

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Trosczynska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

HUMAN
RIGHTS
WATCH

www.hrw.org

October 10, 2008

President Mikheil Saakashvili
7 Ingorokva Street
Tbilisi Georgia 0105

Via facsimile: +995 32 98 72 62 *and email:* otari@president.gov.ge

Dear President Saakashvili,

Human Rights Watch welcomes the productive dialogue we have had with the Georgian government on a number of human rights issues, including those connected to the conflict over South Ossetia. In the spirit of this dialogue I would like to call attention to your September 23 article in the *Washington Post*, which attributed to Human Rights Watch an estimate of 44 civilian deaths during recent hostilities in South Ossetia. Human Rights Watch has never made such an estimate.

The *Washington Post* on October 3 published a Human Rights Watch letter correcting the record. I appreciate the opportunity to urge you directly to cease all attribution of this figure as an estimate of civilian deaths, and to cease all attribution of any estimate of civilian deaths to Human Rights Watch.

Though the number of civilian dead and injured in a conflict is, of course, an issue of great importance, Human Rights Watch's major concern in any conflict setting is to establish if and how civilians have been killed or injured and, more particularly whether this was the result of violations of international humanitarian law: the laws of war.

In August Human Rights Watch interviewed a doctor at the Tskhinvali hospital who said that the hospital received 44 bodies between August 6 and 11. Our researchers asked her, repeatedly and in different ways, whether it was possible that there were other bodies presented somewhere else, to other morgues, and she was adamant that if there were bodies to be presented, they would come to the morgue in her hospital only, as there was no other medical facility in the area. She also noted that the 44 bodies included both those of fighters and civilians. We presented this in our August 13 press release not as a comprehensive account of civilian deaths but as a

doctor's report of the number of bodies brought to the Tskhinvali hospital.

We did not present this figure, or any other figure, as a comprehensive account because Human Rights Watch does not have the capacity to make a definitive estimate as to the number of civilian casualties. We were skeptical about estimates made public one day after the conflict started by high-level Russian government officials and by the authorities in South Ossetia, which ranged from 1500 to 2000. We were skeptical also because it was not clear how such figures were compiled, and because the range was inconsistent with the number of wounded civilians and militias registered at the Tskhinvali hospital. The same doctor reported that altogether, 273 wounded were treated in the hospital. The media also cited figures in the hundreds on the number of civilians wounded; these numbers were provided by hospitals in North Ossetia.

We were concerned that the initial civilian casualties figure provided by Russian and Ossetian officials was influencing the public in South Ossetia. Some of the local residents interviewed by Human Rights Watch justified the torching and looting of the ethnic Georgian enclave villages by referring to "thousands of civilian casualties in South Ossetia," they had heard about on Russian federal TV channels.

The issue of civilian casualty figures has been enormously controversial, in part due to the acute propaganda war that has surrounded this conflict. Countless officials, journalists, and the like have asked us how many civilians were killed in the conflict. In response to these queries Human Rights Watch has emphasized that we do not have the capacity to make a definitive determination of civilian casualties. We have questioned the initial 1,500-2,000 figure and the methodology used to arrive at it. We have emphasized that these were not reliable figures because it was not clear how such figures were compiled so quickly, as early as August 8 and 9, since many of the dead in South Ossetia and throughout the region were initially buried in the courtyards by relatives or neighbors, and that therefore the task of gathering such figures is difficult and time-consuming.

In these interviews and conversations we do refer to the Tskhinvali doctor's figure as well, always contextualizing in the manner described above: the number of bodies brought to that hospital from August 6-11. In our August 13 press release, we pointed out that when we interviewed people in Tskhinvali and several outlying villages we asked residents about the number of civilians killed and wounded in their neighborhoods, and how they were killed. We relayed this not only because it was in and of itself important information but also because it made clear that we do not regard the hospital figure as comprehensive or orienting.

We also reference the figures arrived at by Investigative Committee of the Russian Prosecutor General's office, which says it has documented 154 civilian deaths (its first published figure was 133). We have also noted that it is unclear whether the

Prosecutor General's investigation is distinguishing between civilians and volunteer militias, and if so, how. The many men in South Ossetia who took up arms to defend their homes are not military, but they are regarded as combatants under international humanitarian law and as such should not be counted among civilian casualties. The same issues are relevant to the list of more than 300 deaths compiled in South Ossetia by a commission of Russian and Ossetian public figures.

Human Rights Watch refers to these figures, but we do not cite any of them as a definitive number of civilian casualties. Likewise, we refer to casualty figures stated by the Georgian authorities of Georgian civilians with similar caveats.

Finally, we have always said that this is an area that clearly requires extensive research, as new information could reasonably come to light about deaths not reported previously, people who were assumed dead but were in fact missing and resurface, people who were inadvertently counted twice, and people who die from wounds inflicted during the conflict.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel Denber', with a stylized flourish at the end.

Rachel Denber
Acting Director
Europe and Central Asia Division

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

Перевод с английского

9 октября 2008 г.

Министру по чрезвычайным ситуациям
Российской Федерации
С.Шойгу

Уважаемый Сергей Кужугетович!

Прошу Вашего содействия в сборе информации о вооруженном конфликте с Грузией в связи с Южной Осетией в августе с.г.

Как Вам известно, Хьюман Райтс Вотч является нейтральной независимой международной правозащитной организацией со штаб-квартирой в Нью-Йорке и офисами по всему миру, в том числе в Берлине, Женеве, Брюсселе, Гонконге, Токио и Лондоне. Наше представительство в Москве существует с 1992 г., и мы уже много лет поддерживаем продуктивный диалог с российскими властями.

В настоящее время Хьюман Райтс Вотч собирает материалы для доклада, посвященного анализу предполагаемых нарушений международных норм о правах человека и гуманитарного права в ходе указанного конфликта и в последующий период всеми сторонами, включая войска Министерства обороны Грузии, югоосетинские вооруженные формирования и войска Министерства обороны России. Как Вам, возможно, известно, с самого начала конфликта наши сотрудники пристально отслеживали ситуацию непосредственно в Южной Осетии (в том числе в Цхинвали, Джаве, Хетагурово и еще более чем в десяти селах), а также в Тбилиси и в районах Гори, Карели и Каспи. Мы стремимся в полном объеме и со всей тщательностью проверить действия всех сторон конфликта и максимально справедливо и точно обнародовать наши выводы.

Мы заинтересованы в том, чтобы официальная позиция российской стороны получила в докладе адекватное и точное отражение. В связи с этим Хьюман Райтс Вотч имеет честь просить МЧС России предоставить информацию относительно применения в ходе конфликта военной силы и роли России как стороны, фактически контролирующей определенную территорию. С профильными запросами мы обратились в Министерство

HUMAN
RIGHTS
WATCH

www.hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Alexander Petrov, *Deputy Director, Moscow Office*
Julia Hall, *Senior Researcher*
Acacia Shields, *Senior Researcher*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Judith Sunderland, *Researcher*
Liudmila Belova, *Associate*
Inara Gulpe-Laganovska, *Coordinator*
Miha Rittmann, *Associate*
Anna Sinelnikova, *Associate*
Eugene Sokoloff, *Associate*
Iwona Zielinska, *Associate*

STEERING COMMITTEE

Marco Stoffel, *Chair*
Alice H. Henkin, *Vice Chair*
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Felice Gaer
Conor Gearty
Michael Gellert
Jeri Laber
Walter Link
Helena Luczywo
Jean Paul Marthoz
Michael McFaul
Sarah E. Mendelson
Karl Meyer
Herbert Okun
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Mark Walton
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Dinah PoKempner, *General Counsel*
James Ross, *Senior Legal Advisor*
Joe Saunders, *Deputy Program Director*
Wilder Tayler, *Legal and Policy Director*
Jane Olson, *Chair, Board of Directors*

обороны и Генпрокуратуру России, а также в Администрацию Президента.

Доводим до Вашего сведения, что такие же вопросы мы адресуем и грузинским властям, в том числе относительно предполагаемого неизбирательного и избыточного применения силы в Южной Осетии.

В ходе работы в зоне конфликта нами были документированы случаи повреждения и разрушения жилых домов, других зданий и объектов инфраструктуры. Хьюман Райтс Вотч не имеет возможности исчерпывающим образом установить размер ущерба. В связи с этим были бы весьма признательны за разъяснение следующих вопросов:

Проводилась ли МЧС России работа по документированию и оценке ущерба, причиненного гражданскому имуществу, в том числе государственному имуществу и объектам инфраструктуры?

Если да, то как Министерство оценивает размер ущерба (число домов/зданий, стоимость уничтоженного или поврежденного имущества)? Были бы также признательны за дополнительные детали, такие как причина разрушения или ущерба, территориальная разбивка, если такая информация имеется. Сколько перемещенных лиц из Южной Осетии в Северной Осетии или других регионах России не могут вернуться в свои дома из-за повреждений? Сколько человек смогли вернуться, и какую роль сыграло Министерство в содействии возвращению? Через какое время, по оценке Министерства, дома и объекты инфраструктуры будут восстановлены в объеме, достаточном для возвращения всех перемещенных лиц из России, которые хотели бы вернуться в Южную Осетию?

Хьюман Райтс Вотч приложит все усилия, чтобы отразить ответы МЧС России в готовящемся докладе. В интересах облегчения этой задачи надеемся получить ответ не позднее 16 ноября с.г. Готовы также лично обсудить вышеизложенное с представителями Министерства.

Заранее благодарю Вас за содействие. Готова ответить на любые дополнительные вопросы, которые можно адресовать мне лично по электронной почте denberr@hrw.org или по тел: +1 212 216 1266, либо через директора нашего московского офиса Аллисон Гилл по тел: 495-737-8955.

Искренне Ваша

Рейчел Денбер,
и.о. директора по Европе и Центральной Азии

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah Pokempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

Перевод с английского

9 октября 2008 г.

Генеральному прокурору
Российской Федерации
Ю.Чайке

Уважаемый Юрий Яковлевич!

Прошу Вашего содействия в сборе информации о вооруженном конфликте с Грузией в связи с Южной Осетией в августе с.г.

Как Вам известно, Хьюман Райтс Вотч является нейтральной независимой международной правозащитной организацией со штаб-квартирой в Нью-Йорке и офисами по всему миру, в том числе в Берлине, Женеве, Брюсселе, Гонконге, Токио и Лондоне. Наше представительство в Москве существует с 1992 г., и мы уже много лет поддерживаем продуктивный диалог с российскими властями.

В настоящее время Хьюман Райтс Вотч собирает материалы для доклада, посвященного анализу предполагаемых нарушений международных норм о правах человека и гуманитарного права в ходе указанного конфликта и в последующий период всеми сторонами, включая войска Министерства обороны Грузии, югоосетинские вооруженные формирования и войска Министерства обороны России. Как Вам, возможно, известно, с самого начала конфликта наши сотрудники пристально отслеживали ситуацию непосредственно в Южной Осетии (в том числе в Цхинвали, Джаве, Хетагурово и еще более чем в десяти селах), а также в Тбилиси и в районах Гори, Карели и Каспи. Мы стремимся в полном объеме и со всей тщательностью проверить действия всех сторон конфликта и максимально справедливо и точно обнародовать наши выводы.

Мы заинтересованы в том, чтобы официальная позиция российской стороны получила в докладе адекватное и точное отражение. В связи с этим Хьюман Райтс Вотч имеет честь просить Генеральную прокуратуру предоставить информацию относительно применения в ходе конфликта военной силы и роли России как стороны, фактически контролирующей часть грузинской территории. С аналогичными запросами мы обратились в Министерство обороны и МЧС России, а также в Администрацию Президента.

HUMAN
RIGHTS
WATCH

www.hrw.org

Доводим до Вашего сведения, что такие же вопросы мы адресуем и грузинским властям, в том числе относительно предполагаемого неизбирательного и избыточного применения силы в Южной Осетии и обращения с лицами, задержанными в связи с конфликтом.

Вопросы, касающиеся потерь:

Во время работы в зоне конфликта нами был документирован ряд случаев гражданских и военных потерь с обеих сторон. При этом мы не имели возможности исчерпывающим образом установить общее число убитых и раненых. Поэтому были бы весьма признательны, если Вы сочтете возможным сообщить последние имеющиеся у Вас данные.

В частности, просим Вашего содействия в прояснении следующего:

- Сколько гражданских потерь зафиксировано вами в связи с конфликтом? Включает ли это комбатантов не из числа военнослужащих, в том числе югоосетинских ополченцев? По каким критериям проводилось различие между последними и гражданскими лицами при документировании потерь среди лиц, не относящихся к личному составу вооруженных сил?
- Рассматривается ли при документировании случаев гибели или ранения гражданских лиц вопрос о том, стало ли это следствием нарушений международных норм о правах человека и гуманитарного права? Если да, то не могли бы Вы ознакомить нас с этими выводами и с тем, каким образом делались такие заключения?
- В связи с данными о потерях для нас также могут представлять интерес дополнительные сведения о причине смерти, обстоятельствах предполагаемого получения смертельного ранения, а также общие данные биографического характера (возраст, пол, военный/гражданский), разумеется, при наличии таковых.
- Входит ли учет потерь среди военнослужащих в компетенцию Генпрокуратуры? Если да, то сколько таких потерь зафиксировано?

Вопросы, касающиеся задержанных:

В ходе конфликта обеими сторонами задерживались ополченцы или военнослужащие. Нашими сотрудниками также документированы свидетельства о незаконном содержании под стражей нонкомбатантов обеими сторонами и о недозволенном обращении с задержанными.

Просим Вашего содействия в прояснении следующего:

- Сколько российских военнослужащих и членов осетинских формирований были задержаны грузинской стороной? Все ли они освобождены?

- Поступали ли в органы прокуратуры заявления о случаях нарушения Женевских конвенций в отношении задержанных грузинской стороной российских военнослужащих и членов осетинских формирований? Если да, то каково было их содержание?
- Проводилась ли органами прокуратуры проверка таких заявлений? Если да, то каковы были результаты?
- Сколько грузинских военнослужащих были задержаны российскими войсками в ходе конфликта и сколько гражданских лиц? По каким основаниям задерживались гражданские лица? Все ли задержанные освобождены? Если нет, то каковы причины их дальнейшего содержания под стражей?
- Где и в каких условиях содержались задержанные из числа военных и гражданских лиц? Находились ли они в течение всего времени во власти российской стороны?
- Какие механизмы задействовались для того, чтобы обеспечить надлежащие условия содержания задержанных военных и гражданских лиц и исключить недозволенное обращение?
- Какие меры принимались российскими войсками для обеспечения того, чтобы грузинские военнослужащие, удерживавшиеся осетинскими силами на территории, которая фактически контролировалась Россией, признавались военнопленными со всеми вытекающими из этого статуса правами? Сколько было выявлено российской стороной случаев ненадлежащего режима содержания захваченных грузинских военнослужащих, и какие меры принимались для исправления ситуации?
- Предпринимались ли российской стороной шаги по расследованию заявлений о случаях нарушения Женевских конвенций в отношении грузинских военнослужащих, удерживавшихся осетинскими силами на территории, которая фактически контролировалась Россией (включая пытки, бесчеловечное и унижающее достоинство обращение и внесудебные казни)?

Вопросы, касающиеся защиты гражданского населения:

Нами документированы такие преступления, как поджоги, грабежи и нападения на мирных жителей в Горийском районе в августе – сентябре 2008 г., когда эта территория находилась под фактическим контролем российской стороны, а также многочисленные случаи грабежей и поджогов со стороны осетинских ополченцев в грузинских селах Южной Осетии.

Российские посты, выставленные в некоторых селах Южной Осетии в районе 13 августа, сыграли позитивную роль в предупреждении преступлений, и Хьюман Райтс Вотч неоднократно и публично признавала это обстоятельство. Мы, однако, отмечали, что через несколько дней посты были сняты, в результате чего грабежи и поджоги возобновились.

Просим Вашего содействия в прояснении следующего:

- Осуществляли ли органы российской прокуратуры деятельность в районах, фактически контролировавшихся российской стороной в Южной Осетии и Горийском районе?
- Поступали ли в органы прокуратуры заявления о преступлениях в отношении гражданского населения в районах, фактически контролировавшихся российскими войсками (Южная Осетия и зона безопасности, включая Горийский район)?
- Если да, то проводилась ли проверка таких заявлений и каковы были результаты?

Вопросы, касающиеся применения силы:

Нашими сотрудниками документированы случаи потерь среди гражданского населения в результате применения силы обеими сторонами.

Просим разъяснить следующее:

- Поступали ли в органы прокуратуры заявления о неизбирательном или избыточном применении силы грузинскими войсками? Если да, то проводилась ли проверка по таким заявлениям и каковы были результаты?
- Поступали ли в органы прокуратуры заявления о неизбирательном или избыточном применении силы российскими войсками или югоосетинскими формированиями? Если да, то проводилась ли проверка по таким заявлениям и каковы были результаты?

Хьюман Райтс Вотч готова приложить все усилия, чтобы отразить ответы Генпрокуратуры в готовящемся докладе. В интересах облегчения этой задачи надеемся получить ответ не позднее 16 ноября с.г.

Заранее благодарю Вас за содействие. Готова ответить на любые дополнительные вопросы, которые можно адресовать мне лично по электронной почте denberr@hrw.org или по тел: +1 212 216 1266, либо через директора нашего московского офиса Аллисон Гилл по тел: 495-737-8955.

Искренне Ваша

Рейчел Денбер,
и.о. директора по Европе и Центральной Азии

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoria Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

HUMAN
RIGHTS
WATCH

www.hrw.org

Перевод с английского

9 октября 2008 г.

Министру обороны
Российской Федерации
А.Сердюкову

Уважаемый Анатолий Эдуардович!

Прошу Вашего содействия в сборе информации о вооруженном конфликте с Грузией в связи с Южной Осетией в августе с.г.

Как Вам известно, Хьюман Райтс Вотч является нейтральной независимой международной правозащитной организацией со штаб-квартирой в Нью-Йорке и офисами по всему миру, в том числе в Берлине, Женеве, Брюсселе, Гонконге, Токио и Лондоне. Наше представительство в Москве существует с 1992 г., и мы уже много лет поддерживаем продуктивный диалог с российскими властями.

В настоящее время Хьюман Райтс Вотч собирает материалы для доклада, посвященного анализу предполагаемых нарушений международных норм о правах человека и гуманитарного права в ходе указанного конфликта и в последующий период всеми сторонами, включая войска Министерства обороны Грузии, югоосетинские вооруженные формирования и войска Министерства обороны России. Как Вам, возможно, известно, с самого начала конфликта наши сотрудники пристально отслеживали ситуацию непосредственно в Южной Осетии (в том числе в Цхинвали, Джаве, Хетагурово и еще более чем в десяти селах), а также в Тбилиси и в районах Гори, Карели и Каспи.

Мы стремимся в полном объеме и со всей тщательностью проверить действия всех сторон конфликта и максимально справедливо и точно обнародовать наши выводы.

Мы заинтересованы в том, чтобы официальная позиция российской стороны получила в докладе адекватное и точное отражение. В связи с этим Хьюман Райтс Вотч имеет честь просить Министерство обороны предоставить информацию относительно боевого применения войск в ходе конфликта и роли России как стороны, фактически контролирующей часть грузинской территории. С аналогичными запросами мы обратились в

Генеральную прокуратуру и МЧС России, а также в Администрацию Президента.

Доводим до Вашего сведения, что такие же вопросы мы адресуем и грузинским властям, в том числе относительно предполагаемого неизбирательного и избыточного применения силы в Южной Осетии.

Вопросы, касающиеся потерь:

Во время работы в зоне конфликта мы собирали информацию о военных и гражданских потерях с обеих сторон. При этом мы не имели возможности исчерпывающим образом установить общее число убитых и раненых. Поэтому мы были бы весьма признательны, если Вы сочтете возможным сообщить последние имеющиеся у Вас данные.

В частности, просим Вашего содействия в прояснении следующего:

- Какие военные потери понесла Россия в ходе конфликта? Какая часть этих потерь относится к российскому миротворческому контингенту? Какова была численность личного состава российских миротворцев в Южной Осетии на 7 августа?
- Ведет ли Министерство обороны учет гражданских потерь? Если да, то сколько зафиксировано убитых и раненых?
- В связи с данными о потерях для нас также могут представлять интерес дополнительные сведения о причине смерти или ранения, обстоятельствах предполагаемого получения смертельного ранения, а также общие данные биографического характера (возраст, пол, военный/гражданский), разумеется, при наличии таковых. Были бы также признательны за разъяснение того, каким образом Министерство обороны проводит различие между погибшими комбатантами и нонкомбатантами из числа жителей Южной Осетии.

Вопросы, касающиеся задержанных:

В ходе конфликта обеими сторонами задерживались ополченцы или военнослужащие. Нашими сотрудниками также документированы свидетельства о незаконном содержании под стражей нонкомбатантов обеими сторонами и о недозволенном обращении с задержанными.

Просим Вашего содействия в прояснении следующего:

- Сколько военнослужащих российских Вооруженных Сил были задержаны грузинской стороной? Все ли они освобождены?
- Сколько лиц были задержаны российскими войсками в ходе конфликта? Сколько из них были грузинскими военнослужащими? Если имели место случаи задержания других лиц, то по каким основаниям?

- Освобождены ли все эти лица? Если нет, то каковы причины их дальнейшего содержания под стражей?
- Где и в каких условиях содержались задержанные? Находились ли они в течение всего времени во власти российской стороны?
- Какие механизмы задействовались для того, чтобы обеспечить надлежащие условия содержания и исключить недозволенное обращение?
- Какие меры принимались российскими Вооруженными Силами для обеспечения того, чтобы грузинские военнослужащие, удерживавшиеся осетинскими силами на территории, которая фактически контролировалась Россией, признавались военнопленными со всеми вытекающими из этого статуса правами? Сколько было выявлено российской стороной случаев ненадлежащего режима содержания захваченных грузинских военнослужащих, и какие меры принимались для исправления ситуации?

Вопросы, касающиеся защиты гражданского населения:

Нами документированы такие преступления, как поджоги, грабежи и нападения на мирных жителей в Горийском районе в августе – сентябре 2008 г., когда эта территория находилась под фактическим контролем российской стороны, а также многочисленные случаи грабежей и поджогов со стороны осетинских ополченцев в грузинских селах Южной Осетии.

Российские посты, выставленные в некоторых селах Южной Осетии в районе 13 августа, сыграли позитивную роль в предупреждении преступлений, и Хьюман Райтс Вотч неоднократно и публично признавала это обстоятельство. Мы, однако, отмечали, что через несколько дней посты были сняты, в результате чего грабежи и поджоги возобновились.

Просим Вашего содействия в прояснении следующего:

- Каким структурам, если таковые вообще были, была поставлена задача по обеспечению защиты гражданского населения в районах, которые фактически контролировались российской стороной (зона безопасности, включая Горийский район, и Южная Осетия)?
- Какие конкретные меры принимались Министерством обороны для пресечения или предупреждения грабежей, поджогов и других преступлений в отношении гражданского населения Южной Осетии и тех частей районов Гори и Карели, которые фактически контролировались российской стороной? Принимались ли Министерством обороны какие-либо отдельные меры по защите грузинского населения в Южной Осетии и населения в целом в районах Гори и Карели?
- Какие соображения принимались во внимание при определении времени и места выставления постов в Южной Осетии и, главное, при принятии

решения о снятии постов в селах, что привело к возобновлению грабежей и поджогов?

- Какие указания давались российским войскам в части защиты гражданского населения на контролируемой ими территории? Давались ли российским войскам отдельные указания в отношении зоны безопасности, куда грузинская полиция не допускалась?
- Создавался ли в российских Вооруженных Силах какой-либо механизм учета и расследования преступлений, совершенных на контролируемой ими территории?

Вопросы, касающиеся применения силы:

Нашими сотрудниками документированы случаи потерь среди гражданского населения в результате применения силы обеими сторонами. Чтобы оценить, стали ли такие потери следствием неизбежного и/или избыточного применения силы, просим разъяснить следующее:

- Какие меры принимались, чтобы минимизировать гражданские потери и ущерб гражданскому имуществу? Какие указания, если таковые имели место, давались командирам частей и подразделений по недопущению избыточного или неизбежного применения силы?
- Какие шаги предпринимались для установления того, имели ли место в действительности факты избыточного или неизбежного применения силы?
- Когда и по каким целям российская сторона применяла авиацию?

Вопросы, касающиеся применения кассетных боеприпасов и противопехотных мин:

Хьюман Райтс Вотч, Группой ООН по разминированию и другими организациями были обнаружены следы применения кассетных боеприпасов в следующих районах зоны конфликта: Ахалдаба, Гори, Каралети, Хелтубани, Пхвениси, Руиси, Сакашети, Шиндиси, Тирдзиси и Вариани.

- Правительство Грузии признало использование суббоеприпасов М-85 при нанесении удара по российским войскам близ Рокского туннеля. Можете ли Вы подтвердить эту информацию? Если да, то мы были бы крайне признательны за любые дополнительные сведения, такие как число, дата и время ударов, а также возможные сопутствующие гражданские потери (в последнем случае хотелось бы знать обстоятельства).
- Располагает ли Россия доказательствами применения грузинскими войсками кассетных боеприпасов в других местах? Если да, то не могли бы Вы сообщить подробности: где, когда, тип боеприпаса, количество,

предполагаемые цели, собранные доказательства, возможные сопутствующие гражданские потери?

- Располагает ли Россия доказательствами применения грузинскими войсками в ходе конфликта противопехотных мин? Если да, то не могли бы Вы сообщить подробности: где, когда, тип, количество, предполагаемые цели, возможные сопутствующие гражданские потери?
- Применяли ли российские Вооруженные Силы в ходе конфликта какие-либо кассетные боеприпасы или противопехотные мины? Если да, то признает ли Россия факт нанесения ее силами ударов по какому-либо из перечисленных выше районов? В последнем случае были бы признательны за дополнительную информацию: где, когда, тип боеприпаса, количество, предполагаемые цели?
- Применялись ли российской стороной какие-либо из суббоеприпасов, в отношении которых установлен факт применения в ходе конфликта: АО-2,5РТ, ПТАБ-2,5М, 9Н210, 9Н235 и М-85. В отношении первых четырех известно, что они производятся в России и что ими снаряжаются разовые бомбовые контейнеры и реактивные снаряды систем «Ураган» и «Смерч». Последние, как известно, находятся на вооружении российской армии.
- Следовали ли российские Вооруженные Силы каким-либо конкретным указаниям относительно применения кассетных боеприпасов наподобие тех, которые обсуждаются Россией и другими на встречах представителей государств – участников Конвенции о запрещении или ограничении применения конкретных видов обычного оружия, которые могут считаться наносящими чрезмерные повреждения или имеющими неизбирательное действие (1980)?
- Какие шаги предпринимаются Россией для содействия очистке местности от неразорвавшихся суббоеприпасов или других взрывоопасных пережитков войны, а также для содействия разъяснительной работе среди населения и помощи пострадавшим? Считает ли себя Россия связанной в этом смысле обязательствами по Протоколу V к Конвенции 1980 г.?
- Предоставила ли Россия точные координаты мест применения кассетных боеприпасов и установки мин специалистам по разминированию? Обеспечивает ли российская сторона беспрепятственный пропуск в опасные районы персонала и оборудования организаций по разминированию?

Хьюман Райтс Вотч готова приложить все усилия, чтобы отразить ответы Министерства обороны в готовящемся докладе. В интересах облегчения этой задачи надеемся получить ответ не позднее 16 ноября с.г. Готовы также лично встретиться с представителями Министерства для обсуждения вышеизложенного.

Заранее благодарю Вас за содействие. Готова ответить на любые дополнительные вопросы, которые можно адресовать мне лично по электронной

почте denberr@hrw.org или по тел: +1 212 216 1266, либо через директора нашего московского офиса Аллисон Гилл по тел: 495-737-8955.

Искренне Ваша

Рейчел Денбер,
и.о. директора по Европе и Центральной Азии

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

HUMAN
RIGHTS
WATCH

www.hrw.org

Перевод с английского

9 октября 2008 г.

Президенту
Российской Федерации
Д.Медведеву

Уважаемый Дмитрий Анатольевич!

Прошу Вашего содействия в сборе информации о вооруженном конфликте с Грузией в связи с Южной Осетией в августе с.г.

Как Вам известно, Хьюман Райтс Вотч является нейтральной независимой международной правозащитной организацией со штаб-квартирой в Нью-Йорке и офисами по всему миру, в том числе в Берлине, Женеве, Брюсселе, Гонконге, Токио и Лондоне. Наше представительство в Москве существует с 1992 г., и мы уже много лет поддерживаем продуктивный диалог с российскими властями.

В настоящее время Хьюман Райтс Вотч собирает материалы для доклада, посвященного анализу предполагаемых нарушений международных норм о правах человека и гуманитарного права в ходе указанного конфликта и в последующий период всеми сторонами, включая войска Министерства обороны Грузии, югоосетинские вооруженные формирования и войска Министерства обороны России. Как Вам, возможно, известно, с самого начала конфликта наши сотрудники пристально отслеживали ситуацию непосредственно в Южной Осетии (в том числе в Цхинвали, Джаве, Хетагурово и еще более чем в десяти селах), а также в Тбилиси и в районах Гори, Карели и Каспи. Мы стремимся в полном объеме и со всей тщательностью проверить действия всех сторон конфликта и максимально справедливо и точно обнародовать наши выводы. Мы заинтересованы в том, чтобы официальная позиция российской стороны получила в докладе адекватное и точное отражение.

В ходе работы на местах нами было документировано массовое перемещение населения, иногда вынужденное, из Южной Осетии и зоны безопасности с южной стороны административной границы Южной Осетии. Многие дома, в ряде случаев – целые села, были разграблены и сожжены осетинскими ополченцами и

криминальными элементами. Насколько мы понимаем, подавляющее большинство югоосетинских беженцев, ушедших в Россию, смогли вернуться, имея, как представляется, такую возможность, в отличие от вынужденных переселенцев из грузинских сел Южной Осетии.

В связи с этим были бы весьма признательны за разъяснение следующих вопросов:

- Какова Ваша позиция в отношении права на возвращение людей, оставивших свои дома в грузинских селах Южной Осетии?
- Какие указания даны российским военным и другим должностным лицам в регионе в отношении гражданских лиц в Южной Осетии, которые хотели бы вернуться в свои дома?
- Давались ли представителям российских властей указания о взаимодействии с югоосетинскими властями по вопросу о возвращении жителей в грузинские села?
- В случае, если давались какие-либо указания по ограничению возвращения жителей, в чем заключаются такие ограничения и чем они обоснованы?

С профильными запросами мы также обратились в Министерство обороны и МЧС России, а также в Генеральную прокуратуру.

Доводим до Вашего сведения, что аналогичные вопросы мы адресуем и грузинским властям, в том числе относительно предполагаемого неизбирательного и избыточного применения силы в Южной Осетии.

Хьюман Райтс Вотч приложит все усилия, чтобы отразить ответы Вашей администрации в готовящемся докладе. В интересах облегчения этой задачи надеемся получить ответ не позднее 16 ноября с.г. Готовы также лично встретиться с сотрудниками Администрации для обсуждения вышеизложенного.

Заранее благодарю Вас за содействие. Готова ответить на любые дополнительные вопросы, которые можно адресовать мне лично по электронной почте denberr@hrw.org или по тел: +1 212 216 1266, либо через директора нашего московского офиса Аллисон Гилл по тел: 495-737-8955.

Искренне Ваша

Рейчел Денбер,
и.о. директора по Европе и Центральной Азии

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

November 12, 2008

Mr. David Kezerashvili
Minister of Defense of Georgia
Ministry of Defense of Georgia
20, General Kvinitadze Street
Tbilisi 0112, Georgia

Esteemed Minister Kezerashvili:

I am writing to request your assistance in gathering information relating to the armed conflict with Russia over South Ossetia in August 2008.

Human Rights Watch is in the process of gathering materials for publication of a report on alleged violations of international human rights and humanitarian law during the armed conflict and the period that followed, by all parties to the conflict, including Russian Ministry of Defense forces, South Ossetian armed groups, and Georgian Ministry of Defense and Ministry of Internal Affairs forces. As you may be aware, from the very beginning of the conflict Human Rights Watch has conducted extensive field research in South Ossetia (including Tskhinvali, Java, Khetagurovo, and more than a dozen other villages), Tbilisi, and the districts of Gori, Kareli and Kaspi.

I would also like to take this opportunity to express my gratitude for your openness and cooperation in our research thus far. It is in the spirit of this cooperation that we request the additional information indicated by the questions in this letter.

We are committed to a full and thorough investigation of all sides to the conflict and to reporting our findings fairly and accurately.

We want to ensure that the views of Georgian government officials are represented adequately and accurately in our report. To that end, Human Rights Watch respectfully requests the Ministry of Defense to provide information on the use of force during the armed conflict. In a separate letter we have submitted related, relevant questions to the Ministry of Justice as well as to the Ministry of Internal Affairs.

Please note that we have also submitted similar questions to the Russian authorities inquiring *inter alia* about the apparent indiscriminate and disproportionate use of force and violations and

HUMAN
RIGHTS
WATCH

www.hrw.org

crimes committed on territory under the effective control of the Russian authorities.

Questions regarding casualties:

During our work in the conflict zone we have received information about civilian and military casualties on both sides. Human Rights Watch has not been in a position to compile exhaustive information on the total number of deaths and injured.

Therefore, we would very much appreciate your most recent information available regarding civilian and military casualties. With respect to military casualties, specifically:

- How many Georgian military service personnel were killed during the conflict?
- How many Georgian military service personnel were wounded?
- How many Georgian military service personnel are still missing?
- In official statements, the former Chief of Staff Mr. Gogava indicated that Ministry of Internal Affairs units participated in the military operation under the command of the joint staff of the armed forces. Have there been casualties among the Ministry of Internal Affairs units? Are any members of these units missing?

In addition, if there were casualties among any Georgians who were not members of the Georgian armed forces who took up arms against Ossetian or Russian forces, we would be grateful for information on what measures were taken to distinguish them from civilian casualties.

Questions regarding detainees:

During the conflict, the parties detained a number of members of militia or military forces. Human Rights Watch researchers have also documented allegations that the parties detained civilians and that detainees were subjected to ill-treatment.

With regard to detainees, we would very much appreciate your assistance with the following questions:

- How many members of the Georgian armed forces were detained by Russian authorities? Have all detainees been released?
- How many members of the Georgian armed forces were detained by Ossetian forces? Have all detainees been released?
- How many people were detained by Georgian armed forces during the conflict? How many of these were members of the Russian armed forces, and how many were members of South Ossetian forces? If individuals who were not participating in hostilities were detained, what was the reason for these individuals' detention?
- Have all of these detainees been released? If not, what is the reason for their continued detention?

- We kindly request that you provide us with copies of the custody records of all of those detained by Georgian authorities. If they are not available, we would appreciate if you could provide us with an explanation and inform us to whom they would be available for inspection.
- In what facilities were the detainees kept? Under whose authority?
- In what kind of cells or other space and in what size cells or space were the detainees kept? Specifically what kind of food were the detainees given? In what quantities? How often were they given food? How often were they given water? In what quantities?
- Were detainees visited by the International Committee of the Red Cross at any time during their detention? On what date(s)?
- What mechanisms were established to ensure that detainees were kept in conditions consistent with international standards and not subjected to ill-treatment?
- Did the Ministry of Defense or any other agency receive allegations of ill-treatment in Georgian custody of these detainees or that civilians had been illegally detained? If so, what measures were taken to address these allegations?

Questions regarding the use of force:

Human Rights Watch researchers have documented civilian casualties as a result of the use of force by both sides. In order to assess whether these deaths occurred as a result of indiscriminate and/or disproportionate use of force we would appreciate your response to the following questions:

- What measures were taken by Georgia to minimize civilian casualties and damage to civilian property? What instructions, if any, were given to military commanders to prevent the use of disproportionate and indiscriminate force?
- What efforts have been made to investigate whether, in fact, disproportionate or indiscriminate force was used?
- Did Georgian forces fire at vehicles on the Zar Road on the night of August 8-9 and on August 9? If so, what was the target? Is the Ministry of Defense aware that passenger cars conveying fleeing civilians were hit at this time? Is the Ministry aware of civilian deaths that resulted, and has there been any investigation into these incidents?
- When and against what targets did the Georgian armed forces deploy its air force?

Questions regarding the use of cluster munitions and antipersonnel mines:

Human Rights Watch has found evidence of Georgian and Russian cluster munitions in the villages of Gori district. We are grateful for the information provided in a written response by the Ministry of Defense on the matter on August 31, 2008 and in meetings with Human Rights Watch on August 22 and October 22, 2008. In addition, we would appreciate information on the following:

- Did the Georgian armed forces follow any specific guidelines regarding the use of cluster munitions, such as those being discussed by Georgia and others in the meetings of States Parties to the Convention on Conventional Weapons (CCW)?
- What steps has Georgia taken to assist with clearance of submunition duds or other explosive remnants of war, and to assist with risk education and victim assistance? Does Georgia consider that it has obligations in this respect under Protocol V of the CCW?
- Has Georgia deployed any type of landmine during or prior to the conflict?
- Has Georgia provided precise cluster strike or mine deployment coordinates to clearance professionals?
- Has Georgia documented the use of landmines by the Russian or Ossetian forces? If so, then where and what types?

Human Rights Watch would make every effort to reflect the Ministry of Defense's responses in our forthcoming report. To this end we hope that a reply will be possible by November 20.

I thank you for your cooperation in advance. If you have any additional questions, do not hesitate to email me at denberr@hrw.org or call me at +1 212 216 1266. Alternatively, you can contact Human Rights Watch's representative in Georgia, Giorgi Gogia, at +995 7742 1235.

Sincerely,



Rachel Denber
Acting Director
Europe and Central Asia division

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah Pokempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

November 12, 2008

Zurab Adeishvili
Minister of Justice of Georgia
Ministry of Justice of Georgia
30 Rustaveli Ave.
Tbilisi 0146, Georgia

Dear Mr. Adeishvili,

I am writing to request your assistance in gathering information relating to the armed conflict with Russia over South Ossetia in August 2008.

Human Rights Watch is in the process of gathering materials for publication of a report on alleged violations of international human rights and humanitarian law during the armed conflict and the period that followed, by all parties to the conflict, including Russian Ministry of Defense forces, South Ossetian armed groups, and Georgian Ministry of Defense forces and Ministry of Internal Affairs forces. As you may be aware, from the very beginning of the conflict, Human Rights Watch has conducted extensive field research in South Ossetia (including Tskhinvali, Java, Khetagurovo, and more than a dozen other villages), Tbilisi, and the districts of Gori, Kareli and Kaspi.

We are committed to a full and thorough investigation of all sides to the conflict and to reporting our findings fairly and accurately.

We want to ensure that the views of Georgian government officials are represented adequately and accurately in our report. To that end, Human Rights Watch respectfully requests the Ministry of Justice to provide information regarding casualties, detainees, and on the use of force during the armed conflict. In a separate letter we have submitted related, relevant questions to the Ministry of Defense and the Ministry of Internal Affairs.

Please note that we have also submitted similar questions to the Russian authorities inquiring *inter alia* about the apparent indiscriminate and disproportionate use of force, the treatment in South Ossetian custody of persons detained in the conflict, and violations and crimes committed on territory under the effective control of the Russian authorities.

HUMAN
RIGHTS
WATCH

www.hrw.org

Questions regarding casualties:

During our work in the conflict zone we have documented a number of civilian and military casualties on both sides. Human Rights Watch has not been in a position to compile exhaustive information on the total number of deaths and injured.

Therefore, we would very much appreciate your most recent information available regarding civilian and military casualties.

In addition, if there were casualties among any Georgians who were not members of the Georgian armed forces who took up arms against Ossetian or Russian forces, we would be grateful for information on what measures were taken to distinguish them from civilian casualties.

Questions regarding detainees:

During the conflict, the parties detained a number of members of militia or military forces. Human Rights Watch researchers have also documented allegations that the parties detained civilians and that some detainees were subjected to ill-treatment.

With regard to detainees, we would very much appreciate your assistance with the following questions:

- How many members of the Georgian military were detained directly by Russian forces? How many members of the Georgian military were detained directly by South Ossetian armed groups? In how many cases were both Russian forces and South Ossetian armed groups involved?
- How many civilians were detained by Russian and South Ossetian forces?
- Have all detainees been released? If not, do you know the locations of remaining detainees?
- Has your office received allegations of violations of the Geneva Conventions with respect to treatment of Georgian military servicemen held by Russian or South Ossetian authorities? If so, what were these allegations?
- Has your office conducted any investigations into such allegations? If so, what were your findings?
- How many members of the Russian armed forces were detained by the Georgian authorities during the conflict? How many members of South Ossetian forces or armed groups? Were any South Ossetian detainees members of South Ossetian Peacekeeping Forces?
- How many Ossetian civilians were detained by the Georgian authorities during the conflict? What were the grounds for these individuals' detention?
- We kindly request that you provide us with copies of the custody records of all of those detained by Georgian authorities. If they are not available, we would appreciate if you could provide us with an explanation and inform us to whom they would be available for inspection.

- Have all detainees been released? If not, what is the reason for their continued detention? We kindly request that you provide us with a list of current detainees.
- In which facilities were Ossetian and Russian detainees kept? Under whose authority?
- In what kind of cells or other space and in what size cells or space were the detainees kept? Specifically what kind of food were the detainees given? And in what portions? How often were they given food? How often were they given water?
- Were detainees visited by the International Committee of the Red Cross at any time during their detention? On what date(s)?
- What measures were taken to ensure that civilian and non-civilian detainees were kept in conditions consistent with international standards and not subjected to ill-treatment?
- Has your office received allegations of ill-treatment in Georgian custody of Ossetian or Russian detainees or that civilians had been illegally detained? If so, what measures were taken to investigate these allegations?

Questions regarding the use of force:

Human Rights Watch researchers have documented civilian casualties as a result of the use of force by both sides.

In particular, we would appreciate your response to the following questions:

- Has your office received any allegations concerning indiscriminate or disproportionate use of force by Georgian armed forces? If so, has your office conducted any investigation into these allegations? If so, what were the findings and what is the range of measures envisaged to ensure accountability?

Human Rights Watch would make every effort to reflect the responses of your office in our forthcoming report. To this end we hope that a reply will be possible by November 20.

I thank you for your cooperation in advance. Should you have any questions or concerns about our work, do not hesitate to email me at denberr@hrw.org or call me at +1 212 216 1266. Alternatively, you can contact Human Rights Watch's representative in Georgia, Giorgi Gogia, at +995 77 42 12 35.

Sincerely,



Rachel Denber
Acting Director
Europe and Central Asia division

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Email: hrwnyc@hrw.org

EUROPE AND CENTRAL ASIA DIVISION

Holly Cartner, *Executive Director*
Rachel Denber, *Deputy Director*
Veronika L. Szente Goldston, *Advocacy Director*
Benjamin Ward, *Associate Director*
Allison Gill, *Director, Moscow Office*
Tanya Lokshina, *Deputy Director, Moscow Office*
Andrea Berg, *Researcher*
Jane Buchanan, *Researcher*
Maria Lisitsyna, *Researcher*
Judith Sunderland, *Researcher*
Wanda Troszczyńska van Genderen, *Researcher*
Emma Sinclair-Webb, *Researcher*
Igor Vorontsov, *Researcher*
Giorgi Gogia, *Researcher*
Tatyana Cooper, *Associate*
Sonya Kleshik, *Associate*
Kathryn Koonce, *Associate*
Viktoriya Kim, *Associate*
Iwona Zielinska, *Associate*

ADVISORY COMMITTEE

Alice H. Henkin
Marco Stoffel
Henri Barkey
Gerhart Baum
Stephen Del Rosso
Phyllida Earle
Felice Gaer
Michael Gellert
Jeri Laber
Walter Link
Masha Lipman
Helena Luczywo
Jean Paul Marthoz
Sarah E. Mendelson
Karl Meyer
Jane Olson
Arjan Overwater
Can Paker
Hannah Pakula
Colette Shulman
Leon Sigal
Malcolm Smith
George Soros
Gerard Stoudmann
Ruti Teitel
Mark von Hagen
Patricia M. Wald
Joanna Weschler

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Development & Outreach Director*
Carroll Bogert, *Associate Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance & Administration Director*
Peggy Hicks, *Global Advocacy Director*
Iain Levine, *Program Director*
Andrew Mawson, *Deputy Program Director*
Suzanne Nossel, *Chief Operating Officer*
Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Jane Olson, *Chair, Board of Directors*

November 12, 2008

Minister of Internal Affairs of Georgia
Mr. Ivane Merabishvili
Tbilisi, Georgia, 0114
G. Gulua Str. 10

Esteemed Minister Merabishvili:

I am writing to request your assistance in gathering information relating to the armed conflict with Russia over South Ossetia in August 2008.

Human Rights Watch is in the process of gathering materials for publication of a report on alleged violations of international human rights and humanitarian law during the armed conflict and the period that followed, by all parties to the conflict, including Russian Ministry of Defense forces, South Ossetian armed groups, and Georgian Ministry of Defense and Ministry of Internal Affairs forces. As you may be aware, from the very beginning of the conflict Human Rights Watch has conducted extensive field research in South Ossetia (including Tskhinvali, Java, Khetagurovo, and more than a dozen other villages), Tbilisi, and the districts of Gori, Kareli and Kaspi.

I would also like to take this opportunity to express my gratitude for your openness and cooperation in our research thus far and in our research in the past. It is in the spirit of this cooperation that we request the additional information indicated by the questions in this letter.

We are committed to a full and thorough investigation of all sides to the conflict and to reporting our findings fairly and accurately.

We want to ensure that the views of Georgian government officials are represented adequately and accurately in our report. To that end, Human Rights Watch respectfully requests the Ministry of Internal Affairs to provide information on the use of force during the armed conflict. In a separate letter we have submitted related, relevant questions to the Ministry of Justice as well as to the Ministry of Defense.

Please note that we have also submitted similar questions to the Russian authorities inquiring *inter alia* about the apparent indiscriminate and disproportionate use of force and violations and crimes committed on territory under the effective control of the Russian authorities.

HUMAN
RIGHTS
WATCH

www.hrw.org

In official statements, the former Chief of Staff Mr. Gogava indicated that Ministry of Internal Affairs units participated in the military operation under the command of the joint staff of the armed forces.

- Which Ministry of Internal Affairs units participated in the military operation?
 - Have there been casualties among the Ministry of Internal Affairs units? Are any members of these units missing?
 - Were any members of these units detained? How many and by whom?
- Were any of the people detained by Georgian forces held in facilities under the authority of the Ministry of Internal Affairs? If so, how many detainees were held? In which facilities?
 - In what kind of cells or other space and in what size cells or space were the detainees kept? Specifically what kind of food were the detainees given? In what quantities? How often were they given food? How often were they given water? In what quantities?
 - We kindly request that you provide us with copies of the custody records of all of those detained by Georgian authorities. If that is not possible, we would appreciate if you could furnish us with an explanation and inform us to whom the records would be available for inspection.
 - Were detainees visited by the International Committee of the Red Cross at any time during their detention? On what date(s)?
 - What mechanisms were established to ensure that detainees were kept in proper conditions and not subjected to ill-treatment?
 - Did the Ministry of Internal Affairs or any other agency receive allegations of ill-treatment in Georgian custody of these detainees or that civilians had been illegally detained? If so, what measures were taken to address these allegations?

Human Rights Watch would make every effort to reflect the Ministry of Internal Affairs' responses in our forthcoming report. To this end we hope that a reply will be possible by November 20.

I thank you for your cooperation in advance. If you have any additional questions, do not hesitate to email me at denberr@hrw.org or call me at +1 212 216 1266. Alternatively, you can contact Human Rights Watch's representative in Georgia, Giorgi Gogia, at +995 7742 1235.

Sincerely,



Rachel Denber
Acting Director
Europe and Central Asia division

December 3, 2008

Dear Ms. Denber:

As Secretary of the National Security Council of Georgia, it is my privilege to respond to your letters of November 12 addressed to our Ministers of Defense, Internal Affairs and Justice. On behalf of the Government of Georgia, I thank Human Rights Watch for its interest in human rights in our region. We are, of course, aware of your activities in Georgia during and after the conflict, and we are particularly grateful for the integrity, courage and honesty with which your people carried out their work. Now, we appreciate your continued effort to achieve truth and accuracy in the report you are preparing.

Thank you very much for seeking information and views from the Government of Georgia. Below we address the matters that you raised in your letters.

Please understand that getting to the bottom of facts in any war is very difficult. We are trying to do that, however, investigations of various aspects are ongoing, and new facts come to light almost every day. The information provided below is the product of our considerable efforts to achieve accuracy as of this date.

Further, we will continue to cooperate with HRW, as well as with the international investigation led by Ambassador Heidi Tagliavini and the work of the Commission established by the Georgian Parliament. This Commission is chaired by a Member of the opposition, and the opposition to our Government is well represented at the Commission. As you have no doubt seen in the media, all Georgian officials with any knowledge of the conflict are appearing before this Commission. This includes President Mikheil Saakashvili who, though he is not constitutionally required to do so, spent nearly five hours with the Commission on November 28.

Moreover, on behalf of the Government of Georgia, I want to tell you that a credible allegation of malfeasance by any individual—including all Georgian citizens, Georgian officials and Georgian military personnel—will be fully investigated. If the investigation warrants prosecution, charges will be filed and pursued in Georgian courts. Courts will then decide the outcomes. Just as we will vigorously prosecute alleged crimes, we will with equal vigor insist upon due process of law for any accused individual.

As a final introductory note, I would like to invite the continued interest of HRW in the facts surrounding the Russian invasion of Georgia. On many of the matters raised in your letters, achieving the standards of accuracy for which your organization is well known will require extensive work and cooperation among organizations and governments in the future.

Ms. Denber, this letter represents our best effort to answer your questions as quickly as possible at this time. However, should you have any further or follow-up questions, please do not hesitate to address a single request to me.

Casualties, wounded and missing

- GAF members killed: 169
- GAF members wounded: 1.198
- GAF members missing in action: 9
- Ministry of Internal Affairs (MIA) members killed: 16 (8 during the active phase of the conflict; 8 after the active phase of the conflict, from explosions or shootings while patrolling areas adjacent to the conflict areas.)
- MIA members wounded: 11 (after the active phase of the conflict, from explosions or shootings while patrolling areas adjacent to the conflict areas.)
- MIA members missing in action: 6

Ministry of Internal Affairs Participation

About 5.000 MIA Police Officers of the following units participated in the conflict:

- Special Tasks Main Division
- Regional Police units in the regions adjacent to the conflict areas
- Special Operations Department
- Constitutional Security Department
- Special Operations Center

Persons detained by Russian forces

All interviewed Georgian military personnel held prisoner during and after the conflict confirm that, though members of separatist illegal armed formations participated in their capture, imprisonment and abuse, Russian forces were always present and evidently in charge. Consequently, we draw no distinction between them. Russian forces were responsible for all detentions.

GAF and MIA personnel

- GAF members detained by Russian authorities: 39 (Note that of the 39, 22 were taken after cessation of hostilities.)
 - All of these 39 have now been released.
- MIA members detained by Russian authorities: 10 (These police officers were seized by South Ossetian illegal armed formations in the Akhagori District of the Mtskheta-Mtianeti Region on August 15; they were released on August 16.)

Civilians

- Georgian civilians detained by Russian authorities: 159 (Note that these were mostly elderly people who were unable to flee their villages.)
 - All 159—a number that represents the extent of our knowledge—have been released.

Sadly, we continue to receive reports of civilian kidnappings carried out by separatist illegal armed formations in Georgian territory now under Russian occupation. Consequently, although the 159 were released, it is altogether possible that some civilians are now held by Russian forces or by separatist illegal armed formations in the regions of Abkhazia and South Ossetia.

Because Georgian authorities, international organizations and the EUMM are denied access to these areas, we are unable to assemble accurate information and investigate the details. Unfortunately, anecdotal evidence suggests that hostage-taking of ethnic Georgians is widespread in these areas.

For example, we are told that on October 12, South Ossetian illegal armed formations kidnapped a 12-year-old boy near the village of Dadianesi. On October 16, South Ossetian illegal armed formations kidnapped a herdsman from the village of Zemo Nikozi. Ransom was demanded in both cases. We don't know yet if they have been released.

Violations of law, including the Geneva Conventions

The prosecution Service of Georgia interviewed 13 of the 39 Georgian prisoners of war. These 13 all said that Russian authorities were in control of detention, regardless of the presence or direct supervision by separatist illegal armed formations.

The Georgian POWs interviewed report that they were beaten with iron bars and rifle butts, burned with lighters and given electric shocks. If a victim fell unconscious, his tormentors would pour water on him and then proceed with the torture. Such treatment lasted throughout the period of their captivity.

Such acts were carried out by members of South Ossetian illegal armed formations and by Russians. In some instances, former POWs recall, Russians issued instructions to the separatists.

Moreover, the former Georgian POWs report at least three cases in which Georgian soldiers were arbitrarily executed. (The statements of two former POWs can be read in Annex 1.) Neither were violations and abuse confined to Georgian POWs. Numerous crimes against Georgian civilians have been reported.

On August 9 2008, the Investigative Department of the Office of the Prosecutor General of Georgia initiated criminal case 074088079, based on those alleged

violations of international humanitarian law in the course of armed conflict that are covered by Article 411 of the Criminal Code of Georgia. Further, on August 11, the Investigative Department initiated case 074088080, based on those alleged violations of international humanitarian law that are covered by Article 413 of the Criminal Code of Georgia. (These two criminal were later amalgamated into case 074088079). The case covers crimes committed in the context of the Russian invasion in August 2008.

To date, more than three thousand witnesses have been interrogated (including 159 civilian detainees and 13 Georgian POWs, mentioned above). To the extent possible, crime scenes have been examined, forensic expert examinations undertaken, corpses exhumed, etc.

Physical evidence and eyewitness testimony indicate the following violations of international law: crimes against humanity in form of willful killings of the civilians, hostage-taking, persecution based on ethnicity, expulsion of civilians; war crimes in form of ill-treatment and execution of civilians and of prisoners of war; attacks against civilian property, including pillage, looting and arson.

Given that this information arises from investigation of an open criminal case, we are not now able to provide more precise details.

Persons detained by Georgia

- Russian military personnel held as POWs: 5
- Members of separatist illegal armed formations: 27 (Note that these are all able-bodied Georgian citizens of military age detained during the course of hostilities.)
- Apparent mercenary: 1 (Russian citizen)
- All Georgian held prisoners were exchanged for the 159 Georgian civilians and 39 POWs held under Russian authority:
 - 5 POWs
 - 27 members of separatist illegal armed formations
 - 1 apparent mercenary
 - 9 convicted criminals requested by Russian authorities (Note that these people were serving sentences in Georgian prisons for criminal convictions before, and unrelated to the war.)

Custody records, identity and ICRC visits

Given the short duration of the war, the varying statuses of persons detained by Georgia and the wartime situation, formal custody records were not created. In particular, during a short period, Russian forces penetrated deep into Georgia, necessitating the movement of detainees from Gori to Borjomi to Adigeni and then to Tbilisi. Moreover, some of the detained members of illegal armed formations dissembled about their identity, rendering it impossible to create or

maintain reliable custody records. (For example, 7 names were each given by two detainees.)

Neither did Georgia have time to make formal notifications to the ICRC with regard to the 5 POWs, which it would certainly have made if the time and situation permitted. Nonetheless, the ICRC was afforded unimpeded access to our detention facilities. The ICRC visited 3 of the 5 POWs—the other two were taken prisoner late in the war. The ICRC visited facilities maintained by the Ministries of Defense and Justice on a number of occasions, inspecting the conditions in which not only the POWs were detained, but also those of the detained members of separatist illegal armed formations. (Please see the article from *The Independent* in Annex 2.)

By the way, the Russian Embassy was invited to visit the Russian POWs, however, it failed to respond.

Detaining authorities, facilities and conditions

Persons detained by Georgia during the conflict were held in facilities administered by the Ministries of Defense, Justice and Internal Affairs:

- Tbilisi Temporary Detention Isolator
- Gori Temporary Detention Isolator
- Adigeni Temporary Detention Isolator
- Borjomi Temporary Detention Isolator
- Vaziani GAF base
- Prison #8, Gldani District, Tbilisi
- Central Prison Hospital

The ICRC visited Vaziani and Prison #8 and expressed satisfaction with the conditions in which detainees were held.

All of the facilities used to hold detainees meet or exceed international standards. Gldani Prison #8 is a newly built penitentiary establishment that meets international standards is the best facility in Georgia. Those detained in the context of the conflict were placed separately from other prisoners. They had three meals a day and unlimited access to the medical service when needed or requested.

4 of the 6 detention facilities are either newly constructed or newly renovated. In general, these facilities have cells for 2, 4 or 6 detainees, ranging in size from 12m² to 16m². In no case did the number of detainees assigned to a cell exceed its capacity. In every case detainees—whether POWs or members of illegal armed formations—were held apart from those held in connection with ordinary crimes.

Although conditions vary among facilities, all cells are equipped with beds, mattresses, bedding, water and sanitary facilities.

In all the facilities, food is served three times daily, meeting accepted nutritional requirements. Some facilities are served by an in-house canteen; others are served by outside caterers. One facility shares a canteen with the adjacent Tbilisi Main Police Unit. There were no restrictions on access to water.

Detainees in need of medical care received such care.

Safeguards

In facilities maintained by the Ministry of Internal Affairs, the Main Unit for Monitoring and Protection of Human Rights provides internal monitoring, including announced and unannounced visits. Moreover, the ICRC was afforded unimpeded access to our facilities, visiting two of them.

The detention facility at the Vaziani military base is newly constructed, according to international standards. The detention facility is under control of the Military Police of the Ministry of Defense of Georgia.

Moreover, the ICRC was afforded unimpeded access to Vaziani, and its representatives inspected all parts of the facility in which POWs or members of illegal armed formations were held. All detainees held by the Ministry of Defense were visited by the ICRC, which interviewed them in private and afforded them the opportunity to make telephone calls to their families.

To date, no complaints or allegations of abuse of detainees have been received. However, the Prosecution Service of Georgia will investigate any adverse information that it may receive through public channels, including information from International organizations.

Use of force

The Prosecution Service has received no specific allegations in the form of a formal complaint about alleged indiscriminate or disproportionate use of force by the GAF. However, the Prosecution Service of Georgia, together with the Ministry of Defense, will investigate any adverse information that it may receive through public channels, including information from International organizations.

Minimizing civilian casualties

The procedures for conducting and leading combat operations are laid down in Georgian law, according to which military operations are conducted by the Joint Staff of the Armed Forces of Georgia. The Government instructed the Georgian Armed Forces to defend our country in accordance with their means and training,

and in accordance with national and international law. We know of no instance that suggests deviation from these instructions.

On the practical level, the GAF was guided by the Rules of Engagement for combat operations in a city. Military Police units participated in operations to ensure conformity to the Rules of Engagement. Moreover, several units operating in Tskhinvali had experience in combat operations in urban environments because they participated in stabilization operations in Iraq.

Tskhinvali is a small regional town, located in a river valley, approximately 75 kilometers from Tbilisi. Immediately prior to the conflict, the population was approximately 7,000, based on local intelligence estimates and on-the-ground reports. Following the mass evacuation on August 3-5, the number of residents decreased substantially.

In considering the consequences for civilian populations, the GAF were aware that by August 7, most of the civilian population had been evacuated from the Tskhinvali region. When the Georgian State Minister for Reintegration entered the city that day hoping for talks with Russian political representatives, he found a nearly empty city. On August 8, at 1500 a humanitarian corridor was opened for the remaining civilian population to leave the conflict area.

Moreover, our combat operations in Tskhinvali were confined to legitimate military purposes. GAF fire was directed exclusively against three types of targets: 1) points of origin of artillery attacks on Georgian peacekeepers and villages surrounding Tskhinvali before major hostilities; 2) military targets pre-determined on the basis of intelligence information; and 3) points of origin of artillery attacks during major hostilities and other military targets identified in the course of operations.

The Dzara Road and air targets

The GAF fired upon Russian armor and other military equipment rolling from the Roki Tunnel, along the Dzara Road, not at civilian vehicles. Indeed, during movement of military columns, particularly during combat, all movement of civilian vehicles was halted. Consequently, there were no civilian vehicles present during GAF fire against the mouth of the Roki Tunnel and along the Dzara Road. This information was confirmed by our forward observers.

This judgment applies equally to GAF air attacks on August 8, which were directed exclusively at Russian armor and other military equipment rolling from the Roki Tunnel, along the Dzara Road.

Cluster munitions and landmines

Georgian operations and safeguards

The GAF air force did not use cluster munitions. On the ground, the GAF used GRADLAR 160 MLRS and MK4 LAR160 rockets with M85 bomblets.¹

These rockets were never used against civilians, civilian targets and civilian populated or nearby areas during the conflict with Russia, in the Tskhinvali/South Ossetia region or beyond. The Gradlar system was used only against Russian military equipment and armament rolling from the Roki Tunnel to Dzara Road.

Georgia did not use landmines.

Russian use of landmines

We have documented Russian use of antipersonnel and antitank landmines, mostly around their illegal checkpoints, but also around Georgian military positions, bridges and roads. This information is confirmed by the GAF Engineering Brigade, HALO Trust and NPA (Norwegian People's Aid).

We note that Russian use of landmines was directed at military and civilian objectives. Moreover, to our knowledge, Russia is not conducting assessment, marking and training activities, and it is impeding the accomplishment of such work by international organizations in areas under its occupation.

Georgia has provided what information it has about Russian cluster munitions and landmines to HALO Trust and NPA.

Clearance work

Immediately following the combat phase of the conflict, de-mining engineers of the Ministries of Defense and Internal Affairs began clearance work. For three weeks during September, they were assisted by a 5-man team from the Estonian EOD (Explosive Ordinance Disposal) Center.

Meanwhile, the Ministry of Defense concluded memorandum of understanding with HALO Trust and NPA (Norwegian People's Aid) , two international organizations with established de-mining expertise. The memoranda provide for assistance with assessment and survey, marking and risk education, as well as for ERW (Explosive Remnants of War) activities.

To maximize effect, the Ministry of Defense has organized internally to manage de-mining activities. The Joint Staff J-3 created a division to coordinate ERW

¹ The M85 dual-purpose bomblet has a unique self-destruction mechanism. This important safety feature is designed to ensure that no armed duds will be left on the battlefield to endanger advancing friendly troops or the civilian population. The safety mechanism makes it impossible manually to arm duds inadvertently. Moreover, a highly sensitive impact fuse functions at steep angles of impact, not at lower impact velocities that do not pose a serious threat to civilians. In 2003, M85 bomblets were used by UK forces during the war in Iraq.

activities. To that end, the Ministry of Defense concluded a memorandum of understanding with IMMAP (Information Management and Mine Action Programs) . This cooperation is already underway in the fields of technical, program and information management assistance. Furthermore, to enhance its information management capability, the Ministry has worked with the Geneva International Center for Humanitarian De-mining to receive the IMSMA (Information Management System for Mine Action software, that is already in use) computer system.

Unfortunately, we must also care for victims of Russian landmines. Victims now receive care from the Georgian Medical Services .Finally, the Ministry of Defense has concluded a memorandum of understanding with ITF (International Trust Fund) to develop national victim assistance capabilities and training of non-military personnel in de-mining efforts.

We believe that our de-mining efforts are effective and comprehensive. Nonetheless, we welcome the suggestions and assistance of any organization that can enhance our capabilities.

Conclusion

Ms. Denber, the information above is extensive and, I think, altogether responsive to your questions. That said, it could be that we have missed something or that in some instances we failed to express ourselves with full clarity. In such cases, please do not hesitate to contact me at once and I shall coordinate a Government of Georgia effort to answer your question.

Moreover, as the various investigations proceed, new information will no doubt come to light. If you would like, I shall ask the staff of the National Security Council to keep HRW abreast of developments.

I welcome your interest in human rights in Georgia and around the world and I look forward to welcoming you here in Georgia. Until then, I remain

Sincerely yours,

Alexander Lomaia

Annex 1

PRISONER OF WAR

One of the former Prisoners of War, Khicha Melkuashvili told the Office of the Prosecutor General of Georgia the following: "The Russian soldiers took me into a house, tied my hands and feet and throughout the whole night beat me with their hands and feet and the butts of their assault rifles and brutally tortured me. The Russian soldiers also tortured me with electricity, twice shocking me in the head."

Another former Prisoner of War, Kakha Zirakishvili stated: "We spent total 12 days in captivity. They used to tie up the ropes on our necks and pull them, at the same time someone would beat us in heads and backs with the gun-butts; when we were totally powerless, they made us to put hands in front of us and beat our fingers with hammers, and then burned up our fingers with lighters...in the next room they killed the Georgian soldier from Kutaisi, who served at the tank battalion". He further noted: "The people that captured us were Ossetians...There were also Kazaks and Russians. Russians who used to come periodically to give orders could be easily noticed by their accent and military equipment of Russian military forces."

Annex 2

War is absurd, says Russian pilot shot down over Georgia

<http://www.independent.co.uk/news/world/europe/war-is-absurd-says-russian-pilot-shot-down-over-georgia-898991.html>

By Shaun Walker in Tbilisi
Saturday, 16 August 2008

Shaun Walker

Igor Zinov, one of the Russian pilots being treated at Gudushauri Hospital in Tbilisi after being shot down over Georgia

Most of the patients in the labyrinthine Gudushauri Hospital on the eastern outskirts of Tbilisi are being treated for injuries suffered during the Russian invasion, with more than 600 people admitted in the past few days.

But in one corridor, sealed off by eight black-clad guards armed with Kalashnikov rifles, there were two patients very different from the rest.

Vyacheslav Markovich and Igor Zinov were not fleeing from the Russian attack, they were leading it. On 9 August, their planes were hit by anti-aircraft fire, forcing them to eject and parachute to the ground. Georgia claims to have

destroyed 15 planes during the conflict, killing two Russian pilots and capturing a further two during the first days of the conflict.

Georgia intends to negotiate with Russia to exchange them for captured Georgian soldiers, the Interior Ministry said.

The Russian patients said they were being treated well. Both are bed-bound and are held in separate rooms, although their guards have kept them updated on the progress of the war.

Flying Officer Zinov, 50, who suffered more serious injuries than his compatriot, refused to be interviewed, saying that he was in pain and did not want to talk. He confirmed that he was being treated well by Georgian doctors and had been visited by representatives of the Orthodox Church and the Red Cross. He suffered severe burns and was lying, unshaven and weary, in a white vest.

Major Markovich, who suffered burns to his arms and a spinal injury, had nothing but praise for his captors, who had treated him excellently from the outset. "This is an absurd situation," he said. "For thousands of years Russians and Georgians have been living together and now we have war and innocent people are dying. It was all started by politicians and I don't understand why."

Major Markovich, 42, said he had more than two decades of experience in the Russian air force, but claimed that this was his first mission into a combat zone. Although he was flying a Tupolev 22 bomber, capable of carrying nuclear warheads, he said his mission was to carry out reconnaissance over South Ossetia and Gori.

He took off from a Russian air base in Engels and said he was shot down near Tskhinvali, the South Ossetian capital. The Georgian side insisted he was captured in Georgia "proper", near Gori.

Major Markovich said: "I landed in the forest and didn't lose consciousness, but I couldn't move. Shortly afterwards, a first aid team came to me and gave me different medicines, then I was transferred here."

He said he was questioned by Georgian security agents but not aggressively, and during his time in hospital he has been visited by the Dutch wife of the Georgian President, Mikheil Saakashvili. "She said there will be peace, and I believe her," he said. "I have only the best things to say about the way I have been treated."

Zaza Sinauridze, the hospital's general director, said: "They spoke with me and told me that if they were taken to a hospital in Russia, they wouldn't get such good treatment." He added that both pilots were now both in a stable condition.

"There have been no concrete negotiations as yet," said Shota Utiashvili, a senior official at Georgia's Interior Ministry. "But we plan to proceed as usual in such cases and exchange these pilots for Georgian military personnel captured by the Russian army."



**Генеральная прокуратура
Российской Федерации**

ул. Б. Дмитровка, 15а
Москва, Россия, ГСП-3, 125993

21 12.2008 № 076-82/1-84659-08

На № _____

Директору российского офиса
Хьюман Райтс Вотч

А. Гилл

ул. Старая Басманная, д. 10, стр.5, оф. 9
105064, г. Москва,

Уважаемая госпожа Гилл!

В Генеральной прокуратуре Российской Федерации рассмотрены обращения неправительственной международной организации «Хьюман Райтс Вотч» относительно проведения встречи для обсуждения вопросов, связанных с югоосетинскими событиями.

Вопросы потерь, задержанных, применения силы к гражданскому населению, изложенные в обращении «Хьюман Райтс Вотч», являются предметом расследований уголовных дел, осуществляемых соответственно Следственным комитетом при прокуратуре Российской Федерации и Генеральной прокуратурой Республики Южная Осетия.

При этом данные предварительного расследования могут быть преданы гласности лишь с разрешения следователя и только в том объеме, в каком им будет признано это допустимым, если разглашение не противоречит интересам предварительного расследования и не связано с нарушением прав и законных интересов участников уголовного судопроизводства.

В этой связи обращения направлены для рассмотрения в Следственный комитет при прокуратуре Российской Федерации в целях рассмотрения вопроса о проведении встречи и предоставления необходимой информации.

Одновременно информируем, что все имевшиеся в Генеральной прокуратуре Российской Федерации материалы по событиям в Республике Южная Осетия были переданы через Министерство иностранных дел Российской Федерации в международные судебные и иные органы.

Начальник управления правовой помощи
Главного управления международно-
правового сотрудничества


А.С. Куприянов

АИ № 135820

Генеральная прокуратура
Российской Федерации
№Отв-82/1-84659-08/44615