway.

Refugee K, who specifically asked Helsinki Watch not to use his name, worked as a taxi dispatcher at a garage on the road to Tskhinvali:

When Georgian "*neformaly*" would come back from Tskhinvali they were quite angry and would come to [the garage]. . . In February they made me sign a document claiming that South Ossetia was no longer a republic. They came to the garage where I worked with machine guns. Many Ossetians worked there. Those who didn't sign that day were not permitted to work any longer.

They came around with another document for the Ossetians to sign: It said, "We vote for the tunnel¹ to be closed because with the help of this tunnel the people of Samochabolo get guns and food. It helps support people who don't follow Georgian law."

He saw the paramilitaries beat an employee who refused to sign the document:

One old Ossetian, [C. K.], didn't want to sign and they beat him with a rifle butt. He said he was too old. "I didn't help build the tunnel or create South Ossetia, so why should I sign

¹ The Rokskii Tunnel, to which the paramilitaries referred, connects the North Ossetian Autonomous Republic (in the Russian Republic) and South Ossetia.

this?" Then they beat him. The garage director came and told the Georgians that the old man was peaceful and that they shouldn't beat him. They kicked him four or five times, and punched him.

Whereas most refugees did not know the names of the paramilitaries, this witness identified the gunmen who came to the garage as members of the Merab Kostava society: "I know this perfectly well because I helped them build their houses and I know them."

Refugee K was asked to resign after he told the garage director about the visits by a paramilitary group to his home.

I always had good relations with the garage director, who is a Georgian. I told him about how the Georgians came to my house and he told me gently it would be better for me to leave. "If things get better I can take you back."

A fifty-one-year-old-man who did research on agricultural products was not fired per se, but "the director made it clear that it would be better if I quit." He described harassment by gunmen at his factory's cafeteria:

People from neighboring villages began to appear in the cafeteria. Five or six armed Georgian warriors would come and begin threatening the Ossetians. They would loudly proclaim that this was Georgian land, and the Ossetians could not stay there. They started to threaten us that if we did not leave, they would kill us.

One of them came up to me from behind and shoved me with the butt of his rifle. They came from Achabeti, a Georgian village near Tskhinvali. One was a militiaman from the Georgian MVD and others, some seven, were civilians. They were all armed.

Other economic opportunities connected with employment were denied to Ossetians on the basis of their nationality. Refugee V wanted to take advantage of relaxed regulations on land rental to start a cooperative with his colleagues:

We went to the director of the organization and the trade unions to get permission to use a plot of land. Georgians were going to go into the co-op together with me. They were from the southern part of Georgia, from Megrilia.

The director . . . told me, "Although you have a Georgian surname, everyone knows you are Ossetian. Everyone knows what the situation is. If you want to work, do so but do not ask for anything. We are not going to give you anything."

This was at the beginning of April 1991. His family fled Gori a few days later.

Rustavi

A driver who worked in a garage in Rustavi told of another incident in which Ossetians were denied economic benefits because of their nationality. Workers at his garage received various benefits such as furniture and clothes through the garage. In January 1991, at a garage meeting the garage head said that

these benefits would be distributed only to Georgians. Non-Georgians, including Armenians, Greeks, Russians, Azerbaidzhanis as well as Ossetians — all of whom worked at the garage — would not receive these benefits or payments in kind.

The local paramilitary organization in Rustavi apparently pressured employees of this garage and elsewhere to go to Tskhinvali and encourage Ossetians to drop their resistance to Georgian rule. The same driver lost his job at the garage because he refused to participate:

I was asked to go to Tskhinvali but I refused. My brother went. This was in January 1991. They wanted us to calm our relatives down, to speak to them and bring order to Tskhinvali. . All Ossetians who lived in Georgia from different enterprises were called in and asked to go. They were collected in buses and asked to go to South Ossetia. We did not have any meeting at the factory or garage but the Ossetians were told by their supervisors that they had to go to Tbilisi where the Ossetians would gather.

One day in February 1991 I came to work and they told me I should quit. They told me I had to resign and I did. The head of the transport organization told me this, and said that the order came from the informal organization. I was respected in the garage and the head of the garage said he was sorry but that the informals were making him fire me and other Ossetians.

The man's wife suggested to Helsinki Watch that because she was Russian she experienced no discrimination on the job at a factory that manufactured electromagnetic equipment. She attested, however, that by April 1991 the factory had dismissed all Ossetian employees. The Ossetians were first apparently pressured into going to Tskhinvali to urge South Ossetians to stop the revolt against Georgia. Some agreed and went; those who refused were fired. She reported that later, even those Ossetians who went to Tskhinvali were fired or pressured into resigning.

Leningori (In South Ossetia)

Georgian "informals" reportedly harassed workers at a power plant in this town southeast of Tskhinvali. A middle-aged man who worked there told Helsinki Watch that in September 1991 "informals" forced him to leave his job, and that they had beaten up the plant director, who was Ossetian.

AGAINST GEORGIANS

Georgians commonly complained to Helsinki Watch that the Soviet policy reserving the best and most high-profile jobs in South Ossetia for Ossetians amounted to discrimination against Georgians. While this claim lies outside the scope of this report, it is important to

consider Georgian claims of job discrimination connected with the political events of the past few years.

Georgian interviewees frequently told Helsinki Watch that tensions rose at the workplace after the November 23, 1989, incident, and again after the imposition of the state of emergency in December 1990. Many others said that starting in January 1991 they were too frightened to leave their houses and did not dare go to work. Most had left South Ossetia in January 1991.

Helsinki Watch interviewed a fifty-eight-year-old man who worked as a driver in Tskhinvali for 32 years. Some time after the November 23 incident (he could not specify the date), the cars used by all thirty of the Georgian drivers at the garage (out of 200) were smashed. The head of the garage informed them that since there were no cars for them to drive, they had to be laid off. They were never asked to return to work.

The Georgian drivers appealed the firing to a ministry in Tbilisi, which replied that they had no power over South Ossetia.

**APPENDIX:
APPLICATION OF COMMON ARTICLE THREE
TO THE GENEVA CONVENTIONS
TO THE CONFLICT IN SOUTH OSSETIA, REPUBLIC OF GEORGIA**

SOUTH OSSETIA: A NON-INTERNATIONAL ARMED CONFLICT

International humanitarian law distinguishes international and non-international (internal) armed conflicts. The rules governing each type of conflict vary significantly.

Under Article 2 common to the four 1949 Geneva Conventions, an international armed conflict must involve a declared war or any other armed conflict which may arise "between two or more of the High Contracting Parties" to the Convention. The official commentary to the 1949 Geneva Conventions broadly defines "armed conflict" as any difference between two states leading to the intervention of armed forces.¹

For the period covered in this report, prior to December 1991, the armed conflict in South Ossetia cannot be considered international for purposes of the 1949 Geneva Conventions. Georgia has not acceded to the Geneva Conventions and therefore was not a High Contracting Party under common article 2. The same was true for the aspiring republic of South Ossetia. Georgia legally remained a republic within the USSR until the latter's dissolution in December 1991,² and no state either declared war against the USSR in Georgia or directly intervened with its armed forces in that conflict.

The nature of hostilities in South Ossetia, Georgia, is that of a non-international armed conflict. Common article 3 is the only provision of the Geneva Conventions that directly applies to internal (as opposed to international) armed conflicts,³ and it applies when a situation of internal armed conflict objectively exists within the territory of a State Party.⁴

In this conflict, the combat has been primarily between Ossetians and Georgians, not between rebels and the central USSR government and its troops. Common article 3 by its terms still applies,

¹ International Committee of the Red Cross, *Commentary, III Geneva Convention* at 23 (International Committee of the Red Cross: Geneva 1960). The four Geneva Conventions of 1949 were ratified by the USSR.

² The Republic of Georgia declared independence from the USSR in April 1991. However, because almost no nations during the period covered in this report recognized Georgia as an independent state, we treat its independence as incomplete for purposes of application of the rules of war.

³ Common article 3, section 1, states:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions....

⁴ Customary international law also applies.

however.

Applying common article 3 cannot be legally construed as recognizing the independence of Georgia or South Ossetia. Nor is it necessary for any government to recognize the independence or belligerent status of either for common article 3 to apply.

During the time relevant to this report the Republic of Georgia was a constituent part of the USSR, and under that political system was delegated local law enforcement powers, exercised through the militia (police). As part of the Soviet system until the USSR ceased to exist in December 1991, the Republic of Georgia was bound to observe the international treaties to which the USSR was a party, such as the Geneva Conventions, the Helsinki Accords, and the International Covenant on Civil and Political Rights. Thus its conduct toward secessionist Ossetian citizens must be judged under these laws.

PARTIES TO THE CONFLICT

Common article 3 to the Geneva Conventions expressly binds all parties to the internal conflict, including insurgents, although they do not have the legal capacity to sign the Geneva Conventions.⁵ Parties to the conflict include the USSR MVD troops; the Georgian militia, National Guard, and paramilitary groups; and South Ossetian paramilitary groups and militia. Although the USSR MVD troops have rarely engaged in combat, their presence in Tskhinvali supports the territorial gains of the Ossetians in that city. When the Georgian militia withdrew from Tskhinvali on January 26, 1991, the Ossetians gained control of the entire city, with Soviet acquiescence.

The MVD makes forays into neighboring villages to pick up wounded Ossetian combatants. It returns fire from Georgians who shoot too near MVD troops. As long as Georgia was still a republic within the USSR, the Georgian paramilitaries shooting at the USSR MVD troops were effectively engaging them in a low-level internal conflict. The Soviet Army also has one helicopter battalion based in Tskhinvali (which serves the entire Southern Caucasus region). This battalion also engaged in defensive fighting when they were shot upon.

Other parties to the conflict are the Ossetian self-defense units — who welcome the USSR MVD presence — and Georgian paramilitary units, who want to oust the MVD. Because of the MVD's superior force, the Georgian units rarely engage the USSR MVD. Nevertheless, because the MVD serves as a shield or in a defensive position to the benefit of the Ossetian paramilitaries in Tskhinvali, has not disarmed them, and has on occasion directly participated in hostilities against Georgian forces, it is fair to conclude that while engaged in hostilities the USSR MVD is a party to the conflict despite its initial peacekeeping role.

⁵ As private individuals within the national territory of a State Party, certain obligations are imposed on them. International Committee of the Red Cross, *Commentary on the Additional Protocols of 1977* (International Committee of the Red Cross, Geneva: 1987) ("ICRC Commentary") at 1345.

The fighting on behalf of the Georgian Republic has been conducted by a variety of groups, including the Georgian militia (police) and paramilitary groups linked to Georgian nationalist parties, such as the Merab Kostava Society and the White Eagles.⁶ Georgian villagers residing in South Ossetia formed, on an *ad hoc* basis, other paramilitary groups to defend their villages against Ossetians. The Georgian militia is posted in certain Georgian villages in the South Ossetian conflict area, and in some cases works in conjunction with the paramilitary groups conducting operations from those villages against Ossetian villages and homes.

Originally many of the Ossetian groups were composed of Ossetian villagers who defended their villages against Georgians. In December 1991 they unified all fighting groups under one command and appointed as commander a retired USSR army general who had combat experience in Afghanistan. Ossetian forces also include former members of the Georgian militia (police) from the towns of Dzhava and Tskhinvali, who still perform police functions in those towns but have added a combat role as well.

The South Ossetian rebels do not qualify as militias of the USSR MVD forces within the meaning of the Geneva Conventions, since they were formed by and fight on behalf of Ossetian independence.⁷ But they have benefited by Soviet military presence in Tskhinvali, and allied with it in the common purpose of preventing Georgian paramilitaries from capturing Tskhinvali. Although they do not coordinate activities with the MVD, they do not act contrary to MVD orders; for instance, they bear arms only at night in defensive posts in Tskhinvali because the MVD prohibits them from doing so during the day. Ossetian forces share with the Soviet MVD troops control of the city of Tskhinvali and alone control many villages and towns in the South Ossetian region.

The obligation to observe common article 3 is absolute for each party to the conflict, independent of the actions of other parties. In other words, one party cannot excuse itself from complying with the rules of war on the grounds that the other is violating them, and *vice versa*.

PROTECTION OF THE CIVILIAN AND OTHER POPULATION UNDER THE RULES OF WAR

Common article 3 is virtually a convention within a convention. It states:

- (1) Persons taking no active part in the hostilities, including members of armed forces who had laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

⁶ For a description of the Georgian paramilitary groups, see *infra*, page 14.

⁷ Militias include "those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory . . . provided that such militias . . . fulfill the following conditions:

- a) that of being commanded by a person responsible for his subordinates;
- b) that of having a fixed distinctive sign recognizable at a distance;
- c) that of carrying arms openly;
- d) that of conducting their operations in accordance with the laws and customs of war."

II Geneva Convention, Art. 4(2).

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

Although common article 3 does not, by its terms, prohibit attacks against the civilian population in non-international armed conflicts, such attacks are prohibited by the customary laws of armed conflict. United Nations General Assembly Resolution 2444⁸, adopted by unanimous vote on December 19, 1969, expressly recognized the customary law principle of civilian immunity and its complementary principle requiring the warring parties to distinguish civilians from combatants at all times. The preamble to this resolution clearly states that these fundamental humanitarian law principles apply "in all armed conflicts," meaning both international and internal armed conflicts. United Nations Resolution 2444 affirms, "... the following principles for observance by all government and other authorities responsible for action in armed conflicts:

(a) That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;

(b) That it is prohibited to launch attacks against the civilian populations as such;

(c) That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.

Protected Persons: Civilians or Non-combatants Versus Legitimate Military Targets

CIVILIANS OR NON-COMBATANTS AND CIVILIANS OBJECTS

In situations of internal armed conflict, generally speaking, a civilian is anyone who is not a member of the armed forces or of an organized armed group of a party to the conflict.

⁸ *Respect for Human Rights in Armed Conflicts*; United Nations Resolution 2444, G.A. Res. 2444, 23 U.N. GAOR Supp. (No. 18) at 164, U.N. Doc. A/7433 (1968).

Accordingly, "the civilian population comprises all persons who do not actively participate in the hostilities."⁹

Civilians may not be subject to deliberate individualized attack since they pose no immediate threat to the adversary.¹⁰ The term "civilian" also includes some employees of the military establishment who are not members of the armed forces or militia, but who assist them. While as civilians they may not be targeted, these civilian employees of military establishments or those who indirectly assist combatants assume the risk of death or injury incidental to attacks against legitimate military targets while they are at or in the immediate vicinity of military targets.

Both the Georgian and Ossetian sides utilize as part-time combatants persons who are otherwise engaged in civilian occupations. These civilians lose their immunity from attack for as long as they directly participate in hostilities.¹¹ "[I]ndirect participation [in hostilities] means acts of war which by their nature and purpose are likely to cause actual harm to the personnel and equipment of enemy armed forces," and includes acts of defense.¹²

"Hostilities" covers not only the time when the civilian actually makes use of a weapon but also the time that he is carrying it, as well as situations in which he undertakes hostile acts without using a weapon.¹³ Examples are provided in the United States Army Field Manual which lists some hostile acts

as including sabotage, destruction of communication facilities, intentional misleading of troops by guides, and liberation of prisoners of war. . . . This is also the case of a person acting as a member of a weapons crew, or one providing target information for weapon systems intended for immediate use against the enemy such as artillery spotters or members of ground observer teams. [It] would include direct logistic support for units engaged directly in battle such as the delivery of ammunition to a firing position. On the other hand civilians providing only indirect support to the armed forces, such as workers in defense plants or those engaged in distribution or storage of military supplies in rear

⁹ R. Goldman, "International Humanitarian Law and the Armed Conflicts in El Salvador and Nicaragua," 2 *Am.U.J. of Int. Law & Policy* 539, 553 (1987).

¹⁰ M. Bothe, K. Partsch, & W. Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (Martinus Nijhoff Publishers, Boston: 1982) ("New Rules") at 303.

¹¹ *New Rules* at 303.

¹² *ICRC Commentary* at 619.

¹³ *ICRC Commentary* at 618-619. This is a broader definition than "attacks" and includes at a minimum preparation for combat and return from combat. *New Rules* at 303.

areas, do not pose an immediate threat to the adversary and therefore would not be subject to deliberate individual attack.¹⁴

Once their participation in hostilities ceases, that is, while engaged in their civilian vocations, these civilians may not be attacked.

Many Ossetian and Georgian paramilitaries identify themselves as "civilians." This nomenclature is not accurate under the rules of war. Whatever their original occupation, the paramilitaries we interviewed were combatants, armed and operating under a command structure. Most are engaged full-time in military duties, defense as well as offense.

Members of the USSR MVD forces, Ossetian rebels, Georgian police, National Guard, and paramilitary forces who surrender, are wounded, sick or unarmed, or are captured are also protected by common article 3 and customary law. They are "*hors de combat*," literally, out of combat, until such time as they take a hostile action such as attempting to escape. They may not be targeted or harmed.

LEGITIMATE MILITARY TARGETS

To constitute a legitimate military objective, the object or target, selected by its nature, location, purpose, or use, must contribute effectively to the enemy's military capability or activity. Its total or partial destruction or neutralization must offer a definite military advantage in the circumstances prevailing at the time.¹⁵

Combatants are legitimate military targets. Therefore, while they have combat duties, members of the Georgian police and full-time Georgian and Ossetian paramilitaries are legitimate military targets and subject to attack, individually or collectively, until such time as they become *hors de combat*, that is, surrender or are wounded or captured.¹⁶

Militia (policemen) without combat duties are not legitimate military targets. The drafters of Protocol II intended to exclude policemen (as well as other government personnel authorized to bear arms, such as customs agents) from the definition of "armed forces" engaged in hostilities.¹⁷ Policemen with combat duties, however, would be proper military targets, subject to direct individualized attack.

Part-time members of paramilitary groups, like other civilians, lose their immunity from attack

¹⁴ *New Rules* at 303 (footnote omitted).

¹⁵ See Protocol I of 1977 to the 1979 Geneva Conventions, art. 52 (2). Article 52's definition of legitimate military targets has become customary international law. The USSR ratified Protocol I.

¹⁶ This explains why killing a wounded or captured combatant is not proper: it does not offer a "definite military advantage in the circumstances" because the fighter is already rendered useless or *hors de combat*.

¹⁷ Protocol II of 1977 to the 1949 Geneva Conventions is a principal source of rules governing the conduct of hostilities in internal armed conflicts. Protocol II, ratified by the USSR in 1989, does not apply to the Ossetian conflict because that conflict's intensity is not high enough to meet that Protocol's threshold. Nevertheless, and particularly since the USSR ratified it, Protocol II contains rules that provide authoritative guidance for the protection of the population in internal armed conflicts.

whenever they assume a combatant's role. Thus, when they prepare for, actively participate in, and return from combat (while carrying a weapon or committing hostile acts without using a weapon), they are proper military targets.

Other legitimate military objectives are combatants' weapons, convoys, installations, and supplies. In addition,

an object generally used for civilian purposes, such as a dwelling, a bus, a fleet of taxicabs, or a civilian airfield or railroad siding, can become a military objective if its location or use meets both of the criteria set forth [in article 52(2)]. . . .¹⁸

While part-time combatants are engaged in civilian tasks and have ceased their military activities, they are not legitimate military targets.

While not an exhaustive list, the following persons, groups, and objects may be regarded as legitimate military objectives subject to direct attack:

- Part-time members of Georgian and Ossetian paramilitary groups as long as they are directly participating in hostilities;**
- Full-time Ossetian and Georgian paramilitaries;**
- Members of the Georgian and Ossetian militias, while they have combat duties;**
- Members of the Georgian National Guard, while they have combat duties;**
- Members of the USSR MVD, while they have combat duties;**
- Weapons, other war materiel, military works, military and naval establishments, supplies, vehicles, campsites, fortifications, and fuel depots or stores that are utilized by any party to the conflict;**
- Objects that, while not directly connected with combat operations, effectively contribute to military operations, and whose partial or total destruction, in the circumstances ruling at the time, would result in a definite and concrete military advantage to the attacker. Possible objects include strategic portions of transportation and communication systems and facilities, airfields, and ports.**

For purposes of this conflict, the following should be considered civilian objects immune from direct attack by combatants:

¹⁸ *New Rules* at 306-07. The criteria are those set forth in the text to footnote 15 above [Protocol I, Art. 52 (2)].

- Structures and locales, such as houses, churches, dwellings, schools, farms and villages, that are exclusively dedicated to civilian purposes and, in the circumstances prevailing at the time, do not make an effective contribution to military action.

Prohibited Acts

HOSTAGE-TAKING

Common article 3 explicitly forbids hostage-taking. "Hostage" has a particular definition. The *ICRC Commentary* defines it as follows:

hostages are persons who find themselves, willingly or unwillingly, in the power of the enemy and who answer with their freedom or their life for compliance with the orders of the latter and for upholding the security of its armed forces.¹⁹

Persons captured and held for exchange purposes are hostages, since they answer with their freedom for compliance with the orders of their captors.

INTERFERING WITH TRANSPORT OF THE SICK AND WOUNDED

The wounded and sick shall be respected and protected, whether or not they have taken part in the conflict. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the required medical care. It is forbidden to distinguish among them on any grounds other than medical ones.²⁰

It is forbidden to attack medical units and transports. Their protection may cease only if they are used to commit hostile acts outside their humanitarian function and after a warning has been given with reasonable time limits, and remains unheeded.²¹ The distinctive emblem of the Red Cross must be respected in all circumstances.²²

Interference with the transport of sick and wounded to the hospital by shooting at or stopping an ambulance and removing the patients does not comply with this duty to respect and protect the sick and wounded. Where patients are gravely wounded, such intervention and delay can cause a serious deterioration in their condition, if not their death. It is the combatant's duty to treat such patients with the least possible delay, which in the majority of cases will mean permitting the ambulance to continue on its way, with the patients.

While it is proper to halt briefly a medical vehicle to establish its noncombatant role, attacking a medical vehicle without warning violates these rules.

DISPLACEMENT OF CIVILIANS FOR REASONS RELATED TO THE CONFLICT

¹⁹ *ICRC Commentary* at 874.

²⁰ *See* Protocol II, art. 7.

²¹ *See* Protocol II, art. 11.

²² *See* Protocol II, art. 12.

There are only two exceptions to the prohibition on displacement, for war-related reasons, of civilians: their security or imperative military reasons. Article 17 of Protocol II states:

1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

"Imperative military reasons" require "the most meticulous assessment of the circumstances"²³ because such reasons are so capable of abuse. One authority has stated:

Clearly, imperative military reasons cannot be justified by political motives. For example, it would be prohibited to move a population in order to exercise more effective control over a dissident ethnic group.²⁴

Mass relocation or capture of civilians for the purpose of changing the ethnic composition of territory is a political, not a military move, and does not qualify as an "imperative military reason."

Destruction of civilian homes and permitting bands of hooligans to loot and beat inhabitants for the purpose of forcing those civilians to move is as illegal as a direct order to move.

**INDISCRIMINATE ATTACKS AFFECTING CIVILIANS AND CIVILIAN OBJECTS;
THE PRINCIPLE OF PROPORTIONALITY**

As set forth above, to constitute a legitimate military object, the target must 1) contribute effectively to the enemy's military capability or activity, and 2) its total or partial destruction or neutralization must offer a definite military advantage in the circumstances.

The laws of war implicitly characterize all objects as civilian unless they satisfy this two-fold test. Objects normally dedicated to civilian use, such as churches, houses and schools, are presumed not to be military objectives. If they in fact do assist the enemy's military action, they can lose their immunity from direct attack. This presumption attaches, however, only to objects that ordinarily have no significant military use or purpose. For example, this presumption would not include objects such as transportation and communications systems that under applicable criteria are military objectives.

Even attacks on legitimate military targets, however, are limited by the principle of proportionality. This principle places a duty on combatants to choose means of attack that avoid or minimize damage to civilians.

First of all, the attacker also must do everything feasible to verify that the objectives to be attacked are legitimate military targets and not civilians. "Feasible" means "that which is practical or practically possible taking into account all the circumstances at the time, including those relevant to the success of

²³ *ICRC Commentary* at 1472.

²⁴ *Ibid.*

military operations."²⁵

Secondly, the means, or weapons and methods, used to attack legitimate military targets also must be carefully chosen. All feasible precautions must be taken in the choice of means and methods with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians, and damage to civilian objects. Effective advance warning must be given of attacks that might affect the civilian population, unless circumstances do not permit.²⁶

Finally, the attacker should refrain from launching an attack if the expected civilian casualties would outweigh the importance of the military target to the attacker.²⁷ For example, an attack on an entire town or village in order to destroy a number of clearly separate military targets that could be attacked separately would be indiscriminate.

²⁵ *New Rules* at 362 (footnote omitted).

²⁶ *See* Protocol I, article 57.

²⁷ Protocol I, art. 57 (1)(a)(iii) requires that the attacker "refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injuries to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."