



GEORGIA/ABKHAZIA

# Living in Limbo

The Rights of Ethnic Georgian Returnees  
to the Gali District of Abkhazia

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Printed in the United States of America  
ISBN: 1-56432-790-6  
Cover design by Rafael Jimenez

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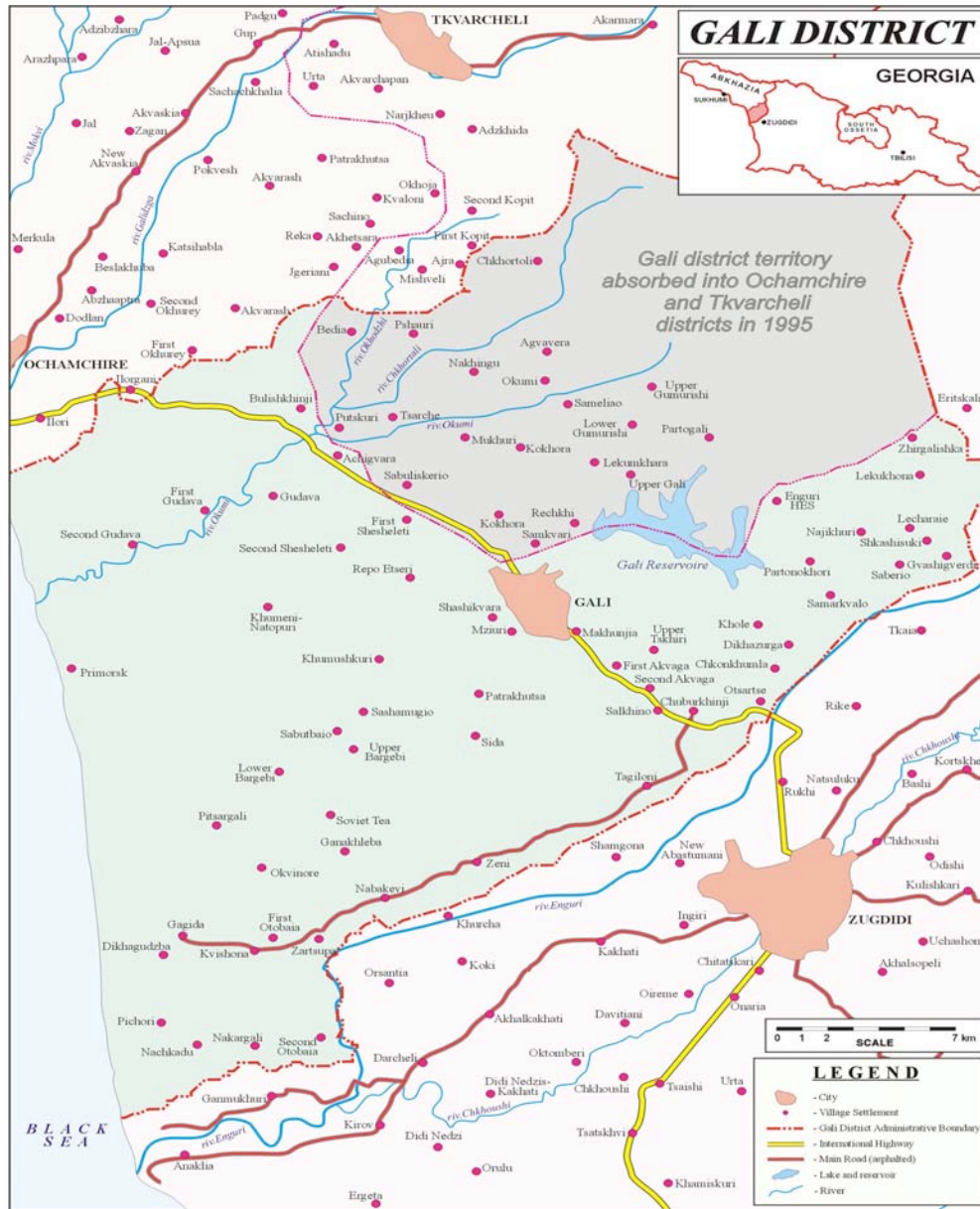
# Living in Limbo

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# Map of Gali District



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## Summary

Almost 18 years after a cease-fire ended the Georgian-Abkhaz war, the conflict over the breakaway region of Abkhazia remains as far from a political resolution as ever, leaving in limbo the lives of more than 200,000 people, mostly ethnic Georgians displaced by the conflict. The only area of Abkhazia where the de facto authorities in the breakaway region have allowed returns of displaced persons is the southernmost district of Gali, where ethnic Georgians constituted 96 percent of the pre- conflict population. About 47,000 displaced people have returned to their homes in Gali district. But the Abkhaz authorities have erected barriers to their enjoyment of a range of civil and political rights.

This report documents the Abkhaz authorities' arbitrary interference with returnees' rights to freedom of movement, education, and other rights in Abkhazia. It is based on interviews with more than one hundred Gali residents conducted on both sides of the administrative boundary line, officials of the de facto Abkhaz administration, and representatives of international governmental and non-governmental organizations working in Abkhazia.

Armed conflict broke out in Abkhazia between the Georgian military and breakaway Abkhaz forces in summer 1992. A ceasefire agreed in May 1994 largely held until August 2008, when a short war broke out between Georgia and Russia over South Ossetia, another breakaway region of Georgia. The war in South Ossetia significantly altered the situation in Abkhazia as well. Abkhaz security forces occupied the Kodori gorge, the only pre-conflict part of Abkhazia over which the Georgian government had previously retained control, and all existing negotiations and conflict resolution mechanisms collapsed.

Although Russia and several other states have recognized Abkhazia, the territory is internationally recognized as part of Georgia.

Following its recognition of Abkhazia in December 2008, Russia vetoed the extension of the Organization for Security and Co-operation (OSCE) mission in Georgia, arguing that the OSCE should have separate missions in South Ossetia and Georgia. Using a similar argument, in June 2009, Russia vetoed the extension of the mandate for United Nations Observer Mission in Georgia (UNOMIG), which had maintained more than 120 military observers along the ceasefire line for 16 years and had led international efforts to resolve the conflict in Abkhazia. Russian border guards replaced Russian peacekeepers on the Abkhaz side of the administrative boundary line.

The Georgian and Abkhaz sides have continued talks under various auspices, but negotiations have made little progress. In the face of the political stalemate there is little or no prospect for the dignified and secure return of the thousands of people who remain displaced from their homes in Abkhazia. For a short period in 1994, the United Nations High Commissioner for Refugees (UNHCR) facilitated the resettlement of several hundred people to Gali district. The spontaneous return of Gali residents continued well after that. In early 1999 the Abkhaz authorities launched a unilateral initiative to implement returns to Gali district. Many families went back, initially commuting daily across the ceasefire line, and migrating seasonally to tend their fields and look after their property.

However, the Abkhaz authorities' arbitrary interference with the rights of ethnic Georgian returnees has driven some of those who have returned to their homes to leave Gali district and go back to uncontested areas of Georgia. This in turn has presented serious obstacles for larger scale, sustainable returns of displaced persons to their homes in the breakaway region.

The de facto authorities require all residents of Abkhazia to obtain Abkhaz passports as a prerequisite for the enjoyment of certain rights, such as the right to work in the public sector, to vote and run for public office, to obtain a high school diploma, to undertake property transactions or to commute freely across the administrative boundary line which separates Abkhazia from uncontested areas of Georgia.

The procedure for obtaining such documents is discriminatory and onerous for ethnic Georgian returnees. Abkhaz law automatically grants the right to a passport to all ethnic Abkhaz as well as to all people, regardless of their ethnicity, who had resided in Abkhazia for at least five years at the time of the 1999 declaration of independence. These criteria automatically exclude ethnic Georgians who were displaced by the fighting in 1992-1993 but who subsequently returned and are now resident in Gali district.

Ethnic Georgians can receive Abkhaz passports through naturalization. However this process is excessively burdensome, requiring ethnic Georgians to collect, translate, and file a large number of documents, some of which they do not always possess. Moreover, the process requires ethnic Georgians to renounce their Georgian citizenship. The Abkhaz authorities emphasize that they do not compel anyone to obtain Abkhaz citizenship. However by putting in place a system that requires an individual to obtain the Abkhaz passport in order to enjoy certain rights, the authorities are arbitrarily interfering with those rights.



The ability to cross back and forth across the administrative boundary line is particularly important to returnees because the daily social, economic, and family life of many Gali returnees is on both sides of this line: while they may live in Gali district, they visit close relatives, receive Georgian government social benefits, obtain timely medical care, and in some cases attend school, on the other side of the boundary, often just several kilometers away in the town of Zugdidi.

However, since August 2008 the Abkhaz authorities have restricted returnees' ability to commute across the boundary by eliminating three of the four "official" crossing points, and by requiring special crossing permits for those who do not possess Abkhaz passports. As a result, many who wish to cross the administrative boundary must first make a circuitous and time-consuming trip to Gali's administrative center, the town of Gali, to obtain a permit. Those who do not have the time or the means to travel to Gali town sometimes resort to crossing unofficially, thereby risking detention, fines, and imprisonment. The restrictions imposed by the Abkhaz authorities are arbitrary and constitute an onerous burden, especially for those who live in rural areas that are close to the boundary yet far from the town of Gali.

Access to Georgian-language education for ethnic Georgians living in Gali district is also restricted. Prior to the conflict in 1990s, Georgian was the language of instruction for almost all schools in Gali district. Since 1995 the Abkhaz authorities have gradually introduced Russian as the main language of instruction, reducing the availability of Georgian language education, especially in upper Gali. Abkhazia's new education policy has created barriers to education, as the majority of school-age children living in Gali district do not speak Russian. The policy has also affected the quality of education as there are not enough qualified Russian-speaking teachers in the Gali district to teach in Russian. As a result, some parents are moving their children to those schools in the district where the curriculum is still in Georgian. Other students are leaving Gali altogether to continue their education in territory controlled by the Georgian government.

Eleven schools in lower Gali continue to teach in Georgian, but their future status as Georgian-language schools remains uncertain. Teachers and parents worry that as the Abkhaz authorities devote more resources to ensuring Russian as the language of instruction in all schools in Gali, Georgian-language schools will disappear altogether. If that happens, native Georgian-language speakers would not have the same access to education in their mother tongue as Abkhaz and Russian residents of Abkhazia.

Many ethnic Georgians in the Gali district express serious concern about personal security and protection against violent crime. These concerns are an important factor both for those who have returned to Gali and are deciding whether to stay or leave again for uncontested areas of Georgia and for those who are still waiting to decide whether to return to their homes in Gali. Ethnic Georgians from Gali overwhelmingly conveyed to Human Rights Watch a sense of acute vulnerability to theft, kidnapping for ransom, armed robbery, extortion and other crimes. According to the former UN Special Representative on the Human Rights of Internally Displaced Persons, this vulnerability is largely due to the weakness in the rule of law and administration of justice in the area, as well as deep, mutual distrust between the Georgian population and the Abkhaz security forces.

Although Abkhazia is not recognized as an independent state under international law, the Abkhaz authorities nevertheless have obligations under international law to respect human rights. Under international law, all human rights guarantees applicable within the territory of Georgia also apply to Abkhazia, and the de facto authorities in Abkhazia, as a power with effective control, are obligated to respect and protect those guarantees.

Abkhazia's constitution explicitly guarantees the rights and freedoms provided in the Universal Declaration of Human Rights and international human rights treaties. Without prejudice to Abkhazia's status, the authorities in Abkhazia have an obligation to ensure freedom of movement in both directions across the administrative boundary, and non-discrimination, in particular with regard to the issuance of identity documents and the right to education. Since they exercise effective control in Abkhazia, the de facto authorities also bear primary responsibility, and therefore a duty, for ensuring the safety and security of the local residents.

Until UNOMIG's mandate was terminated in 2009, the UN maintained a human rights office in Abkhazia, which was jointly staffed by the OSCE and the UN Office of the High Commissioner for Human Rights (OHCHR). This office had a protection mandate, including to gather information from victims and witnesses and to follow up on individual complaints. UNOMIG also reported biannually to the Secretary General. Although a relative newcomer to the conflict, the European Union has also become a significant player as the largest donor funding rehabilitation and confidence-building projects. In response to the 2008 conflict, Brussels also deployed an unarmed civilian monitoring mission (EUMM) to Georgia, but its monitors are denied access to Abkhazia and South Ossetia. Although these institutions continue to send high-level visits to Abkhazia, and several UN agencies maintain a field presence in Abkhazia, including the office of the United Nations High

Commissioner for Refugees (UNHCR), currently there is no agency on the ground with a broad human rights monitoring and reporting mandate.

Abkhazia is now moving rapidly to institutionalize its sovereignty, but this cannot come at the cost of the rights of ethnic Georgians. After the forced withdrawal of the UN and OSCE from Abkhazia there are fewer possibilities for monitoring and protection, leaving ethnic Georgians in Gali more vulnerable than ever. The Abkhaz authorities need to act now to recognize and protect the rights of all people in Abkhazia, including ethnic Georgians in Gali district. Failure to do so will at best cause tens of thousands of people to live in a constant state of anxiety and limbo. At worst, it could force large numbers of Abkhazia's ethnic Georgians to leave their homes forever. Both of these injustices can and should be averted.

## Key Recommendations

### To the De Facto Authorities in Abkhazia

- Recognize, respect and fulfill the right of persons displaced from Abkhazia to return to their homes in Gali district and elsewhere in the territory under the Abkhaz authorities' effective control.
- Amend measures on citizenship and identity documentation and eliminate any provisions, such as those that automatically grant citizenship based only on ethnic identity or on residence in Abkhazia during the conflict period, which are discriminatory and incompatible with international human rights law.
- Allow all returnees to the Gali district to freely cross the Administrative Boundary Line in both directions.
- Recognize and respect the right of returnees to use their mother tongue, including in educational institutions.
- Allow independent and impartial monitoring and reporting on human rights situation in Gali district.

## Methodology

Human Rights Watch conducted research on ethnic Georgian returnees to the Gali district of Abkhazia from June 2009 through March 2011. Several Human Rights Watch researchers carried out in-depth interviews during three research missions to Gali and Zugdidi districts, respectively. Research missions in Abkhazia were conducted from September 28 to October 5, 2009; from March 10 to 15, 2010; and from October 11 to 15, 2010. Research in Zugdidi, a district in uncontested Georgia, adjacent to the administrative boundary line with Abkhazia, was carried out from June 18 to 20, 2009; July 10 to 15, 2009; and December 21 to 24, 2009. Researchers also conducted follow-up desk research through March 2011.

Human Rights Watch interviewed more than one hundred residents of the Gali district, including individuals who stayed more or less permanently in the district, individuals who regularly commuted across the administrative boundary, and those who could not return for security and other reasons. Researchers also interviewed civil society representatives in Abkhazia and in uncontested parts of Georgia, and school teachers, students, and medical personnel in Gali district. Human Rights Watch also interviewed representatives and officials of the Abkhaz government, including the prime minister, the minister of foreign affairs, the minister of education, the head of the Gali district administration and his deputy, passport desk officials, a district education department official, and several village administration heads. We also interviewed representatives of foreign governments and non-governmental organizations working in Abkhazia.

Interviews in the Gali district were conducted in Russian by researchers who are native speakers of Russian. Interviews in Zugdidi district were conducted in Georgian by a researcher who is a native speaker of Georgian. Interviews were conducted mostly with each interviewee individually and in private. Human Rights Watch identified interviewees through local civil society groups, as well as by randomly selecting households in Gali district. Human Rights Watch researchers also went to various crossing points at the administrative boundary and spoke to people who were planning or had already crossed it.

At no point in Abkhazia did our researchers encounter interference, direct or indirect, by the Abkhaz authorities.

In almost all instances the names of interviewees have been withheld at their request and out of concern for their security. Pseudonyms have been used instead to protect their

identities. To further protect the security of some of the interviewees, we do not identify the location of interviews. All interviews are on file with Human Rights Watch.

Georgian and Abkhaz speakers use different names for the same geographic locations in Abkhazia. This report follows the stylistic practice used by the UN: thus Gali rather than (Abkhaz) Gal, Sukhumi rather than Sukhum, Inguri for Ingur, and so on.

## I. Background

Abkhazia, a former Soviet Autonomous Republic in Georgia, is squeezed between the Black Sea and the Caucasus Mountains. It borders the Russian Federation to the north and the Georgian region of Samegrelo to the south east. Its capital is Sukhumi.

Abkhazia has an area of 8,700 square kilometers, an eighth of Georgia's territory, including nearly half of its coastline. The Inguri River serves as a natural border line between Abkhazia and uncontested Georgian territory and roughly follows the administrative boundary line between the two.

In March 2010, Abkhaz officials put the population of Abkhazia at 215, 557,<sup>1</sup> which is significantly lower than the pre-conflict population of about half a million. However current population data are, and have long been, highly controversial and politicized. The 1989 census was the last to be conducted during the Soviet era, and the last before the outbreak of the conflict. According to that census, the ethnic Abkhaz population of Abkhazia was 93,267, 17.8 percent of the total population of 525,061. The ethnic Georgian population was 239,872, 45.7 percent of the total. Armenians and Russians were the two other most numerous ethnic groups with 14.6 and 14.3 percent of the total, respectively.<sup>2</sup>

Gali is the southernmost district of Abkhazia. Slightly larger than 1,000 square kilometers, it was the largest district by area of pre-conflict Abkhazia.<sup>3</sup> It is a fertile region that was a key supplier of agricultural produce, mostly nuts and citrus, to the rest of Abkhazia. Prior to the 1992-1993 conflict 96 percent of Gali's 79,688 inhabitants were ethnic Georgian.<sup>4</sup>

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<sup>1</sup> Official communication by the Ministry of Foreign Affairs, March 2010. The population breaks down into: Abkhaz – 96,340 (44.7 percent); Russians – 23,521 (10.9 percent); Armenians – 44,839 (20.8 percent); Georgians – 40,225 (18.6 percent). Other nationalities include Ukrainians, Belarusians, Greeks, Ossetians, Tatars, Turks, and Roma.

<sup>2</sup> "National Composition of the Population of the USSR According to the Data of the All-Union Census of 1989", Moscow: Finance and Statistics, 1991.

<sup>3</sup> Following the conflict, in 1995 the Abkhaz authorities re-drew the borders of Gali district. The northern part was allocated to Ochamchire and Tkvarcheli districts. As a result of this, Gali is no longer the largest district. "Report of UNDP-Led Feasibility Mission to Gali District and Adjacent Areas of Abkhazia, Georgia," Bureau for Crisis Prevention and Recovery, United Nations Development Programme (UNDP), April 2004, p. 9.

<sup>4</sup> UNOMIG, "Report of the Joint Assessment Mission to the Gali District," November 20-24, 2000, p. 4, on file with Human Rights Watch.

# 1. Declaration of Independence, Conflict

## *1992-1993 Conflict*

As Georgia took steps to separate from the Soviet Union in the late 1980s, Abkhazia also sought greater autonomy from Georgia.<sup>5</sup> Tensions rose between Tbilisi and Sukhumi over the latter's bid for sovereignty and grew into open hostilities in August 1992. On August 14, 1992 Georgian armed forces entered Gali district officially to rescue thirteen hostages and secure Georgia's rail lines to Russia.<sup>6</sup> However, the Georgian troops advanced towards Sukhumi and attacked Abkhaz government buildings.<sup>7</sup> After several unsuccessful ceasefire agreements, in September 1993 Abkhaz forces launched a surprise offensive and seized control of almost all of Abkhazia, with the exception of the upper Kodori gorge in the northeastern part of Abkhazia.<sup>8</sup>

As a result of the war, about 8,000 people, Georgian and Abkhaz, died, 18,000 were wounded, and Abkhaz troops gained control of most of Abkhazia.<sup>9</sup> More than 200,000 people, the majority of them ethnic Georgians, were displaced from their homes in Abkhazia. Some spontaneously returned to the Gali district.<sup>10</sup> But most remain displaced to this day. All parties to the conflict committed violations of international human rights and humanitarian law, including indiscriminate attacks and targeted terrorizing of the civilian population.<sup>11</sup>

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<sup>5</sup> On August 25, 1990 Abkhazia declared its sovereignty. Tbilisi annulled the declaration a few days later. Alexei Zverev, "Ethnic Conflicts in the Caucasus 1988-1994", in Bruno Coppieters (ed.), *Contested Borders in the Caucasus*, VUB Press, Brussels, 1996.

<sup>6</sup> The conflict erupted amidst the civil war in Georgia, when supporters of the ousted then-president of Georgia, Zviad Gamsakhurdia, kidnapped senior Georgian government officials, including the then- deputy prime minister, in summer 1992, and absconded with them to Abkhazia. For a description of the antecedents to the armed conflict in Abkhazia, see Human Rights Watch, "Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the conflict", Vol. 7, No. 7, March 1995.

<sup>7</sup> See *ibid.*

<sup>8</sup> The first ceasefire agreement was mediated by Russia on September 3, 1992; further agreements were signed on May 14, 1993 and July 27, 1993.

<sup>9</sup> International Crisis Group, "Abkhazia Today," Europe Report No. 176, September 15, 2006, p. 1.

<sup>10</sup> As will be discussed below, the Gali district is the only area of Abkhazia where returns have taken place. The Georgian and Abkhaz sides dispute the numbers of returnees and the very definition of "return." See more below in Section I.4.

<sup>11</sup> For detailed analysis of international human rights and humanitarian law violations during the conflict see, Human Rights Watch, "Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the conflict", Vol. 7, No. 7, March 1995.



### *Ceasefire, Conflict Resolution Mechanisms, and 2008 War*

A ceasefire was formally declared in May 1994, when the parties to the conflict signed the Agreement on a Cease-fire and Separation of Forces (also known as the Moscow Agreement). Negotiated under the auspices of the Geneva Peace Process, this agreement led to the deployment of a Commonwealth of Independent States (CIS) peacekeeping force, composed entirely of Russian troops, to monitor the ceasefire. The sides also agreed to task the UN Observer Mission to Georgia (UNOMIG) to monitor the conduct of the CIS peacekeeping force.<sup>12</sup>

After the signing of the Moscow Agreement, negotiations between Sukhumi and Tbilisi continued under the Geneva Peace Process. Parallel to this UN process, Russia also pursued independent negotiations with Sukhumi and Tbilisi.<sup>13</sup>

In the following years, negotiations produced no tangible results on the key issues of Abkhazia's status and returns of displaced persons. In May 1998 Georgian armed paramilitary groups launched a series of attacks in the Gali district against Abkhaz forces. In response, Abkhaz forces drove out not only the attackers, but also thousands of ethnic Georgians who had spontaneously come back to the Gali district following the 1993 conflict. Abkhaz forces looted and burned homes and infrastructure.<sup>14</sup> Many of those who fled in 1998 eventually went back to Gali.<sup>15</sup>

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<sup>12</sup> "Agreement on a Ceasefire and Separation of Forces" (Moscow Agreement), signed in Moscow, 14 May 1994. The Geneva Peace Process occurred under the auspices of the United Nations, and was facilitated by the Russian Federation. It also included observers from the Organization for Security and Cooperation in Europe and the Group of Friends of the UN Secretary General. The Group of Friends was created in 1993 and included representatives of the US, Germany, France, UK and Russia. The Moscow Agreement created a 12-kilometer-wide Security Zone on either side of the administrative border separating Abkhazia from the rest of Georgia, in which all but personal weapons were prohibited; and a Restricted Weapons Zone, where no heavy weapons were permitted. UNOMIG's mandate was initially established in August 1993 by Security Council Resolution 858 (1993), and it was extended in July 1994 (Resolution 937 (1994)).

<sup>13</sup> In March 2003 then-Georgian and Russian Presidents – Shevardnadze and Putin – reached an agreement in Sochi, establishing three working groups: on the return of displaced, on restoration of the railway, and renovation of the Inguri power plant. "Final Statement on Meeting of the President of the Russian Federation Mr. V. Putin and the President of Georgia Mr. E. Shevardnadze," March 7, 2003.

<sup>14</sup> "Report of the Joint Assessment Mission to the Gali District," November 20-24, 2000, pp. 5, 13, on file with Human Rights Watch.

<sup>15</sup> This will be discussed more below in section I.4..

The second major clash occurred in August 2008, during the war between Russia and Georgia over South Ossetia, another breakaway region of Georgia.<sup>16</sup> On August 10, 2008 Abkhaz military forces launched an operation to overtake the upper Kodori gorge, the only part of the pre-1992 Abkhazia not under the control of the Abkhaz authorities.<sup>17</sup> They gained full control of the area within two days. Over 2,000 ethnic Georgians residing in the gorge were forced to leave their homes and remain displaced to this day.<sup>18</sup>

With the August 2008 conflict all existing negotiations and conflict resolution mechanisms collapsed. Furthermore, following its recognition of Abkhazia (see below), Russia vetoed an extension of mandate of the Organization for Security and Co-operation (OSCE) mission in Georgia when it expired in December 2008. Moscow argued that the OSCE should have separate missions in South Ossetia and Georgia.<sup>19</sup> Using a similar argument, in June 2009 Russia vetoed the extension of the mandate of the United Nations Mission in Georgia (UNOMIG), bringing an end to the UN's 16-year long peacekeeping and broad monitoring role in Abkhazia.<sup>20</sup>

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<sup>16</sup> The armed conflict in South Ossetia had been in the making since spring 2008. The fighting started on August 7 with Georgia's military assault on Tskhinvali, South Ossetia's capital, and led to Russia's military response the following day. The war lasted until a ceasefire on August 15, with Georgian forces in retreat and Russian forces occupying South Ossetia and, temporarily, undisputed parts of Georgia. The week of open conflict, and the many subsequent weeks of rampant violence and insecurity in the affected districts, took a terrible toll on civilians, killing hundreds, displacing tens of thousands, and causing extensive damage to civilian property. For detailed analysis of international human rights and humanitarian law violations, see Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia," January 27, 2009.

<sup>17</sup> Ilya Kachayev, "Abkhaz Separatists Strike Disputed Georgia Gorge", *Reuters*, August 9, 2008, at <http://www.reuters.com/article/idUSL932653720080809> (accessed on February 9, 2010). Tbilisi accused Russian aircrafts attacking Georgian-controlled villages in the gorge. See Luke Harding, "Georgia under all-out attack in breakaway Abkhazia", *Guardian*, August 10, 2008, at <http://www.guardian.co.uk/world/2008/aug/10/georgia.russia3> (accessed on February 10, 2010)

<sup>18</sup> Koba Liklikadze, "Georgians Far From Kodori Return", *International War and Peace Reporting (IWPR)*, October 16, 2008, at <http://ocha-gwapps1.unog.ch/rw/rwb.nsf/db900sid/EDIS-7KGS44?OpenDocument>, (accessed on February 17, 2010). UNOMIG observers left the gorge for security reasons. See, UN Observers Leave Kodori Gorge", *Lenta.Ru*, August 10, 2008, [in Russian], <http://lenta.ru/news/2008/08/10/out/> (accessed on February 10, 2009).

<sup>19</sup> Russia insisted that the OSCE should reflect the new realities on the ground and approve a separate mandate for OSCE presence in South Ossetia, which would be independent of the Tbilisi office. "The OSCE to Dissolve Georgia Mission After Russia Blocks Extension," *RFE/RL*, December 22, 2008, [http://www.rferl.org/content/Russia\\_Forces\\_OSCE\\_To\\_Start\\_Georgia\\_Pullout\\_January\\_1/1362355.html](http://www.rferl.org/content/Russia_Forces_OSCE_To_Start_Georgia_Pullout_January_1/1362355.html) (accessed February 10, 2011).

<sup>20</sup> "Russia Vetoes Extension of UN Mission in Georgia", UN News Center, June 15, 2009, at <http://www.un.org/apps/news/story.asp?NewsID=31151&Cr=georgia&Cr1> (accessed on February 18, 2010).

## *New Geneva Talks*

The August 2008 ceasefire which ended the war in South Ossetia also covered Abkhazia.<sup>21</sup> The six-point plan envisaged international discussions on “the modalities of security and stability” in Abkhazia and South Ossetia.<sup>22</sup> The first round of discussions took place on October 15, 2008 in Geneva and since then subsequent rounds have been held periodically. The Geneva talks involve delegations from Georgia, the United States, Russia, and the de facto authorities of Abkhazia and South Ossetia. They are held under the auspices of the United Nations, the European Union and the OSCE. The negotiations consist of two working groups that meet in parallel in Geneva. One group covers security and stability in the region; the other covers humanitarian issues and primarily deals with the problem of displaced persons and refugees.<sup>23</sup>

The Geneva discussions often appear stalled. However, following the end of the UN’s mandate in Abkhazia in 2009, they are the only international forum in which all parties currently engage.<sup>24</sup> During a February 2009 meeting the parties reached an important agreement to set up joint incident prevention and response mechanisms (IPRM), which aims to “ensure a timely and adequate response to the security situation, including incidents and their investigation, security of vital installations and infrastructure, responding to criminal activities, ensuring effective delivery of humanitarian aid, and any other issues which could affect stability and security, with a particular focus on incident prevention and response.”<sup>25</sup> IPRM is the only on-the-ground process that brings all the sides together to exchange information on local incidents, criminal cases, and human rights violations. It meets in Gali on a regular basis.<sup>26</sup>

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<sup>21</sup> A preliminary ceasefire agreement was reached on August 12. It was signed on August 15 by Tbilisi and August 16 by Moscow.

<sup>22</sup> Point 6 of the Agreement. Other points included: the non-use of force, the definitive cessation of hostilities, free access for humanitarian aid, the withdrawal of the Georgian military force to their usual bases, and the withdrawal of Russian military forces to the lines they held before hostilities broke out. Embassy of France, “Georgia : the 6 points plan,” August 14, 2008, at <http://www.info-france-usa.org/spip.php?article1101> (accessed on February 10, 2010).

<sup>23</sup> Human Rights Watch interview with a UN official, September 15, 2009. The 16th Geneva discussions were held on June 7, 2011. See, “Sixteenth Round of Geneva Talks”, *Civil Georgia*, June 8, 2011, at <http://www.civil.ge/eng/article.php?id=23590> (accessed on June 25, 2011).

<sup>24</sup> The key issue is a status at the negotiations of the de facto Abkhaz and South Ossetian authorities. The discussions are currently held in the working group formats where participants take part in their individual capacities. Moscow is in favor of giving equal status to Sukhumi and Tskhinvali, while Tbilisi downplays their role.

<sup>25</sup> Press Communiqué of The Co-Chairs of Geneva Discussions, February 18, 2009.

<sup>26</sup> IPRM in respect of South Ossetia was suspended for over a year. South Ossetia refused to participate until it received information on missing or detained South Ossetian residents. “No Progress Reported in Geneva Talks,” *Civil Georgia*, January 28, 2010. South Ossetia renewed its participation after the Council of Europe’s

## 2. Returns of Displaced Persons

As noted above, almost all of Abkhazia's pre-conflict ethnic Georgian population was forced to leave in 1993. The Abkhaz authorities have allowed some to return to the Gali district, but not to other parts of Abkhazia.<sup>27</sup> The Abkhaz and Georgian sides dispute the numbers of returnees and the very definition of the word "returnee." The Georgian authorities consider almost all ethnic Georgians in the Gali district as internally displaced even if they currently live in Gali because their return was not organized in dignity and safety, whereas the Abkhaz side regards as returnees everyone who went back to the Gali district.<sup>28</sup>

According to the UN High Commissioner for Refugees (UNHCR), citing the Georgian Ministry for Refugees and Accommodation, by the end of 2009 there were officially 212,113 ethnic Georgian displaced persons from Abkhazia.<sup>29</sup> But this figure includes those who spontaneously returned to the Gali district.<sup>30</sup> Abkhaz officials say the number of displaced is around 150,000.<sup>31</sup>

The right of return has been a key element of all efforts to end the Georgian-Abkhaz conflict. Since July 1993, the UN Security Council has passed 32 resolutions reiterating the right of all displaced people to return to Abkhazia. The UN Security Council has urged the parties

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Human Rights Commissioner published a report on missing persons during and after the August 2008 armed conflict. See the report at:

<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1675137&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679> (accessed February 18, 2011).

<sup>27</sup> Some analysts suggested that the Abkhaz authorities' policy on return to Gali was pragmatic and based on agricultural needs; people were needed to plant and then harvest the crops there. "Profile Of Internal Displacement: Georgia", Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council (as of March 18, 2004), p. 107, [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/A63957CA14AC89DC802570B500471F62/\\$file/Georgia+March+2004.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/A63957CA14AC89DC802570B500471F62/$file/Georgia+March+2004.pdf) (accessed June 6, 2011).

<sup>28</sup> Reports by the Representative of the UN Secretary-General on the human rights of internally displaced persons do not contest this assertion. See, UN Economic and Social Council, "Special Groups and Individuals: Mass Exoduses and Displaced Persons - Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin- Addendum, Mission to Georgia, December 21-24, 2005," E/CN.4/2006/71/Add.7, March 24, 2006; UN Human Rights Council, "Report of the Representative of the Secretary-General on the Human Rights of Displaced Persons, Walter Kälin – Follow-up Mission to Georgia," A/HRC/16/43/Add.3, December 23, 2010.

<sup>29</sup> UNHCR Georgia Briefing Note, October 2009, at <http://www.unhcr.org/4b274bc76.html> (accessed on February 22, 2010).

<sup>30</sup> UNHCR classifies them as "people in an IDP-like situation" and estimates the return to Abkhazia at 50,000. Ibid.

<sup>31</sup> The discrepancy is largely due to the number of returnees to Gali district.

to “commit to fulfill, within a reliable timeframe, the conditions necessary for the safe, dignified and swift return of refugees and internally displaced persons.”<sup>32</sup> On May 15, 2008 the UN General Assembly adopted a non-binding resolution recognizing the right of all displaced persons to return to Abkhazia, and their property rights and calling for the “rapid development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes.”<sup>33</sup>

In April 1994 the parties signed an agreement establishing a quadripartite commission to implement the return of displaced people, assess damage to property, and start repatriation of the displaced to Gali district.<sup>34</sup> The agreement underlined the right of all refugees and displaced persons to return to their places of previous permanent residence.<sup>35</sup> It barred individuals from returning “where there is serious evidence that they have committed war crimes and crimes against humanity as defined in international instruments and international practice as well as serious non-political crimes committed in the context of the conflict.”<sup>36</sup> The agreement also excluded any persons, “who have previously taken part in the hostilities and are currently serving in armed formations preparing to fight in Abkhazia.”<sup>37</sup>

The process of organized return under the auspices of UNHCR lasted less than a year and assisted in the resettlement of only 311 persons to Gali district.<sup>38</sup> However, the

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<sup>32</sup> The first UN Security Council Resolution was adopted on July 9, 1993. The call was reiterated most recently in Resolution 1808 (2008). It further underlined the right to property, requiring that “individual property rights had not been affected by the fact that owners had to flee during the conflict.” See, UN Security Council Resolution 1808 (2008).

<sup>33</sup> UN General Assembly, “Status of internally displaced persons and refugees from Abkhazia, Georgia,” Resolution 62/249 (2008), A/RES/62/249 (2008), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No7/478/71/PDF/No747871.pdf?OpenElement>, (accessed July 7, 2011).

<sup>34</sup> “Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons,” April 4, 1994, signed by Georgian, Abkhaz sides, as well as Russia and the UNHCR. The agreement was set in motion by a memorandum of understanding, signed by both sides on November 30, 1993, obligating both sides to create conditions for the voluntary, safe and quick return of refugees to their homes in all districts of Abkhazia. Returned refugees’ apartments, houses, land, and property will be returned to them.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Repatriation came to a halt in December 1994. See, Comments by UNHCR on the Statement by the UN, OSCE, and Russia on “The Question of Refugees and Displaced Persons”, Georgia/Abkhazia Proximity Talks, November 14-18, 1994. The UN Security Council blamed the Abkhaz authorities for the “continued obstruction

spontaneous return of Gali residents continued until May 1998 when, as noted above, renewed violence forced between 30,000 and 40,000 people to flee a second time, destroying infrastructure and about 1,500 homes, including many of those recently rehabilitated with donor assistance.<sup>39</sup>

In early 1999 the Abkhaz authorities launched a unilateral initiative to implement returns to Gali district.<sup>40</sup> Many families soon went back, initially commuting daily across the ceasefire line and migrating seasonally to tend their fields and look after the remains of their houses.

In September 2010 the Special Representative of the UN Secretary-General on the human rights of internally displaced persons, Walter Kälin, visited Georgia and its breakaway regions, including the Gali district. He released his report to the UN Human Rights Council in December. While he noted an improvement in security for returnees to Abkhazia, he remarked that their “return prospects remain disappointingly low.” He attributed this to “the absence of political solutions to conflicts.”<sup>41</sup>

### 3. Current Landscape

#### *Abkhazia’s Relations with Russia*

Russia strongly supported Abkhazia during the secessionist war with Georgia. Moscow and Sukhumi continue to enjoy close ties. As Georgian-Russian relations deteriorated in the years leading up to the 2008 August war over South Ossetia, Moscow increased its support to Abkhazia. The support further intensified after Kosovo’s declaration of independence in February 2008.<sup>42</sup> The ties became even closer after the August 2008 war in South Ossetia and Russia’s formal recognition of Georgia’s breakaway regions.

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of such return”, Resolution 993 (1995) and 1036 (1996). The Abkhaz refused to cooperate further in the issue without progress on political issues. “Report of the Secretary General,” March 6, 1995.

<sup>39</sup> “Report of the Joint Assessment Mission to the Gali District,” November 20-24, 2000, pp. 5, 13.

<sup>40</sup> Then de facto Abkhaz President Vladislav Ardzinba also announced creation of a presidential commission to address the refugee return and the administration of Gali district. Letter from the President of the Republic of Abkhazia Ardzinba, to the UN Secretary-General, December 15, 1998; Human Rights Watch interview with Sergey Shamba, then the Abkhaz Minister of Foreign Affairs September 29, 2009.

<sup>41</sup> UN Human Rights Council, “Report of the Representative of the Secretary-General on the Human Rights of Displaced Persons, Walter Kälin – Follow-up Mission to Georgia,” A/HRC/16/43/Add.3, December 23, 2010. , <http://www2.ohchr.org/english/issues/idp/index> (accessed February 28, 2011), p. 12.

<sup>42</sup> In March 2008 Russia lifted economic sanctions against Abkhazia, which had been in place since 1996 CIS pact; in April Russia’s Prime Minister Putin issued instructions to his government to strengthen official links with de facto authorities in Sukhumi and Tskhinvali; and Moscow made several statements that it would

On August 25, 2008 both chambers of the Russian Federal Assembly unanimously adopted resolutions supporting the independence of Abkhazia and South Ossetia and recommended that the executive branch recognize both entities.<sup>43</sup> The following day Russian President Dmitry Medvedev signed a Decree on Recognition of the Independence of Abkhazia and South Ossetia.<sup>44</sup> Tbilisi condemned the move as an annexation of its territories and, in response, broke diplomatic ties with Russia.<sup>45</sup>

On September 17, 2008 Russia and Abkhazia concluded an Agreement on Friendship, Cooperation, and Mutual Assistance.<sup>46</sup>

Russia moved to establish closer ties with Abkhazia, appointed an ambassador in October 2008, and opened an embassy in Sukhumi in May 2009.<sup>47</sup> In April 2009 Moscow signed a five-year agreement with Abkhazia to take formal control of its frontiers with uncontested Georgian territory.<sup>48</sup> As noted above, Russia vetoed the extension of the mandates of the OSCE and UN missions in Georgia in December 2008 and June 2009 respectively.

Russian-Abkhaz military relations were further strengthened on February 17, 2010 when the two sides signed an agreement allowing Moscow to establish a military base in Abkhazia

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protect the interests of its citizens living in Abkhazia and South Ossetia. See, “Georgia and Russia: Clashing over Abkhazia,” Crisis Group Europe Report No. 193, June 5, 2008.

<sup>43</sup> “Russian MPs Back Georgia’s Rebels”, BBC News, August 25, 2008, at <http://news.bbc.co.uk/2/hi/europe/7580386.stm> (accessed on February 18, 2010).

<sup>44</sup> ‘President of Russia Decree No. 1260 “Recognizing the Independence of the Republic of Abkhazia” on August 26, 2008,’ published in *Rossiskaya Gazeta*, August 29, 2008, <http://www.rg.ru/2008/08/29/abhaziya-dok.html>, (accessed July 7, 2011).

<sup>45</sup> “Georgia Breaks Ties with Russia”, BBC News, August 29, 2008, at <http://news.bbc.co.uk/2/hi/europe/7588428.stm> (accessed on February 18, 2010).

<sup>46</sup> Ministry of Foreign Affairs of Abkhazia, List of Bilateral Agreements between Abkhazia and the Russian Federation, <http://www.mfaabkhazia.net/en/node/294>, (accessed on July 6, 2011).

<sup>47</sup> President of Russia Decree No. 1527, October 25, 2008, at <http://document.kremlin.ru/doc.asp?ID=048516> (accessed on February 18, 2010); “Russian Established Permanent Embassy in Abkhazia”, *Interfax*, May 1, 2009, at <http://www.interfax.ru/society/news.asp?id=77530&sw=%EF%EE%F1%EE%EB%FC%F1%F2%E2&bd=2&bm=4&by=2009&ed=2&em=5&ey=2009&secid=0&mp=0&p=1> (accessed on February 18, 2010).

<sup>48</sup> “NATO condemns the signing of the agreement between Russia, Abkhazia, and South Ossetia (in Russian), *Rossiskaya Gazeta*, May 1, 2009, <http://www.rg.ru/2009/05/01/abhaziya-osetiya-anons.html>, (accessed July 7, 2011).  
Regions and territories: Abkhazia”, *BBC News*, December 15, 2009, at <http://news.bbc.co.uk/2/hi/europe/3261059.stm> (accessed on February 17, 2010).

for 49 years.<sup>49</sup> Moscow also has plans to house a naval base in the port of Ochamchire, close to the ceasefire line, and open air traffic communication between Russia and the breakaway region.<sup>50</sup> An agreement between Russia and Abkhazia regarding the latter was signed on February 17, 2010.<sup>51</sup>

The majority of Abkhazia's population holds Russian passports.<sup>52</sup> In 2000 the Russian government began proactively to offer residents of South Ossetia and Abkhazia Russian citizenship and to facilitate their acquisition of Russian passports for foreign travel. Some estimates suggest that by 2006 more than 80 percent of Abkhazia's population had received Russian passports.<sup>53</sup> While Russia imposed a visa regime on Georgian nationals in 2000, Abkhaz holders of Russian passports have been able to cross freely into Russia and benefit in some cases from Russian pensions and other social benefits.<sup>54</sup> The Russian ruble is Abkhazia's official currency.

### *Abkhazia's Political and Economic Landscape*

Abkhazia is led by a president elected for a five-year term and has a parliament consisting of 35 members who are each elected from a single electoral district. The last presidential election in Abkhazia was held on December 12, 2009. The incumbent President, Sergei

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<sup>49</sup> The Agreement allows Russia to update the infrastructure of an existing military base in port town of Gudauta, just north of capital Sukhumi, to host at least 3,000 troops. "Russian Gains Military Base in Abkhazia", *RFE/RL*, February 17, 2010, at [http://www.rferl.org/content/Russia\\_Gains\\_Military\\_Base\\_In\\_Abkhazia/1960545.html](http://www.rferl.org/content/Russia_Gains_Military_Base_In_Abkhazia/1960545.html) (accessed on February 18, 2010). This was a follow up agreement on "military cooperation treaty", which was signed in September 2009. Russia signs military cooperation deals with Abkhazia, S. Ossetia", *RIA Novosti*, September 15, 2009, at [http://en.rian.ru/military\\_news/20090915/156135405.html](http://en.rian.ru/military_news/20090915/156135405.html) (accessed on February 5, 2010).

<sup>50</sup> "Russia and Abkhazia sign agreement on military base," (in Russian) *Kommersant*, February 17, 2010 (accessed July 5, 2011), <http://www.kommersant.ru/doc/1324099>; "Georgia condemns direct Moscow-Sukhumi flights, vows response," *Ria Novosti*, May 31, 2010, <http://en.rian.ru/exsoviet/20100531/159236821.html>, (accessed July 5, 2011).

<sup>51</sup> Ministry of Foreign Affairs of Abkhazia. List of bilateral agreements between Abkhazia and the Russian Federation, <http://www.mfaabkhazia.net/en/node/294>, (accessed July 6, 2011).

<sup>52</sup> It was not until 2006 that the authorities started issuing Abkhaz passports or identity documents; the process intensified after the 2008 conflict. Prior to that, old Soviet passports were in circulation in Abkhazia.

<sup>53</sup> But Abkhaz do not serve in Russian army. Record of the Press Conference by Sergey Shamba in *Moskovkiy Komsomolets*, July 6, 2006.

<sup>54</sup> Possession of a Russian passport for foreign travel confers voting rights, but does not automatically confer such privileges as registering births and marriages, the right to residence, and other benefits, which require possession of an internal passport.



Bagapsh, was re-elected with 61 percent of vote.<sup>55</sup> The most recent parliamentary elections were held in March 2007.<sup>56</sup> Although much of Abkhazia's pre-war ethnic Georgian population, most of whom live in uncontested areas of Georgia, was disenfranchised from those elections, returnees to Gali played a decisive role in Bagapsh's first election.<sup>57</sup> Neither Tbilisi nor the international community recognized the elections in Abkhazia, citing, amongst other things, a lack of participation by displaced ethnic Georgians.<sup>58</sup> Bagapsh passed away on May 29, 2011, and early presidential elections are scheduled for August 26.<sup>59</sup>

Abkhazia is largely rural. Many residents cultivate tea, tobacco, citrus, and hazelnuts for commercial trade. Many are also engaged in subsistence farming. The economy is largely dependent on Russian assistance.<sup>60</sup> In March 2010 Moscow and Sukhumi agreed on a complex plan for the socio-economic development of Abkhazia, with Russia committing to provide 10.9 billion rubles (about US\$ 375 million) of support to Abkhazia in 2010-2012.<sup>61</sup>

Local authorities hope to develop the tourism industry taking advantage of Abkhazia's popularity as a tourist destination in Soviet times. Abkhaz officials believe the 2014 Sochi

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<sup>55</sup> "CEC – Sergei Bagapsh wins 61.16% in December 12 Presidential Elections," *ApsniPress* (Abkhazia's State Information Agency), December 14, 2009.

<sup>56</sup> "Parliamentary Elections were held in Abkhazia on March 4", *ApsniPress*, March 5, 2007.

<sup>57</sup> In 2004, approximately 14,000 Georgian returnees to the Gali district were allowed to vote. Sabine Fischer, "Abkhazia and the Georgian-Abkhaz Conflict: Autumn 2009," ISS Analysis, December 2009, [http://www.iss.europa.eu/uploads/media/Abkhazia\\_and\\_the\\_Georgian-Abkhaz\\_conflict.pdf](http://www.iss.europa.eu/uploads/media/Abkhazia_and_the_Georgian-Abkhaz_conflict.pdf) (accessed May 2, 2011). Bagapsh, whose wife is an ethnic Georgian, and was the only presidential candidate who visited Gali district as part of his pre-election campaign, received majority of the votes in the province. "Georgian Population of Gali Holds the Key to Abkhazia Presidential Elections," *Civil Georgia*, October 6, 2004, at <http://www.civil.ge/eng/article.php?id=8000> (accessed February 17, 2011).

<sup>58</sup> "Government of Georgia Statement On Illegitimate 'Presidential Elections' in Abkhazia", December 13, 2009; Declaration by the Presidency on behalf of the European Union on 'Presidential Elections' in Abkhazia, Georgia, 12 December 2009", Council of the European Union, Brussels, December 15, 2009; "US recognizes neither the legality nor the results," Ian Kelly, Department Spokesperson, Washington, DC, December 14, 2009.

<sup>59</sup> "Abkhaz President Sergei Bagapsh Dies in Moscow after Surgery," *RIANOVOSTI*, May 29, 2011, at <http://en.rian.ru/world/20110529/164296498.html> (accessed June 25, 2011); "Key Deadlines Set for Abkhaz Elections," *Civil Georgia*, June 11, 2011, at <http://www.civil.ge/eng/article.php?id=23607> (accessed June 25, 2011).

<sup>60</sup> In 2009, 60 percent of the state budget (1.9 billion rubles, \$65.5 million) in Abkhazia was direct support from Moscow. International Crisis Group, "Abkhazia: Deepening Dependence", Europe Report No. 202, February 26, 2010, p. 5.

<sup>61</sup> Under this plan, one billion roubles are envisaged for the rehabilitation of the agricultural sector. The authorities plan to rehabilitate 150 km of roads. Sabine Fischer, "How to Engage with Abkhazia?", ISS Analysis, November 2010, [http://www.iss.europa.eu/uploads/media/How\\_to\\_engage\\_with\\_Abkhazia.pdf](http://www.iss.europa.eu/uploads/media/How_to_engage_with_Abkhazia.pdf) (accessed March 25, 2011).

Winter Olympics will benefit the regional economy.<sup>62</sup> Sukhumi expects to supply raw material for construction and to provide some infrastructure for the event, including the possible re-opening of the Sukhumi and Gudauta airports and the rehabilitation of the Sochi-Sukhumi railway.<sup>63</sup>

Abkhazia maintains its own army.<sup>64</sup> Military service is obligatory and the authorities draft conscripts twice a year. Tbilisi often accuses Sukhumi of forcibly recruiting returnees from the Gali district,<sup>65</sup> a claim which the Abkhaz authorities deny.

Young men from Gali district told Human Rights Watch that they either leave the district during the drafting season or pay a bribe of roughly 15,000 rubles (about US\$ 500) each season.<sup>66</sup> The prospect of conscription into Abkhaz forces is one factor that affects ethnic Georgians' decisions about whether to return permanently to Gali or remain displaced elsewhere in Georgia. The mother of a 21-year old young man, Maia M., told Human Rights Watch that the fear of conscription prevents her son from travelling to Gali. She also shared stories of other draftees in the village:

My son can't come here as we are afraid he might be drafted to the military. In order to avoid getting drafted we pay \$300 per season [\$600 a year] to an acquaintance in the enlistment office. We also give some wine and nuts... There were five young men drafted in our neighborhood. One of them served the full term without any problems, but his mother is ethnic Abkhaz. The other four had problems. They could not take it long and fled to Georgia.<sup>67</sup>

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<sup>62</sup> The Sochi airport is a 15-minute drive from Abkhazia. Regular railway traffic was opened on June 3-, 2011. "Regular railway traffic opened between Russia and Abkhazia, (In Russian), *Apsnypress*, June 30, 2011. "<http://apsnypress.info/news/3563.html> (accessed July 7, 2011).

<sup>63</sup> "Abkhazia Wants Role in Preparation of Sochi Olympics," *Civil Georgia*, August 4, 2007; "Abkhazia Prepares for Olympics with a Little Help from Its Friends," *EurasiaNet*, July 28, 2008; "Georgia's Rebel Abkhazia Looks to Cash in on Sochi Olympics," *Agence France-Press*, October 4, 2007.

<sup>64</sup> The standing army is estimated to be 3,000 strong. Anna Matveeva and Duncan Hiscock (eds.), *The Caucasus Armed and Divided*, Saferworld, April 2003, p. 106.

<sup>65</sup> Zaal Anjaparidze, "Abkhaz Military Accused of Forcibly Drafting Ethnic Georgians," *Eurasia Daily Monitor*, Vol.2, issue 208, November 8, 2005, [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=31068](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=31068) (accessed April 15, 2011).

<sup>66</sup> Human Rights Watch interview with Giga G., 19-year-old resident of Gali district, Zugdidi, June 19, 2009; and Human Rights Watch interview with Maia M., Chuburkhinji, October 2, 2009.

<sup>67</sup> Human Rights Watch interview with Maia M., Chuburkhinji, October 2, 2009.

#### 4. Background on the Gali District

Gali is the southernmost district of Abkhazia. Slightly more than 1,000 square kilometers, it was, as noted above, the largest district by area of pre-conflict Abkhazia. It is a fertile region that was a key supplier of agricultural produce, mostly nuts and citrus, to the rest of Abkhazia.

Prior to the 1992-1993 conflict 96 percent of the province's roughly 80,000 inhabitants were ethnic Georgian. Currently there are 24 village administrations in Gali district, consisting of approximately 30 villages. The district's administrative center is the town of Gali, which had a pre-conflict population of almost 16,000.<sup>68</sup> The area south of the town of Gali is known as lower Gali, and areas east and north of the town are known as upper Gali.<sup>69</sup> The terms "lower Gali" and "upper Gali" are nominal, but often used by the local residents.

During the 1992-1993 conflict there was little or no fighting in Gali, but at the end of September 1993 most residents were forced to flee as Abkhaz forces pushed south to the Inguri River after taking Sukhumi. Abkhaz forces nevertheless torched and looted many houses. During renewed violence in Gali in 1998, Abkhaz forces destroyed and deliberately burned hundreds of houses and school buildings. According to the UN Needs Assessment report:

In contrast to the Sukhumi area, and many parts of the Ochamchira district, structures in Gali district were not damaged by bullets, fires or mortar rounds during the war... [A]fter the flight of most of the local population, some buildings were damaged by fire, and many more by looting... [T]he most serious physical damage was done during 1998 events, and in the aftermath, when hundreds and hundreds of homes and school buildings were deliberately burned...followed by another wave of comprehensive looting.<sup>70</sup>

Extensive looting, lack of proper maintenance, and failure to conduct significant rehabilitation and reconstruction work has left Gali district's physical infrastructure and public utilities in a dilapidated state.<sup>71</sup> In addition, homeowners have been largely unable to afford to rebuild or repair their damaged properties. Thus the living conditions of

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<sup>68</sup> "Report of the Joint Assessment Mission to the Gali District," op. cit., p.4.

<sup>69</sup> After the 1992-1993 conflict some parts of Gali district were adjoined to the Ochamchire and Tkvarcheli districts of Abkhazia. See footnote 3.

<sup>70</sup> Report of the Joint [UN/OSCE] Assessment Mission to the Gali District, November 20-24, 2000, p.13.

<sup>71</sup> Human Rights Watch observations in Gali town and surrounding villages, November 2009.

returnees remain poor with poor housing, limited economic opportunities, and a general lack of public services.

### *Current Population Data for the Gali District*

As noted above, there are no reliable statistics on the current population of Gali district. Population data for Gali and the status of this population are highly disputed and politicized by the parties to the conflict. According to the president's special representative for the Gali district administration, as many as 47,000 displaced people have returned permanently to the Gali district since 1999 and an additional 5,000 people commute back and forth, although they have registered with Abkhaz authorities as returnees.<sup>72</sup> This figure is much higher than the number the Abkhaz Foreign Ministry provided to Human Rights Watch. According to the Foreign Ministry, as of January 1, 2009 the population of Gali district was 29,177.<sup>73</sup> The discrepancy could be caused by the district's changed administrative boundaries. Preliminary census results conducted in Abkhazia in February 2011 put Gali district's population at 30,437 people.<sup>74</sup>

A Georgian government official told Human Rights Watch that about 45,000 displaced persons have spontaneously returned to the Gali district since 1999, with additional seasonal migration of 3,000 to 5,000 people.<sup>75</sup>

The situation is further complicated by the lack of a reliable system to register returnees to the Gali district, regardless of their formal status. There were several stalled attempts by UNHCR, with the support of both Tbilisi and Sukhumi, to count the returnees to the Gali district. In June 2005 both sides endorsed UNHCR's 2-year-plan to verify the number of returnees and even supported the questionnaire to be used for this exercise.<sup>76</sup> However, the plan never went ahead after Tbilisi made several requests for a postponement.<sup>77</sup> Such an exercise could have

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<sup>72</sup> Human Rights Watch interview with Ruslan Kishmaria, the Abkhaz President's special representative for Gali district, Sukhumi, March 12, 2010.

<sup>73</sup> Written data provided to Human Rights Watch by the Ministry of Foreign Affairs, Sukhumi, March 12, 2010.

<sup>74</sup> "Abkhazia Releases Preliminary Census Results", *Civil Georgia*, March 29, 2011, <http://www.civil.ge/eng/article.php?id=23287> (accessed June 23, 2011).

<sup>75</sup> Human Rights Watch interview with Tornike Kilanava, a representative of the Abkhaz government-in-exile, June 19, 2009.

<sup>76</sup> Sochi Working Group on Return of Refugees and IDPs, June 15-16, 2005.

<sup>77</sup> International Crisis Group, "Abkhazia Ways Forward", Europe Report No. 179, January 18, 2007, p. 20.

ended the dispute over the number of returnees and enabled the donor community to better assess the humanitarian and other needs of returnees on the ground.

Until August 2008 3,000 to 5,000 ethnic Georgian displaced people crossed the administrative boundary daily between the Gali district and uncontested Georgian territory for a variety of economic, family, and security reasons explained below.<sup>78</sup> After the August 2008 war between Russia and Georgia, the Abkhaz authorities imposed new restrictions on crossing the administrative border. For more than a year the Abkhaz authorities closed the border and allowed people to cross only for humanitarian reasons. In 2010 the authorities eased these restrictions. Under current Abkhaz regulations it is possible to cross legally but only through the main Inguri Bridge and only with a special permit which any resident of the Gali district can obtain from the district administration on payment of a small fee of 100 rubles. Abkhaz officials told Human Rights Watch that they want the Georgian returnees to decide where they want to live: “We plan to finish the border consolidation by 2011. Then the people will understand that there’s no return back to Georgia. They will have to decide where they prefer to settle.”<sup>79</sup>

### *Local Administration*

Gali’s administration is headed by Beslan Arshba, who was appointed by President Bagapsh in 2007.<sup>80</sup> The de facto president also maintains a special representative in the district, Ruslan Kishmaria, a former military commander. The district administration has one representative in each of the district’s 30 villages. Their duties include collecting taxes on land, nuts, and other crops, ensuring various utility payments, and overseeing school administrations.<sup>81</sup>

All key posts in the Gali administration are held by ethnic Abkhaz brought in from other districts of Abkhazia, though their support staffs are often ethnic Georgians. While a large majority of the local population in Gali district consists of ethnic Georgians, they are only

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<sup>78</sup> Ibid.

<sup>79</sup> Human Rights Watch interview with Sergey Shamba, then Minister of Foreign Affairs, Sukhumi, September 29, 2009.

<sup>80</sup> “New Head of the Gali District Administration Appointed,” *Regnum News Agency*, May 23, 2007, <http://regnum.ru/news/abxazia/832231.html> (accessed April 15, 2011).

<sup>81</sup> Human Rights Watch interviews with Ketino K, Zugdidi, July 7, 2009; Human Rights Watch interview with Inga I., Zugdidi, July 13, 2009; Human Rights Watch interview with Murman M., June 18, 2009; Human Rights Watch interview with Anna A., June 19, 2009.

marginally represented beyond the village levels in the administration, law enforcement, and the judiciary.<sup>82</sup>

The official languages of Gali district administration, including its courts, are Russian and Abkhazian. This puts the Georgian-speaking majority of the population of Gali at a disadvantage when communicating with the administration.

### *Security and Law Enforcement*

Personal security and protection from crime are a constant worry for many ethnic Georgians in Gali district and an important factor when they decide whether to return to the homes or leave them for good for uncontested areas of Georgia.

Ethnic Georgians from Gali conveyed to Human Rights Watch a sense of vulnerability to theft, kidnapping for ransom, armed robbery, extortion, looting, especially during harvest season, and other crime. Because the Gali district is predominantly populated by ethnic Georgians, they are collectively vulnerable to such crimes.<sup>83</sup>

In the absence of a comprehensive peace agreement, the Abkhaz authorities have effective control of the territory of Abkhazia and they therefore bear the primary responsibility for ensuring the safety and security of the local residents, as well as for the protection of their rights.

Human Rights Watch was not in a position to comprehensively examine whether the Abkhaz authorities are failing to fulfill this duty with regard to Gali district. In 2005, a leading UN official noted, however, that guaranteeing returnees' security and upholding law and order in Gali district has proven difficult. This is largely due to the weak development of the rule of law and administration of justice and deep, mutual mistrust between the Georgian population and Abkhaz security forces.<sup>84</sup>

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<sup>82</sup> According to the UNHCR, "Returned IDPs are under-represented at all levels including at the local level." See, UNHCR input to the preparation of Universal Periodic Review for Georgia, at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/UNHCR\\_UNHighCommissionerforRefugees-eng.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/UNHCR_UNHighCommissionerforRefugees-eng.pdf) (accessed February 18, 2011).

<sup>83</sup> Human Rights Watch interviews with Rusudan R., Chuburkhinji, October 2, 2009; Human Rights Watch interview with Liana L., Zugdidi, July 13, 2009; Human Rights Watch interview with Nodar N., Zugdidi, July 15, 2009.

<sup>84</sup> UN Economic and Social Council, "Special Groups and Individuals: Mass Exoduses and Displaced Persons - Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin- Addendum, Mission to Georgia, December 21-24, 2005," E/CN.4/2006/71/Add.7, March 24, 2006.

It is not known whether crime rates in Gali are higher than in other parts of Abkhazia, but several UN reports highlight that violent crime in Gali, including armed robbery, kidnapping for ransom, and theft, and the prevailing culture of impunity “generat[e] a feeling of insecurity among the local population.”<sup>85</sup> Although by 2010 the security situation in Gali district was believed to have improved, returnees are still exposed to risks of violence, and they do not trust the local authorities to effectively investigate such incidents.<sup>86</sup>

An arson attack against six houses inhabited by ethnic Georgian returnees in 2010 in lower Gali illustrates the vulnerability of local residents. The attacks took place on June 6, 2010, several days after the killing of a village official and an Abkhaz customs officer.<sup>87</sup> That day about 100 people, allegedly the relatives of the killed officials, drove from Sukhumi and Gudauta, and burned six houses in the village of Dikhazurga. Human Rights Watch interviewed inhabitants of three of the burnt houses as well as several witnesses to the incident. They said that although security officials witnessed the incident, they did not do anything to prevent it.<sup>88</sup> When Human Rights Watch visited in October 2010, the families were still left destitute as a result of the fire.

In a radio interview, Beslan Arshba, the head of the Gali district administration confirmed that five houses were indeed burned in Dikhazurga. He denied that it was a result of a punitive operation, but acknowledged that the authorities failed to take the situation under control and prevent the arsons. He explained:

There was no punitive operation there. Houses were burned in one village – Dikhazurga. Unidentified people set five houses on fire. We did not manage to control it. There were many people who were angry and we

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<sup>85</sup> For example, the January 13, 2006 report of the UN Secretary General on the situation in Abkhazia states: “the military situation in the Gali district remained generally stable but affected by violent incidents, including seventeen shootings, eight killings, six abductions and 27 armed robberies [in the past six months].” Report of the Secretary-General on the Situation in Abkhazia, Georgia, Security Council, S/2006/19, January 13, 2006, para. 15.

<sup>86</sup> UN Human Rights Council, “Report of the Representative of the Secretary-General on the Human Rights of Displaced Persons, Walter Kälin – Follow-up Mission to Georgia,” A/HRC/16/43/Add.3, December 23, 2010, para. 22.

<sup>87</sup> On June 1, 2010, on a road near the village of Dikhazurga, Abkhaz customs official Genadi Kvitsinia was shot dead in a car. Two other customs officials were wounded. On June 3, the head of the Repi village administration Dmitri Katsia was shot dead as he was heading to Gali town. See, “A Customs Official Dies in a Shooting in Gali District,” *Caucasus Knot*, June 1, 2010, at <http://www.kavkaz-uzel.ru/articles/169563>; and “Dmitri Katsia, Head of a Village Administration was Killed in Gali District,” *Caucasus Knot*, June 4, 2010, at <http://www.kavkaz-uzel.ru/articles/169730> (accessed February 21, 2011).

<sup>88</sup> Human Rights Watch interview with Mamuka M., Dikhazurga, October 13, 2010.

could not have watched everyone... we gave humanitarian assistance to people [who suffered].<sup>89</sup>

Many ethnic Georgians said they do not venture out after dark.<sup>90</sup> Many villages do not have a police force, and in remote rural areas, particularly in lower Gali, the closest police agents can be over a dozen kilometers away. Many crimes are never reported because even when police are accessible, Gali residents are reluctant to turn to them due to a lack of trust. Several residents interviewed by Human Rights Watch said that they fear reporting crimes because at best the perpetrators are detained, but released soon, allegedly after paying bribes, leaving victims vulnerable to retribution.<sup>91</sup>

Human Rights Watch learned of, and also interviewed, ethnic Georgians who chose to leave Gali district for good to live in uncontested parts of Georgia after they became victims of crime, rather than try to seek justice for the crime.<sup>92</sup>

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<sup>89</sup> "What is Happening in Gali District?" [In Russian], *Ekho Kavkaza*, June 7, 2010, <http://www.ekhokavkaza.com/content/article/2064521.html> (accessed April 15, 2011).

<sup>90</sup> Human Rights Watch interview with Nodar N., Zugdidi, July 15, 2009.

<sup>91</sup> Human Rights Watch interview with Ketino K, Salome S., and Elmira E., Zugdidi, July 11, 2009; Human Rights Watch interview with Liana L., Zugdidi, July 13, 2009.

<sup>92</sup> Human Rights Watch interview with Nona N., Nabakevi, March 13, 2010.



## II. Legal Framework

Since Russia's recognition of Abkhazia in August 2008, Nicaragua, Venezuela, and the Micronesian island of Nauru have followed suit.<sup>93</sup> As a matter of international law Abkhazia is not recognized as a state. Human Rights Watch takes no position on the independence of Abkhazia or the territorial integrity of Georgia. Nevertheless, as the de facto authority exercising power and control over Abkhazia, the Abkhaz administration bears responsibility for ensuring respect for the applicable human rights guarantees enjoyed by the residents in Abkhazia. As the obligations of Georgia under international human rights treaties continue to apply to Abkhazia, the de facto authorities therefore have the obligation to respect and protect those guarantees.

The key document outlining the rights of internally displaced persons is the United Nations Guiding Principles on Internal Displacement (the Guiding Principles), which reflect existing international human rights and humanitarian law and restate and clarify the rights of displaced persons.<sup>94</sup> The Guiding Principles, though not binding per se, are based on existing international customary, humanitarian and human rights laws and therefore have universal applicability.<sup>95</sup> Georgia has modeled its domestic legislation relating to displaced persons, at least in part, on the Guiding Principles.<sup>96</sup>

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<sup>93</sup> "Chavez Recognises Georgia Rebels," BBC News, September 10, 2009, at <http://news.bbc.co.uk/2/hi/europe/8248102.stm> (accessed on February 18, 2010); Nauru reportedly recognized the independence of Abkhazia and South Ossetia in return for \$50 million in humanitarian aid from Russia. Luke Harding, "Tiny Nauru Struts World Stage by Recognizing Breakaway Republics," [guardian.co.uk](http://www.guardian.co.uk), December 14, 2009, at <http://www.guardian.co.uk/world/2009/dec/14/nauro-recognises-abkhazia-south-ossetia> (accessed on February 17, 2010). In June 2011 there were controversial reports about the Pacific island nation of Vanuatu also recognizing Abkhazia's independence. See, "Vanuatu, Abkhazia Play Out Odd Couple Farce", AFP, June 21, 2011.

<sup>94</sup> See UN Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts.res. 1998/50, "Scope and Purpose." The rights covered under the Guiding Principles include the rights to freedom of movement and to choose their place of residence (principle 14), as well as the responsibility of competent authorities to establish the conditions and provide the means for internally displaced persons to return voluntarily to their homes or places of habitual residence or to resettle voluntarily in another part of the country (principle 28).

<sup>95</sup> "Handbook for Applying the Guiding Principles on Internal Displacement", The Brookings Institution, Project on Internal Displacement, 1999, at [http://www.reliefweb.int/ocha\\_ol/pub/IDPprinciples.PDF](http://www.reliefweb.int/ocha_ol/pub/IDPprinciples.PDF) (accessed on February 22, 2010).

<sup>96</sup> The Law of Georgia on Forcibly Displaced-Persecuted Persons. See Giorgi Chkeidze and Konstantin Korkelia, "Report on the Guiding Principles on Internal Displacement and the Law of Georgia," in *The*

The right of people displaced by war to return to their homes, i.e. the “right of voluntary repatriation” is guaranteed under several international instruments.<sup>97</sup> As the UN Special Representative notes in his 2005 report, the de facto authorities of Abkhazia are responsible for providing not only for the physical security of returnees, but also for protecting civil and political, economic, social and cultural rights of those who choose to go back to their places of permanent residence.<sup>98</sup>

Displaced persons are entitled to the same rights as the population at large.<sup>99</sup> They may additionally have special needs by virtue of their displacement, and competent authorities have a duty to provide for such needs. Returnees to Gali district are Georgian citizens and entitled to enjoy the protection of all guarantees of international humanitarian and human rights law instruments to which Georgia is a party, or that are applicable on the basis of customary international law. These include the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

The primary duty and responsibility to provide for those rights and liberties lie with the national authorities.<sup>100</sup> However, the Guiding Principles also apply to non-state actors who have effective control over a territory to such an extent that the rights of displaced persons and returnees are affected.<sup>101</sup> The Guiding Principles state that such de facto authorities are obliged to respect the rights of displaced persons concerned, and that the observance of these principles does not prejudice the legal status of the authorities.<sup>102</sup>

In the Georgian context this means that the de facto administration in Abkhazia is responsible for respecting the rights of those people who return in the areas under its

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*Guiding Principles on Internal Displacement and the Law of the South Caucasus*, eds. Roberta Cohen, Walter Kälin, and Erin Mooney, Washington, D.C.: American Society of International Law, 2003.

<sup>97</sup> The Universal Declaration of Human Rights, Article 13 (2), International Covenant on Civil and Political Rights, Article 12 (4), International Covenant on the Elimination of All Forms of Racial Discrimination, Article 5 (d) (ii).

<sup>98</sup> Report of the Representative of the Secretary-General, 2005, para 5.

<sup>99</sup> UN Economic and Social Council, “Special Groups and Individuals: Mass Exoduses and Displaced Persons - Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin- Addendum, Mission to Georgia, December 21-24, 2005,” E/CN.4/2006/71/Add.7, March 24, 2006, para.4.

<sup>100</sup> Guiding Principle 3.

<sup>101</sup> Report of the Representative of the Secretary-General, 2005, para 4.

<sup>102</sup> Guiding Principle 2.

effective control. Walter Kälin notes that such protection “must not be limited to securing the survival and physical security of IDPs but also relates to all relevant guarantees, including civil and political as well as economic, social and cultural rights attributed to them [IDPs] by international human rights and humanitarian law.”<sup>103</sup>

For the purpose of responsibility and accountability, international law characterizes the acts of de facto authorities as acts of the state. International law on state responsibility adopted by the International Law Commission in 2001 and approved by the UN General Assembly in 2001 states:

The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority.<sup>104</sup>

Therefore, the Abkhaz authorities have an obligation to respect human rights whether or not they are the primary “duty holders.” This point is also emphasized by the Organization for Security and Co-operation in Europe (OSCE) High Commissioner on National Minorities, Knut Vollebaek:

I reiterate that international norms and standards require that any authority exercising jurisdiction over population and territory, even if not recognized by the international community, must respect the human rights of everyone, including those of persons belonging to ethnic communities.<sup>105</sup>

The positive obligation to protect human rights and provide for civil and political liberties is also stressed in the constitution of Abkhazia adopted in 1999. Article 11 of the Constitution reads:

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<sup>103</sup> Report of the Representative of the Secretary-General, 2005, para 5.

<sup>104</sup> Responsibility of States for Internationally Wrongful Acts, Resolution adopted by the General Assembly on December 12, 2011, Fifty-sixth Session, No. A/RES/56/83, January 28, 2002, Article 9.

<sup>105</sup> “OSCE High Commissioner on National Minorities Deeply concerned by Recent Developments in Abkhazia,” Press Release, The Hague, April 14, 2009, at [http://www.osce.org/hcnm/item\\_1\\_37226.html](http://www.osce.org/hcnm/item_1_37226.html) (accessed on February 23, 2010).

The Republic of Abkhazia shall recognize and guarantee rights and freedoms provided in the Universal Declaration of Human Rights, the International Covenants of economic, social, cultural, civil and political rights, or in the other universally recognized international legal acts.<sup>106</sup>

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<sup>106</sup> Article 11, Constitution of the Republic of Abkhazia, at <http://www.abkhaziagov.org/ru/state/sovereignty/index.php> (accessed on March 29, 2010.)

### III. Key Human Rights Issues

#### 1. Citizenship and Identity Documents

In 2005 the Abkhaz parliament enacted a “Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia,” which defines who is eligible for Abkhaz citizenship, the procedures to obtain it, and the grounds for refusal. Although laws adopted by the de facto authorities do not have any international legal consequences, as they were adopted by internationally unrecognized authorities, they nevertheless have direct impact on people residing in Abkhazia, including ethnic Georgians.

The Abkhaz administration considers an Abkhaz passport to be proof of Abkhaz citizenship. This document also serves as a gateway to a range of rights, including the right to work in the public sector, to participate in elections and hold public office, and to enjoy property rights. The Abkhaz passport is also necessary to receive a high school diploma and use the simplified procedure to apply for a travel permit to cross the administrative boundary line.

The citizenship measure adopted by the Abkhaz authorities presents two human rights concerns. First, the UN has found that it is discriminatory because it allows ethnic Abkhaz, regardless of their places of residence, to become citizens automatically but creates barriers to non-ethnic Abkhaz who wish to become citizens.<sup>107</sup> Discrimination on ethnic grounds is banned by key international treaties, including by the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights.<sup>108</sup>

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<sup>107</sup> Article 5 (a), the Law of the Republic of Abkhazia on the Citizenship of the Republic of Abkhazia”, adopted on November 8, 2005. Available at: <http://www.abkhaziagov.org/ru/state/citizenship/> (accessed March 2, 2011).

<sup>108</sup> Article 26 f the ICCPR reads: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Georgia on August 3, 1994; Article 14 of the ECHR, prohibits discrimination in the enjoyment of any rights and freedoms in the Convention and its Protocols (including right to education, property and freedom of movement) “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status,” European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively; Protocol 12 of the ECHR to which Georgia is also a party explicitly provides in Article 1 that “The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex,

The law also allows those who are not ethnic Abkhaz to receive Abkhaz citizenship automatically as long as they were resident in Abkhazia for at least five years at the time of Abkhazia's declaration of independence in 1999.<sup>109</sup> This second condition excludes almost all ethnic Georgians currently resident in Gali district because they were displaced by the fighting in 1992-1993.

Receiving Abkhaz citizenship and an Abkhaz passport is also possible through a naturalization process, but that requires ethnic Georgian returnees to 'renounce' their Georgian citizenship and go through onerous administrative procedures, which include collecting and filing a range of documents, some of which they do not always possess or which need to be translated into Abkhaz or Russian.<sup>110</sup> Moreover as Abkhaz 'citizenship' is not recognized under international law, the requirement to renounce Georgian citizenship could render those who have to apply for an Abkhaz passport, in legal limbo without an internationally recognized nationality.<sup>111</sup>

Despite the renunciation requirement and an onerous application process, many returnees to the Gali district apply for Abkhazian passports, because they need to have one in order to enjoy a range of rights and freedoms.

Although the Abkhaz authorities claim that they do not compel anyone to obtain an Abkhaz passport, they do nonetheless make possession of such a passport a prerequisite to enjoying civil and political, as well as social, cultural and economic rights. These include the right to work in the public sector, hold public office, vote in elections, own and transfer property, and use the simplified procedure to apply for a permit to cross the administrative

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race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status," Protocol No. 12 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, E.T.S. 177, entered into force April 2005. However Georgia has made a declaration, that it "declines its responsibility for the violations of the provisions of the Protocol on the territories of Abkhazia and Tskhinvali region until the full jurisdiction of Georgia is restored over these territories."

<sup>109</sup> Article 5 (b), "Law of the Republic of Abkhazia on the Citizenship of the Republic of Abkhazia".

<sup>110</sup> The 'renunciation' requirement is met by filling out a form for the Abkhaz authorities stating that Georgian citizenship has been renounced, but in practice ethnic Georgians will retain their Georgian passports and the Georgian authorities continue to recognize and treat all Abkhaz residents as Georgian citizens.

<sup>111</sup> Article 15, paragraph 2, of the Universal Declaration of Human Rights provides that "no one shall be arbitrarily deprived of his nationality ....," Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948).

boundary line. By putting in place a system that requires an individual to obtain such a document in order to enjoy certain rights, the authorities are arbitrarily interfering with those rights. If there is a requirement that any formal Abkhaz documents be obtained as a prerequisite to access or enjoy a range of civil and political rights, such documents should be issued to everyone without any discrimination, including on ethnic grounds. Furthermore, the requirement to renounce Georgian citizenship should be eliminated.

On July 31, 2009 the Abkhaz parliament adopted amendments easing the citizenship law's application to returnees to the Gali district. The amendments considered returnees to Gali as "citizens of Abkhazia" and simplified the process by which they could obtain Abkhaz passports.<sup>112</sup> However, under pressure from the Abkhaz political opposition, President Sergey Bagapsh vetoed the amendments and in August 2009 returned them to the parliament for further consideration.<sup>113</sup>

At that point the Abkhaz authorities suspended the simplified distribution of Abkhaz passports to residents of Gali district. Several estimates suggested that prior to the suspension about 3,500 passports had been issued to Gali residents.<sup>114</sup>

The process of issuing passports to Gali returnees was renewed slowly in late 2010. However, a large majority of Gali residents still do not have Abkhaz passports, although some applied as early as August 2009. Most have Georgian national identification cards or passports, which the Abkhaz authorities do not accept as identity documents. Many have Form 9 documents, an identity document issued by the Abkhaz authorities to returnees in the years prior to August 2008.<sup>115</sup> Prior to 2008, ethnic Georgians could use Form 9 to cross the administrative boundary line, to vote, obtain high school diplomas, and for other civic acts.<sup>116</sup>

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<sup>112</sup> "Abkhaz Parliament Adopted Amendments to the Law on Citizenship, Opposition Disagrees", *Caucasian Knot*, August 1, 2009, [in Russian], at <http://ingushetia.kavkaz-uzel.ru/articles/157361> (accessed March 17, 2010).

<sup>113</sup> "Parliament of Abkhazia Cancelled Amendments to the Law on Citizenship", *Caucasian Knot*, August 6, 2009, [in Russian], at <http://ingushetia.kavkaz-uzel.ru/articles/157569> (accessed March 17, 2010); and Human Rights Watch interview with Sergey Shamba, Prime Minister, Sukhumi, March 11, 2010.

<sup>114</sup> Human Rights Watch interview with Guram G., Gali, March 13, 2010. Human Rights Watch interview with a representative of a foreign organization working in Gali, March 15, 2010.

<sup>115</sup> Form 9 has the bearer's photograph and residency stamp, was issued for six months or one year, and could be prolonged for a small fee. Human Rights Watch interview with Marina M., Zugdidi, June 18, 2009; Human Rights Watch interview with Guram G., Gali, March 12, 2010.

<sup>116</sup> Form 9 was accepted as identification for voting in Abkhazia's 2004 presidential election. Human Rights Watch interview with Anna A., Zugdidi, June 16, 2009; Human Rights Watch interview with Elmira E, Zugdidi, July 11, 2009.

It is not clear whether Form 9 documents are still valid. In March 2010 Abkhaz authorities told Human Rights Watch that they continue to be issued and that they can be extended.<sup>117</sup> However several Gali residents told Human Rights Watch that they thought it was no longer issued and the old ones had expired.<sup>118</sup>

Some continue to use their expired Soviet passports, with Gali residency stamps in them, for administrative boundary line crossings.

### *Obtaining Abkhaz Passports*

Article 13 of the citizenship measure establishes the following conditions for “naturalization”: knowledge of the Abkhazian language, citizenship oath to the republic of Abkhazia, possessing knowledge of the main principles of Abkhazia’s constitution, maintaining permanent and continuous residence in Abkhazia for ten years, having a legal income and paying taxes, and renouncing previous citizenship.<sup>119</sup>

Procedures for obtaining Abkhaz passports for ethnic Georgian Gali residents are cumbersome and appear discriminatory. The list of necessary documents includes: Soviet passport or Form 9, birth certificate, marriage certificate, high school and university diplomas, information paper from the regional military commissariat, residence permit, labor record book, passport photos, house and land property registration book, registration certificate confirming the place of residence, certificate of address, passport fee payment confirmation, and an application form submitted in triplicate. All documents must be submitted in Russian or Abkhazian. Many Gali residents have to have their documents translated and notarized in the town of Gali, which adds expense and time to the application process.

One member of the Abkhaz parliament in favor of simplified procedures for issuing passports told Human Rights Watch:

This process has to be simplified at least for the elderly. Their documents have often been burned or lost after the fighting. And it’s not always

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<sup>117</sup> Human Rights Watch interview with Sergey Shamba, Prime Minister, Sukhumi, March 11, 2010.

<sup>118</sup> Human Rights Watch interview with Marina M., Zugdidi, June 18, 2009; Human Rights Watch interview with Guram G., Gali, March 12, 2010.

<sup>119</sup> Ibid., Article 13. It should be noted that the Abkhaz authorities do not enforce the knowledge of Abkhaz language requirement.



possible to restore them. In the Gali archives we have documents only from 1940 and onwards. If somebody is born prior to that, he or she will have to go to Sukhumi to restore it. How can one go to Sukhumi? On what money? This creates problems for elderly people who don't have all the necessary documents.<sup>120</sup>

Once the necessary documents are submitted to the passport desk in the Gali administration, they are forwarded to the national security service of Abkhazia for approval.<sup>121</sup> A Gali passport service official told Human Rights Watch that the security service vets applicants for suspicious activities or connections, especially during the 1992-1993 conflict.<sup>122</sup> Once these checks are completed, the authorities issue a document proving that the individual has filed an application for an Abkhaz passport.

Even when Gali residents voluntarily apply for citizenship and a passport, they often face difficulties gathering the necessary documentation. Tamar T., told Human Rights Watch:

Many have serious problems with Abkhaz passports. They can't get all the necessary documents. Several teachers have this problem at my school. We have to go through terrible bureaucracy to apply for an Abkhaz passport.<sup>123</sup>

Maia M., a resident of Chuburkhinji village, told Human Rights Watch that she had problems submitting an application for an Abkhaz passport for her daughter because she had not graduated from a high school in the Gali district. She had sent her daughter to school Zugdidi in 2004 after the schools in Chuburkhinji switched from Georgian to Russian-language instruction:

My daughter graduated from school in Zugdidi in 2009. She was coming home every weekend. And now for her to continue commuting back and forth I wanted to apply for an Abkhaz passport for her. However, in the

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<sup>120</sup> Human Rights Watch interview with Bezhan Uberia, member of the Abkhaz parliament from Gali district, October 3, 2010.

<sup>121</sup> Human Rights Watch interview with Gali passport service official, Gali, October 1, 2009.

<sup>122</sup> Ibid.

<sup>123</sup> Human Rights Watch interview with Tamar T., Gali, October 3, 2009.

administration I was told that she will have problems getting it, as she did not graduate from a school here. I don't know what to do."<sup>124</sup>

Documentation appears to be a problem if a returnee marries a person from the other side of the administrative boundary line. Another Chuburkhinji resident told Human Rights Watch, "My neighbor married a woman from Zugdidi. They are married for 10 years now, but she can't get any documents here. She can't even apply for Abkhaz passport."<sup>125</sup>

### *The Rule on Renunciation*

Article 6 of the citizenship law allows dual citizenship only to persons of Abkhaz ethnicity, while all others "have the right to obtain citizenship of the Russian Federation only" as their second citizenship.<sup>126</sup> This provision is clearly intended to deny ethnic Georgians in the Gali district the right to retain their Georgian citizenship when acquiring Abkhaz passports. While in practice, the authorities do not confiscate Georgian passports or identity documents, the requirement to renounce one's citizenship, even nominally, creates additional anxiety for the local population.<sup>127</sup> They fear unknown consequences should the Abkhaz authorities discover their Georgian identity papers.

Gali residents interviewed by Human Rights Watch said that while applying for Abkhaz passports they had to write on the application that they voluntarily renounce their Georgian citizenship in exchange for Abkhaz citizenship. Anna A., a 20-year-old resident of Gali town, filed her application for an Abkhaz passport in May 2009. She told Human Rights Watch:

I had to submit copies of my Form 9, high school diploma, residency document, and proof of payment, and some other docs... They also took my fingerprints and asked me to write on the application that I voluntarily refuse Georgian citizenship in exchange for Abkhaz.<sup>128</sup>

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<sup>124</sup> Human Rights Watch interview with Maia M., Chuburkhinji, October 2, 2009.

<sup>125</sup> Human Rights Watch interview with Rusudan R., Chuburkhinji, October 2, 2009.

<sup>126</sup> *Ibid.*, Article 6.

<sup>127</sup> As noted Georgian authorities do not treat any act of renunciation in connection with applying for an Abkhaz passport as effecting Georgian citizenship.

<sup>128</sup> Human Rights Watch interview with Abba A., Zugdidi, June 16, 2009.

Nineteen-year-old Giga G., a resident of lower Gali, told Human Rights Watch that he leaves his Georgian identity card in Zugdidi before he crosses the administrative border because he fears Abkhaz border officials will confiscate or tear it up if they find it.<sup>129</sup>

### *Citizenship and Other Rights*

Only citizens of Abkhazia are officially entitled to certain civil and political, as well as some social and economic rights. An Abkhaz passport is a required document for jobs in the public sector, including for teachers and medical personnel.

Ruslan Kishmaria, the president's special representative in Gali district, told Human Rights Watch:

People of course can continue to live here without passports. And can even work, for example, in their back yard. But why do I need him or her in a public [sector] job, when there are others with Abkhaz passports? If he refuses to take our passport, what kind of a friend and a brother-in-arms would he be? Let him live here, but for us he will be a social outcast.<sup>130</sup>

Sergey Shamba, prime minister of the de facto government, reiterated the point in an interview with Human Rights Watch. He said: “[Jobs in] educational institutions should go to citizens of our country.”<sup>131</sup> Shamba also stressed that no one had been fired from schools for not having an Abkhaz passport. However, several teachers told Human Rights Watch that the Gali district education department instructed them to apply for Abkhaz passports if they wanted to keep their jobs.<sup>132</sup>

Ketino K., a school teacher in the Gali district, told Human Rights Watch that the headmaster in her school was warned in early 2009 that teachers without Abkhaz passports will not be able to receive their salaries. “Although this has not been implemented so far, most of us were scared and applied for the Abkhaz passport,” she

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<sup>129</sup> Human Rights Watch interview with Giga G., Zugdidi, June 19, 2009.

<sup>130</sup> Human Rights Watch interview with Ruslan Kishmaria, the Abkhaz President's special representative in Gali district, Sukhumi, March 12, 2010.

<sup>131</sup> Human Rights Watch interview with Sergey Shamba, Prime Minister of Abkhazia, Sukhumi, March 11, 2010.

<sup>132</sup> Human Rights Watch interview with Natalia N., teacher in upper Gali district, Zugdidi, July 17, 2009; Human Rights Watch interview with Zhuzhuna Zh., principal of a school in upper Gali district, Zugdidi December 23, 2009; Human Rights Watch interview with Ketino K., teacher in a lower Gali district, Zugdidi, July 11, 2009.

said.<sup>133</sup> Tamar T., a 55-year-old teacher from Gali told a similar story. “If you want to work and live here you need to get the passport,” Tamar said. “The administration explained this clearly at a gathering in Gali [town].”<sup>134</sup>

In an interview with Human Rights Watch the deputy head of the education department in the Gali district, Jamalia Charkazia, denied that this was the case, but nonetheless justified such a policy, saying, “If you don’t want to be a citizen of this country, don’t want to participate in elections then maybe you should not be teaching in a state institution.”<sup>135</sup>

At least one school was instructed to provide a list of teachers who applied for Abkhaz passports and the reasons why anyone had not done so. A teacher in a lower Gali district school described what happened to Human Rights Watch:

The head of the district administration requested everyone to apply by September 20 [2009]. We need to collect a lot of documents to apply. Three times we hired a mini bus to go to Gali town to submit documents... Now following their instructions, we have prepared this list of staff who applied, and if someone had not applied, what were the reasons.<sup>136</sup>

A teacher in a lower Gali school who was instructed to apply for an Abkhaz passport if she wanted to keep her job told Human Rights Watch that she did not want to sign a document renouncing her Georgian citizenship, but when she refused an administration official signed on her behalf:

To get this [Abkhaz] passport . . . you need to write with your own hand: ‘I renounce Georgian citizenship,’ and sign it. I did not sign it. I thought it was unfair. But those at the passport desk signed it instead of me.<sup>137</sup>

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<sup>133</sup> Human Rights Watch interview with Ketino K., Zugdidi, July 11, 2009.

<sup>134</sup> Human Rights Watch interview with Tamar T., Gali, October 3, 2009. Another school principal in lower Gali district shared the similar experience with Human Rights Watch.

<sup>135</sup> Human Rights Watch interview with Jamalia Charkazia, Gali, March 12, 2010.

<sup>136</sup> Human Rights Watch interview with a teacher in lower Gali school, Gali district, October 2, 2009. Names of the person and school withheld for security considerations.

<sup>137</sup> Human Rights Watch interview with a teacher in lower Gali district, Gali district, October 2, 2009. Names of the teacher and the school withheld for security considerations.

The same teacher had problems because her university diploma was from another part of Georgia, not Abkhazia:

When I handed in documents for a new passport, I gave them my Georgian diploma. They told me that they did not need it and it was not right. Of course, I don't have a different one. How could I? So I gave the man 100 rubles (US\$ 3.5) and he accepted my application anyway.<sup>138</sup>

Another teacher from a lower Gali district school, Zinaida Z., refused to write and sign a renunciation statement, and as a result her documents were never accepted for the Abkhaz passport. Later she decided to leave Abkhazia altogether.<sup>139</sup>

A young man working for an international relief agency in Gali town told Human Rights Watch:

If you want to live and work there, you should get it [an Abkhaz passport]. You can't do anything without a passport. Everyone living there should have one. Without the Abkhaz passport you can't buy, sell or transfer your property.<sup>140</sup>

Amiran A., a resident of Zemo Bagrebi village in the Gali district, complained to Human Rights Watch that in order for him to keep his land, he had to register it, and to register, he had to obtain an Abkhaz passport, which required documents that he did not possess:

I have a plot of land here. In the Gali administration they say that I need to register the plot in my name in order to keep it, but in order to register it I have to have the Abkhaz passport. I would have applied for it, but I don't have the required documents; I don't even have Form 9. I don't know what to do.<sup>141</sup>

41-year-old Inga I. told a similar story. Her parents had a house in Gali town, but once they died she could not inherit the property or pass it on to her children without first obtaining an Abkhaz passport:

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<sup>138</sup> Ibid.

<sup>139</sup> Human Rights Watch interview with Zinaida Z., Zugdidi, December 21, 2009.

<sup>140</sup> Human Rights Watch interview (name withheld), Zugdidi, July 15, 2009.

<sup>141</sup> Human Rights Watch interview with Amiran A., Zemo Bagrebi village, October 3, 2009.

I met a notary public in Gali who told me that I can't do anything with my property unless I get an Abkhaz passport. I don't want it, because I will have to write in the application that I refuse my Georgian citizenship, which I don't want to do.<sup>142</sup>

A 40-year-old, resident of Gali town, Tsiala Ts., had a similar problem. She could not transfer property to her children after her parents died, without first getting the Abkhaz passport.<sup>143</sup>

## 2. Freedom of Movement

The freedom to cross the administrative boundary line, which roughly follows the Inguri River bed between the Gali district and uncontested areas of Georgia, is particularly important to returnees because their daily social, economic, and family life is, in many cases, on both sides of the boundary. Often these ties are in Zugdidi, a city just a few kilometers from the administrative boundary line. But since August 2008 the de facto Abkhaz authorities have restricted returnees' ability to commute across this line.

Frequent trips across the boundary are necessary for a number of reasons. First, returnees to Gali frequently cross to collect Georgian government allowances for displaced persons, which are paid only on the Georgian-controlled side of the Inguri River. Second, many displaced persons told Human Rights Watch that while the security situation in the Gali district improved somewhat in the past year or so, they do not feel safe living there permanently. Many therefore preferred to live permanently elsewhere in Georgia but to return to Gali temporarily to tend to their fields and take care of their property there.<sup>144</sup> Third, Gali residents maintain close family ties with relatives in Zugdidi and other parts of uncontested Georgian territory. Some families are divided across the administrative border, particularly those with school-age children and who fear enforced Russian-language education policies.<sup>145</sup> High-school graduates also often leave Gali district to continue their higher education in Georgian-controlled territory. As noted above, young men of conscription age also often stay away from Gali district during the conscription season in order to avoid being drafted by the Abkhaz authorities. Finally, because road conditions

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<sup>142</sup> Human Rights Watch interview with Inga I., Zugdidi, July 13, 2009.

<sup>143</sup> Human Rights Watch interview with Tsiala Ts., Zugdidi, July 13, 2009.

<sup>144</sup> Human Rights Watch interviews with Ema E., Zugdidi, July 14, 2009; Human Rights Watch interview with Sofiko S., Zugdidi, July 14, 2009; Human Rights Watch interview with Mimoza M., Zugdidi, July 14, 2009.

<sup>145</sup> See Chapter V.3.

that connect parts of lower Gali to the town of Gali are often poor, many residents of those areas prefer to go to Zugdidi than to Gali town if they need to make a trip to town.

The right to freedom of movement is enshrined in the ICCPR and the European Convention on Human Rights.<sup>146</sup> The UN Human Rights Committee, the treaty body that monitors states' compliance with the ICCPR, has said that freedom of movement is "an indispensable condition for the free development of a person."<sup>147</sup> While freedom of movement is not an absolute right and the de facto authorities can impose some limitations for security and other considerations, current restrictions appear arbitrary and constitute an onerous burden on individuals, unjustifiably interfering with their right to freedom of movement.

For more than a year following the August 2008 conflict, the administrative boundary was officially closed, and crossing was permitted only for humanitarian purposes.<sup>148</sup> Although the boundary is no longer closed, there is currently only one crossing—over the Inguri Bridge—and each time Gali residents wish to cross they must obtain a special permit in the town of Gali. This requirement is especially burdensome for residents of lower Gali, which is close to the administrative border. They have to make a circuitous, time-consuming trip to the town of Gali to get a permit. Those who can afford neither the time nor the expense of traveling to the town of Gali resort to crossing the border unofficially. Crossing without a permit or in locations other than the Inguri Bridge is considered illegal and punishable by incremental fines and even imprisonment.

Many residents interviewed by Human Rights Watch consider their ability to commute across the administrative border essential if they are to remain permanently in Gali. Several of those interviewed by Human Rights Watch expressed fear that after the Russian Border Guard Service takes full control over the administrative border they might be forced to decide definitively whether to stay in Abkhazia for good or to leave. Understandably, for the reasons already outlined, most prefer to maintain the option of travelling freely between their homes in Abkhazia and Georgian-controlled territory. Further restrictions on freedom of movement across the administrative boundary are likely to lead to a new wave

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<sup>146</sup> Article 12 of the ICCPR and Article 2 of Protocol 4 of the ECHR. Likewise, Article 13 of the Universal Declaration of Human Rights recognizes this right.

<sup>147</sup> UN Human Rights Committee, General Comment No. 27: Freedom of movement (Art.12), Sixty-seventh session, 1999), U.N. Doc. CCPR/C/21/Rev.1/Add.9 (1999), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 174 (2003).

<sup>148</sup> Human Rights Watch interview with Ruslan Kishmaria, President's special representative for Gali district, Sukhumi, March 12, 2010.

of displacement. As noted by Temur T., a resident of Tageloni village in lower Gali, “If people cannot go back and forth normally, then they won’t have any other options left but to go to the other side for good.”<sup>149</sup>

### *Pre-2008 Crossing and Post-2008 Consolidation of the Administrative Border*

Thousands of people used to commute across the ceasefire line, often daily, in order to collect social assistance provided by the Georgian government or to maintain ties with their families, or both. In interviews with Human Rights Watch many expressed anxiety about no longer being able to cross the line. For example, Maia M., a 40-year-old resident of Chuburkhinji village told Human Rights Watch that she commuted frequently over the Inguri River. “I have parents and a brother there [in Zugdidi],” she said. “They have not been here since 1993. They are afraid. If the border is closed how can I visit them? All of us have relatives there. How can we keep in touch?”<sup>150</sup>

Rusudan R., a 63-year-old resident of Chuburkhinji, who until 2008 also commuted frequently, told Human Rights Watch that she needs to commute for medical treatment and to buy medications. “We don’t have anything here – neither medications, nor doctors,” she said. “If we need anything, we go to Zugdidi. We can’t survive otherwise.”<sup>151</sup> Tamar T., a 55-year-old resident of Gali, faces similar problems. “I am a diabetic and depend on insulin,” she said. “I need to have four injections a day. I can buy insulin only in Zugdidi. Therefore, my ability to cross over the bridge is a life and death issue.”<sup>152</sup>

Until August 2008 there were four or five official crossing points over the Inguri River and about a dozen unofficial ones, particularly when the river’s water level was low. Rules for crossing the administrative border, though arbitrarily applied, were more relaxed. Returnees could use a variety of documents to cross the Inguri River, including Form 9, old Soviet passports with a Gali residency stamp, birth certificates with Gali as a place of birth, student identification cards, teacher certificates, and healthcare system employee IDs. Many of those interviewed told Human Rights Watch that crossing the administrative boundary was usually easy as long as they had one of those documents and paid a small “fee” as a bribe. However, they also complained that crossing the border depended on the

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<sup>149</sup> Human Rights Watch interview with Temur T., village of Tageloni, October 2, 2009.

<sup>150</sup> Human Rights Watch interview with Maia M., Chuburkhinji, October 2, 2009.

<sup>151</sup> Human Rights Watch interview with Rusudan R., Chuburkhinji, October 2, 2009.

<sup>152</sup> Human Rights Watch interview with Tamar T., Gali, October 3, 2009.



mood of Abkhaz border guards. In some cases border guards would refuse to let them cross without providing any explanation, even if all documents were in order.<sup>153</sup>

Following the August 2008 conflict the Abkhaz authorities imposed severe restrictions on all movement across the administrative boundary line, which was officially closed for over a year and a half.<sup>154</sup> Crossing was allowed from the Gali side only for those who had Abkhaz passports or Soviet passports with Gali residency stamps.<sup>155</sup> Those who did not hold these passports needed to obtain crossing permits, which the Gali administration would issue only on humanitarian or other exceptional grounds. Students who studied in Zugdidi and people requiring emergency medical intervention were among the categories of those to whom the authorities would issue permits.<sup>156</sup> Crossing was also allowed in special circumstances, such as weddings, funerals, and family reunions. Crossings were only allowed at the main Inguri Bridge crossing, which is near Chuburkhinji.

As the Russian military consolidated the administrative boundary line towards the end of 2010, the Abkhaz authorities relaxed the crossing procedures. The Inguri Bridge remains the only legal crossing point, but residents no longer need to present grounds justifying their need to cross. Whilst this has meant that the process of obtaining a permit is more straightforward, nonetheless it remains excessively burdensome. The very existence of the border controls at the administrative boundary line, and the fact that there is only one legal crossing point, impede the exercise of protected fundamental rights. Abkhaz officials have said that these are temporary measures put in place while Russian border guards take over the administrative border and that when this process is complete there will be five official crossing points.<sup>157</sup>

Crossing the administrative boundary without a special permit or anywhere other than at the Inguri Bridge is considered unauthorized border crossing and is punishable under

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<sup>153</sup> For example, Svetlana S., a returnee from the village of Otovaia, told Human Rights Watch that although she used her Soviet passport with a Gali residency stamp in it to cross the bridge, in mid-2009 she was denied entry when she tried to return to Gali and had to stay in Zugdidi for over a month. She was eventually allowed to re-enter Gali. Human Rights Watch interview with Svetlana S., Zugdidi, July 12, 2009.

<sup>154</sup> Human Rights Watch interview with Ruslan Kishmaria, the president's special representative for Gali district, Sukhumi, March 12, 2010.

<sup>155</sup> Human Rights Watch interview with Ruslan Kishmaria, March 12, 2010.

<sup>156</sup> Ibid.

<sup>157</sup> Human Rights Watch interview with Sergey Shamba, Sukhumi, March 11, 2010; and Human Rights Watch interview with Ruslan Kishmaria, Sukhumi, March 12, 2010.

Abkhaz law. Articles 190 and 190<sup>1</sup> of the Administrative Code of Abkhazia set out a fine of up to 10 minimal monthly wages for illegal border crossing.<sup>158</sup> Repeated offense of illegal border crossing can also lead to criminal prosecution with sanctions of fines from 30,000 to 60,000 rubles (approximately US\$ 1000 to US\$2000) or two years of imprisonment.<sup>159</sup>

### *Obtaining a Crossing Permit*

The Gali district administration requires one permit for each crossing of the administrative boundary line at the Inguri Bridge. In order to obtain a permit, residents need to present Form 9, an Abkhaz passport, or a statement attesting that they have filed documents for Abkhaz citizenship, and pay a 100 ruble (US\$ 3.5) fee. Permits are issued on the spot, without a waiting period. Permits are valid for one round-trip border crossing and must be used within one month of issue. The Abkhaz administration does not issue multiple-crossing permits so each crossing requires a new application and a new permit.

It is particularly burdensome for residents of lower Gali district, who live along the Inguri River, to apply for permits each time they need to cross the administrative boundary line. Until August 2008 they could easily cross over the river at a variety of locations by bus or even by foot. Now, however, they must make the trip to the town of Gali in order to obtain a special permit. This makes any trip across the border more expensive and time-consuming, especially given the poor state of rural roads. For example, the 28 kilometer drive from Pirveli Otobaia, a village about 1.5 kilometers from the administrative boundary line, to the town of Gali takes about two hours in good weather. When the road is muddy it can be nearly impassable.<sup>160</sup> Kote K., a resident of the lower Gali district village of Kvemo Bargebi, told Human Rights Watch his village is only a 15-minute drive to the administrative boundary line, but that the drive to the town of Gali for a permit takes an additional two hours and involves additional costs, which many cannot afford.<sup>161</sup>

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<sup>158</sup> Article 190 (Violation of Border Regime in the Border Zone), and Article 190 (Violation of State Border Regime of Republic of Abkhazia), Administrative Code of Abkhazia.<sup>159</sup> Article 324 (Illegal Border Crossing of the Republic Of Abkhazia), Criminal Code, adopted in April 2009, at <http://www.abkhaziagov.org/ru/state/org/law/detail.php?ID=25458> (accessed March 25, 2010).

<sup>159</sup> Article 324 (Illegal Border Crossing of the Republic Of Abkhazia), Criminal Code, adopted in April 2009, at <http://www.abkhaziagov.org/ru/state/org/law/detail.php?ID=25458> (accessed March 25, 2010).

<sup>160</sup> Human Rights Watch observations on the ground, October 2009.

<sup>161</sup> Human Rights Watch interview with Kote K., Zugdidi, December 22, 2009.

A similar frustration was shared by a 60-year-old resident of Nabakevi village, Mzevinar M.

She told Human Rights Watch:

I try to use bypass roads instead of going through the main bridge. If Russians catch you they take you to Gali [town], where Abkhaz take a lot of money from you. They call it a fine. The central bridge, where Abkhaz guards stand, is far from here. That's why I use the bypass roads, but every time I do so, I'm afraid of being caught.<sup>162</sup>

### *Impact of Crossing Restrictions*

Crossing restrictions can be particularly onerous for people who have medical needs and require frequent trips to the other side of the administrative boundary line. Medical facilities are more developed in Zugdidi than in the Gali district. Furthermore, it is much easier for a lower Gali resident to access Zugdidi than the town of Gali. Therefore, those who have returned to their homes in Gali often seek medical assistance on the other side of the administrative boundary line. Tamar T., who suffers from diabetes, told Human Rights Watch that it is difficult for her to get a permit every time she needs to go to Zugdidi to buy her medications. She tried, but failed, to convince the Abkhaz authorities to issue her a multiple-crossing permit. She has to sneak through unofficial crossing places or bribe her way through the Abkhaz security in order to cross without a permit.

One resident of a border village who urgently needed to cross the administrative boundary line to seek medical assistance for her sick child tried but failed to cross without a permit. She explained to Human Rights Watch that she did not have time to make a trip to Gali town to request such a permit and unsuccessfully tried to convince the border guards to let her and the child through:

My daughter had a fever. You know this was a period of swine flu scare. I got frightened and wanted to take her to Zugdidi. No matter how much I begged the Abkhaz guards at the main bridge, they would not let me through. They told me to take her to the Gali hospital instead. That's what I had to do in the end.<sup>163</sup>

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<sup>162</sup> Human Rights Watch interview with Mzevinar M., Nabakevi, October 3, 2009.

<sup>163</sup> Human Rights Watch interview with Nanuli N., Zugdidi, December 22, 2009.

The problem of obtaining a permit becomes particularly acute when someone needs emergency medical assistance. For example, the Nabakevi hospital in the Gali district is some hundred meters from the administrative border and only 15 kilometers from Zugdidi. Nabakevi hospital staff often direct people in need of emergency medical assistance to Zugdidi. However the new border crossing restrictions make it more difficult for medical personnel to do this. A doctor in a village close to the administrative boundary line told Human Rights Watch that she got in trouble after sending a wounded patient to Zugdidi:

I was summoned to the investigative department in Gali and the head of the department started screaming at me: ‘Who gave you the right to send the patients to Zugdidi? You do this all the time. Why do you do this? Why didn’t you bring him to Gali [town hospital]? We’ll fire you.’ I am a doctor, I had to help the patient and what do I get in return? I got screamed at.<sup>164</sup>

Gali residents who only have Georgian passports and no other identification documents cannot obtain crossing permits and therefore have to cross at their own risk using the bypass roads. If they get detained by Abkhaz authorities they face high fines of up to 60,000 rubles (approximately US\$ 2,000) or imprisonment for illegal crossing. Amiran A., a resident of Zemo Bargebi village, told Human Rights Watch: “I have my family on the other side, across the border, but face serious problems with crossing. I can only go through bypass roads, as I don’t have any documents. If they catch me, I have to pay money. But where can I get money from?”<sup>165</sup>

As noted above, under the Russian-Abkhaz agreement of April 2009, Russian border troops regularly patrol the administrative border.<sup>166</sup> According to General Yuri Zviryk, head of the Russian Federal Security Service’s border guard operation in Abkhazia, 433 people were detained for “border offenses” from May to December 2009.<sup>167</sup> If they detain Gali residents attempting to cross in either direction the administrative boundary line in violation of Abkhaz regulations, the Russian military hand them over to the Abkhaz authorities in Gali, who impose administrative fines for unauthorized crossing.

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<sup>164</sup> Human Rights Watch interview with a local doctor, border village, March 13, 2010.

<sup>165</sup> Human Rights Watch interview with Amiran A., Zemo Bagrebi, October 3, 2009.

<sup>166</sup> According to a Russian official, “the state border between Abkhazia and Georgia will be fully sealed off and equipped by 2011.” “Abkhaz border to be fully equipped by 2011 – Russian senior official”, *Interfax*, July 24, 2009.

<sup>167</sup> “433 People Have Been Detained for Violating the Borders of Abkhazia in 2009”, *Caucasus Knot*, February 4, 2010, [in Russian], at <http://www.kavkaz-uzel.ru/articles/165075> (accessed on February 17, 2010).

A Kvemo Bargebi resident, Kote K., told Human Rights watch about his experience of encountering Russian border troops while attempting to cross over the administrative boundary using a bypass road:

We were crossing using the bypass road. There were 10 of us in a mini bus, including two children with a high fever. It was about 8 a.m., and we got caught by the Russian border guards. They took us to Nabakevi headquarters and kept us there until 8 p.m. They gave only water during the entire day. They made us write explanatory notes and then took us to the Gali police. We told them that the kids were sick, but they did not release them. In Gali, Abkhaz officials asked for 5,000 rubles (approximately US\$ 172) from us, but of course we did not have such money. Then they took whatever we had, 100 or 200 rubles each and let us leave.<sup>168</sup>

Nina N. told similar story:

My neighbor was detained recently by the Russian patrol. He was taken to Gali and fined by 600 rubles (about US\$ 20). This is called a “fine.” If you ask for a receipt then you will have to pay 1,500 rubles or more. Therefore, you’d better pay the 600 rubles and not ask any questions.<sup>169</sup>

Crossing the administrative border has become a source of corruption. Officially crossing the administrative border is free of charge, aside from the 100 rubles (about US\$ 3.5) for the crossing permit.<sup>170</sup> However in practice anyone wanting to cross has to pay a bribe. Since August 2008 the cost of bribes has risen. A Gali town resident, Demetre D., told Human Rights Watch that the crossing was easier prior to the August 2008 war:

If you did not have the necessary documents then you had to pay some money. Now you need to pay everyone. The minimum bribe at the main bridge currently is 200 rubles (about US\$ 7). But if your documents have expired then the bribe can be up to 1,000 rubles (about US\$ 35) and over.<sup>171</sup>

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<sup>168</sup> Human Rights Watch interview with Kote K., Zugdidi, December 22, 2009.

<sup>169</sup> Human Rights Watch interview with Nina N., Tageloni, October 2, 2009.

<sup>170</sup> Human Rights Watch interview with Sergey Shamba, Sukhumi, March 11, 2010; Human Rights Watch interview with Ruslan Kishmaria, Sukhumi, March 12, 2010.

<sup>171</sup> Human Rights Watch interview with Demetre D., Gali, October 2, 2009.

The Abkhaz authorities acknowledge that this is a problem, but claim that Gali residents offer bribes in exchange for letting them through unofficial crossing points, or when they get detained while attempting an unauthorized crossing to avoid higher official fines.<sup>172</sup> Abkhaz border guards do sometimes solicit bribes from Gali residents to sneak them through Russian patrols at unofficial border crossings. In one such case, when Russian border troops stopped a party of Abkhaz border guards and Gali residents, the Abkhaz had to claim they had detained the people for unauthorized border crossing. The Russian border troops allowed the Abkhaz to take the Gali residents to Gali town, where they were fined.<sup>173</sup>

Although Russian border troops patrol most of the administrative boundary, local residents claim that Abkhaz security forces are particularly active in soliciting bribes during market days in the town of Gali, when local residents try to move goods bought or sold at the market across the administrative boundary.<sup>174</sup> Grisha G., a resident of Gali town explained:

Russian border guards have removed the Abkhaz road blocks, but on market days they [the Abkhaz security forces] come in cars, stand near the border, where they know people cross, detain them, and ask for money. This is how they earn money. No one will dare say no to them because they are armed.<sup>175</sup>

### 3. Right to Education

Access to Georgian-language education was a primary concern to most of those interviewed by Human Rights Watch in Gali district and largely influences their decision about whether to stay in Gali or leave. Prior to the 1992-1993 war, Georgian was the language of instruction in almost all of Gali district's 58 schools.<sup>176</sup> Nineteen schools were burned down during the fighting in early 1990s; educational instruction resumed in 31 of the district's remaining schools.<sup>177</sup> Since 1995, the de facto Abkhaz authorities have pursued a unified curriculum

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<sup>172</sup> Human Rights Watch interview with Ruslan Kishmaria, Sukhumi, March 12, 2010.

<sup>173</sup> Human Rights Watch interview with Levan L, Zugdidi, December 22, 2009.

<sup>174</sup> Market days are Wednesdays, Fridays and Sundays.

<sup>175</sup> Human Rights Watch interview with Grisha G., Gali, March 13, 2010.

<sup>176</sup> Human Rights Watch interview with Dali Khomeriki, minister of education-in-exile, Tbilisi, March 16, 2010. Two schools in Gali district, school No.2 in Gali town and a school in the village Primorsk, used Russian as the language of instruction prior to the conflict. See "Report of the Joint Assessment Mission to the Gali District", November 20-24, 2000, para. 104.

<sup>177</sup> Eleven schools are located in lower Gali district zone, 10 schools in upper Gali and another 10 schools ended up in Ochamchire district after the authorities altered districts administrative boundaries. Human Rights Watch email communication with Dali Khomeriki, minister of education-in-exile, May 2, 2011.

with Russian as the main language of instruction. In upper Gali, Russian gradually replaced Georgian as the main language of instruction. Eleven schools in lower Gali continue to teach in Georgian, but their future status as Georgian-language schools remains uncertain.

As a result of the change in language policy some children have been forced to change schools and even leave the district altogether in order to enroll in schools in uncontested areas of Georgia. Several schools in upper Gali continue unofficially to teach in Georgian, except when they are inspected by the authorities. They keep two registries, one in Russian and the other in Georgian. However teachers and principals risk disciplinary action, including dismissal, for doing this. Teachers and returnees alike are concerned that as the authorities devote more resources to implement the language policy and as Russian military and border troops settle with their families in local villages, the language of instruction is likely to switch to Russian in the remaining schools as well.

If Georgian language schools disappear altogether, native Georgian speakers will not have the same access to an education in their mother tongue as Abkhaz and Russian residents of Abkhazia. A local activist explained to Human Rights Watch:

The Georgian language is being squeezed out. There are no programs designed for its development. The families of course want their kids to learn their native language. Those who can afford private tutors [hire them], but many send their kids to the other side of the Inguri River to get their education.<sup>178</sup>

The right to education is enshrined in a range of international conventions.<sup>179</sup> Article 6 of the Abkhaz Constitution guarantees every ethnic group in Abkhazia the right to freely use their mother tongue. But in practice, access to Georgian-language education for ethnic Georgians living in the Gali district is restricted.

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<sup>178</sup> Human Rights Watch interview with Demetre D., Gali, October 2, 2009.

<sup>179</sup> Article 26 of the Universal Declaration of Human Rights states that “Everyone has the right to education.” The right is recognized in a range of binding Conventions, including, International Covenant on Economic, Social and Cultural Rights (ICESCR), The Convention on the Elimination Of All Forms of Discrimination Against Women (CEDAW), and The Convention On the Rights of the Child (CRC). Article 29(1) of the CRC makes explicit link between the right to education and child’s cultural identity: “States Parties agree that the education of the child shall be directed to: ... The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.” The right to education is also protected under Article 2, of Protocol 1 to the European Convention on Human Rights.

Changing the language of instruction is a regressive step that amounts to arbitrary interference with the right to education guaranteed under international law. The Abkhaz authorities should accommodate the right to education in the mother tongue of ethnic Georgians. Furthermore, ethnic Georgians should not be disadvantaged by choosing to get their education in their mother tongue.

### *Upper Gali*

In 1995 the Ministry of Education of the de facto government of Abkhazia approved a new curriculum for all of Abkhazia that resulted in the gradual phasing out of education in the Georgian language in Gali district, to be replaced with the Russian language.<sup>180</sup> The new policy was implemented first in upper Gali. In practical terms it meant that those students who entered the first grade in 1995 were taught primarily in Russian. The following year both the first and second grades were taught in Russian. And so on until all grades were instructed in Russian.

For most residents of the Gali district, Russian is a foreign language, and many people, particularly those of younger generations, speak it poorly. According to teachers and students interviewed by Human Rights Watch, the all-Russian curriculum is an obstacle to learning for non-Russian speakers. The deputy head of the district's education department acknowledged the problem: "Children probably know more English than Russian in the lower Gali district. They literally can't say two words properly. They hear Russian only in the Russian-language schools, but not in the streets or at home."<sup>181</sup> Furthermore, the teachers are not always competent to teach in Russian, as they struggle with the language as well, particularly when it comes to teaching science and mathematics in Russian. As Natali N., a teacher in upper Gali district explained, "Our school was turned into a Russian-language school in the mid-1990s. I teach physics, but only know a few terms in Russian and teach the rest in Georgian."<sup>182</sup>

Currently, both of the schools in Gali town are Russian-language schools, and only one of them offers Georgian language, for four hours per week starting in the third grade. A 19-

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<sup>180</sup> The new curriculum also mandated Abkhaz language and Abkhaz literature to be taught three hours per week, from the third through the final, eleventh, grade; Russian language and literature to be taught from first through the eleventh grade; and Abkhaz history to be taught from the eighth grade. Georgian history is not part of the curriculum. Human Rights Watch interview with Indira Vardania, minister of education, Sukhumi, March 11, 2010.

<sup>181</sup> Human Rights Watch interview with Jamalya Charkazia, Gali, March 12, 2010.

<sup>182</sup> Human Rights Watch interview with Natali N., Zugdidi, July 12, 2009.



year-old resident of Gali town, Anna A., told Human Rights Watch that she studied in School No.1, and she had no Georgian language classes at all.<sup>183</sup>

The gradual introduction of Russian as the language of instruction in upper Gali schools caused considerable anxiety among displaced ethnic Georgians. Some told Human Rights Watch that the Russian education policy was one reason why they were reluctant to return permanently to Gali. A 41-year-old economist from Gali town, Inga I., told Human Rights Watch that she had to leave Gali when her child started school so that he could receive education in his mother tongue.<sup>184</sup>

Two schools in Chuburkhinji switched to the Russian-language curriculum in 2004. A teacher in a neighboring village school told Human Rights Watch that several students from Chuburkhinji switched to schools where the curriculum is still taught in Georgian because they could not study in Russian. They now walk seven or eight kilometers per day to go to a Georgian language school in a neighboring village.<sup>185</sup>

Some parents decided to send their children to Zugdidi, on the other side of the administrative boundary, in order to maintain their schooling in Georgian. Maia M., a 40-year-old resident of Chuburkhinji, was one such parent:

We have this problem of children not getting education in Georgian. We have two schools in the village and both are Russian. They teach Georgian only four hours a week as a foreign language. Just imagine that my children studied in Georgian until eighth grade and then in 2004 the school changed into the Russian language. How could they continue their education? I had to send them to Zugdidi. Otherwise, they would have remained without a proper education.<sup>186</sup>

Liana L., a resident of Dikhazurga village, also sent her son to Zugdidi in order to continue his education in Georgian: “My son used to study in Georgian until the fourth grade, but

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<sup>183</sup> Human Rights Watch interview with Anna A., Zugdidi, June 19, 2009.

<sup>184</sup> Human Rights Watch interview with Inga I., Zugdidi, July 13, 2009.

<sup>185</sup> Human Rights Watch interview with a teacher in a lower Gali district, October 2, 2009.

<sup>186</sup> Human Rights Watch interview with Maia M., Chuburkhinji, October 2, 2009.

then [the school] changed to Russian, and he could not study anymore and I took him to Zugdidi because of that.”<sup>187</sup>

In 2009 a 17-year-old high school student from Chuburkhinji, Mzia M., described to Human Rights Watch the difficulties she and her classmates faced after the switch:

We now have all classes in Russian, except for the Georgian language class, which is taught four hours a week. Of course teachers sometimes switch to Georgian language. They speak Georgian to us when there’s nobody visiting from the [Abkhaz] administration. They explain everything in Georgian and we also communicate in Georgian, but the textbooks are in Russian. This creates a mess.<sup>188</sup>

She told Human Rights Watch that she will have to spend the entire summer taking private classes in Georgian so she can continue her higher education in Zugdidi.<sup>189</sup> A similar frustration was expressed by Eka E., whose son goes to a local school. “Everything is in Russian at school,” she said. “How could our children continue their education in Georgia? There are no opportunities for them here and I’ll have to hire a private tutor to prepare my son for university exams in Georgia. And that’s very expensive.”<sup>190</sup>

Neither students nor teachers appeared ready for the switch to Russian as the language of instruction. Human Rights Watch spoke to several teachers and students in upper Gali who shared their experiences and the difficulties they faced as a result of the switch. A science teacher spoke to Human Rights Watch of her frustration:

It’s a Russian-language school, but we continue to teach in Georgian, as we don’t have teachers who could teach in Russian. Although we teach in Georgian...if we are inspected, then we switch to Russian. Even if I could explain the class in Russian, no one will understand. I still teach the kids some key words in Russian, so that if we are checked they would have some idea.<sup>191</sup>

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<sup>187</sup> Human Rights Watch interview with Liana L., Zugdidi, July 13, 2009.

<sup>188</sup> Human Rights Watch interview with Mzia M., Chuburkhinji, October 2, 2009.

<sup>189</sup> Human Rights Watch interview with Mzia M., Chuburkhinji, October 2, 2009.

<sup>190</sup> Human Rights Watch interview with Eka K., Chuburkhinji, October 2, 2009.

<sup>191</sup> Human Rights Watch interview with Natalie N., a teacher in upper Gali district who was on a summer break in Zugdidi, Zugdidi, July 12, 2009.

The principal of another school in upper Gali described a similar situation:

The school officially is in Russian. However ... if someone comes to check we hide the Georgian books and continue to teach in Russian. Officially, we have no Georgian language classes in the curriculum, while the Russian language is 11 to 12 hours a week. We divide those hours into half and teach Georgian instead. But if someone comes, we don't have any Georgian. The registry is in Russian. We hide the Georgian language test books.<sup>192</sup>

Nineteen-year-old Giga G. graduated from a school in the upper Gali district village of Okumi. He told Human Rights Watch, “We used to have Russian textbooks as well as Georgian, but the classes were held in Georgian. Only when some official was attending the class, a teacher would speak Russian to us.”<sup>193</sup> Giga G. does not speak or understand Russian.

Mzia M., told Human Rights Watch that she and her classmates learn Georgian poems and songs secretly:

We learn Georgian poems and sing Georgian songs, but if somebody from the town [administration] came, we don't do any of that. The teachers also ask us not to say anything about it, they are afraid that they could get fired. They also ask not to have notebooks with Georgian text on the cover. That could also lead to problems.<sup>194</sup>

### *Lower Gali*

Eleven schools in the lower Gali district continue openly to provide education in Georgian, using textbooks provided by Tbilisi.<sup>195</sup> This state of affairs is permitted by the de facto authorities in Abkhazia largely because they do not have the resources to provide lower Gali district schools with Russian-speaking teachers. However, there is anxiety that if

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<sup>192</sup> Human Rights Watch interview with Zhuzhuna Zh., Zugdidi, December 23, 2009.

<sup>193</sup> Human Rights Watch interview with Giga g., Zugdidi, June 19, 2009.

<sup>194</sup> Human Rights Watch interview with Mzia M., Chuburkhinji, October 2, 2009.

<sup>195</sup> Tbilisi pays their salaries quarterly, 200 Georgian Lari per month. De facto authorities also pay salary in rubles. Teachers have about 18 hours per week and get 170 Russian rubles per hour. Human Rights Watch interview with Dali Khomeriki, Minister of Education in exile, Tbilisi, March 16, 2010; Human Rights Watch interview with a teacher in a school in lower Gali district, October 2, 2009.

Sukhumi secures these resources from Moscow and as Russian military and border troops settle with their families in local villages, Georgian-language schooling will be phased out.

According to several teachers in schools in lower Gali district, before the beginning of each school year rumors circulate that Russian will be introduced as the language of education for first-grade students. Ketino K., a 31-year-old Georgian-language teacher, told Human Rights Watch:

Every year there is talk that the first grade will be started only in Russian, and it causes significant frustration for parents, but then fortunately it is never implemented. I think it's because the Abkhaz authorities cannot provide enough Russian-language teachers.<sup>196</sup>

The Minister of Education in the de facto Abkhaz administration, Indira Vardania, confirmed that there are 11 schools in lower Gali district that continue to teach in Georgian, but she demurred when asked when asked about their future.

As noted above, because these schools are not formally authorized to use Georgian as the language of instruction, schools in some cases maintain two sets of record books, in Russian and Georgian, in case they are audited. The principal of one lower Gali district school told Human Rights Watch:

We teach most classes in Georgian. With some restrictions this is a Georgian school. However, this is not officially written anywhere. The Gali district education department is aware of the fact... But when we are at some sort of an official gathering in the administration and a chief speaks there, he also says that all schools in the district teach in Russian, as if we were not even there. But they know better.<sup>197</sup>

According to seven teachers and a school principal, several years ago Abkhaz authorities tried to introduce the Abkhaz curriculum and Russian language schooling in all Georgian schools; however, it created numerous problems and the idea was temporarily dropped:

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<sup>196</sup> Human Rights Watch interview with Ketino K., Zugdidi, July 11, 2009

<sup>197</sup> Human Rights Watch interview with a principal of a school in lower Gali district, October 2, 2009. The name of the village and the principal withheld for security considerations.

At a local education department in Gali they gave us the new curriculum, telling us to teach in accordance with it. But we couldn't use it. We teach in Georgian, using the Georgian curriculum. .. We refused, explaining that we had no human resources to teach in Russian and that we would have to close the school. Finally, they left us alone, but banned us from teaching Georgian history and geography. Instead we have to teach Abkhaz history and geography. We have to do so; otherwise they'll close the school.<sup>198</sup>

Ruslan Kishmaria, the president's special representative in Gali district, told Human Rights Watch that he saw Georgian language education as problematic for the young generation:

They create problems for themselves with the Georgian language. They graduate from high school and speak neither Russian nor Abkhaz. This means that they can continue higher education only in Georgia. When they graduate and come back, what can we do with them? I can't find jobs for them here.<sup>199</sup>

### *Consequences of Using Georgian Language*

As described above, the Abkhaz authorities tolerate the continued use of Georgian as the language of instruction in many schools, although it is not clear how much longer this situation will continue. Human Rights Watch is not aware of any teachers or other school officials who have been disciplined for teaching in Georgian. However, there were several incidents in which using Georgian language in certain non-teaching contexts led to the firing of teachers and other negative consequences.

A 37-year-old resident of Chuburkhinji, Eka E., expressed her frustration about problems with using the Georgian language:

It seems they [Abkhaz] are prohibiting us from using our own language and culture. Of course we speak Georgian amongst ourselves, but it's like we should not be loud and proud about it. For example, my son dances in a local ensemble and they had a concert last year in Gali [town]. I was there

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<sup>198</sup> Human Rights Watch interviews with a principal and six teachers of a school in lower Gali district, October 2, 2009. The name of the village and interviewees withheld for security considerations.

<sup>199</sup> Human Rights Watch interview with Ruslan Kishmaria, the Abkhaz President's special representative for Gali district, Sukhumi, March 12, 2010.

attending it, and when the children started singing in Georgian, the concert was interrupted. A local official started waving his gun and screaming to shut up. The concert ended immediately. The children were very scared.<sup>200</sup>

A 60-year-old Nabakevi resident told Human Rights Watch that the local school got into trouble for hanging a poster in Georgian:

In September [2009], for the first day of classes the school had a large poster in front saying 'Welcome' in Russian and Georgian. Five days later, three armed Abkhaz men came. They tore down the poster, started screaming and swearing, saying: 'you'll see what we'll do to you!' I was there myself. It was scary. It seemed that we committed some kind of a crime for welcoming kids in the Georgian language.<sup>201</sup>

A 70-year-old resident of Nabakevi who also witnessed the incident told Human Rights Watch that as a result, the parents of five students of upper grades took their children out of the school and sent them to Zugdidi to finish their education.<sup>202</sup>

In the beginning of June 2009 four staff members of the school in Sida village in lower Gali district, including the principal, a deputy principal and two other staff, were fired. Several days earlier, the Abkhaz authorities found video material on a compact disc which depicted students singing the Georgian anthem at a school event.

Guliada Sichinava, the principal who was fired, explained that she was preparing a short documentary on the school's history,<sup>203</sup> for which she and the other school officials videotaped various school events. The last event was on May 25, 2009 and the CD got lost five days later. Sichinava, who had 39 years of teaching experience before her dismissal, told Human Rights Watch:

On June 8 [2009], I got a call inviting me to the department of education in Gali. The head of the department met me and seemed very upset as he had

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<sup>200</sup> Human Rights Watch interview with Eka E., Chuburkhinji, October 2, 2009. A local civil society representative shared the similar story with us. Human Rights Watch interview with Velodi V., October 2, 2009.

<sup>201</sup> Human Rights Watch interview with Mzevinar M., Nabakevi, October 3, 2009.

<sup>202</sup> Human Rights Watch interview with Zaira Z., Nabakevi, October 3, 2009.

<sup>203</sup> Human Rights Watch interview with Guliada Sichinava, Zugdidi, December 21, 2009.

seen the CD and it had a video of my students singing the Georgian anthem. They took me to Ruslan Kishmaria [de facto president's special representative in Gali district], who shouted at me. He did not let me explain the purpose of that CD. I was told that I was fired and that my case would be referred to the prosecutor's office. I got scared of being arrested and left Abkhazia for good on June 9.<sup>204</sup>

Keitino K., an ethnic Georgian teacher in lower Gali, explained that Gali residents are free to speak Georgian so long as they do not display their national identity and Georgian state allegiance:

Every time there is an inspection [by the Ministry of Education] at school, they ask students who is their president. If the answer is Mikheil Saakashvili, then a teacher might get in trouble. We can't display the Georgian flag or play the Georgian anthem as the consequences can be grave. You can organize school events, but if you have anything national or patriotic in them about the Georgian state, then you will definitely have problems.<sup>205</sup>

The Abkhaz minister of education, Indira Vardania, denied such problems and also told Human Rights Watch that Georgian is spoken freely everywhere in Abkhazia.<sup>206</sup>

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<sup>204</sup> Human Rights Watch interview with Guliada Sichinava, December 21, 2009.

<sup>205</sup> Human Rights Watch interview with Ketino K., Zugdidi, July 11, 2009.

<sup>206</sup> Human Rights Watch interview with Indira Vardania, March 11, 2010.

## IV. International Actors

Between 1993 and 2009 both the United Nations and the Organization for Security and Co-operation in Europe (OSCE) maintained an extensive presence, including human rights monitoring, in Abkhazia and uncontested Georgia. Between 2006 and 2011 the European Union's Special Representative (EUSR) on the South Caucasus, who had a mandate to facilitate a peaceful settlement of the conflict, also investigated security incidents in Abkhazia. In 2008 and 2009 Russia forced an end to the mandates of both the UN and OSCE in Georgia. In February 2011 the EU ended the EUSR's existing mandate and, at this writing, is still developing the new mandate for a restructured EUSR position. All three organizations continue to send high-level representatives to Abkhazia, and several UN agencies, including UNHCR, maintain a field presence in Abkhazia. However, at present there is no agency on the ground with a public human rights reporting mandate. This is a serious gap.

There should be an international presence in Abkhazia, with a specific focus on Gali, with a clear, substantive and meaningful mandate to provide security, humanitarian, and human rights protection to the local population. Until such a presence is established, the UN, EU, OSCE, and the Council of Europe should continue to conduct regular visits to document and publicly report on the human rights situation in Abkhazia.

### The United Nations (UN)

The United Nations has been the leading international agency mediating the Georgian-Abkhaz conflict since 1993. In that year, the UN Security Council established the Observer Mission in Georgia (UNOMIG) to observe the ceasefire and contribute to a comprehensive political settlement of the conflict.<sup>207</sup>

UNOMIG's mandate was revised in 1994 to include monitoring of the 1994 Moscow Agreement. Its more than 120 military observers monitored the peacekeeping operation of the Commonwealth of Independent States (CIS). UNOMIG was also mandated to investigate reported violations of ceasefire and to report to the Secretary-General.<sup>208</sup>

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<sup>207</sup> UN Security Council, Resolution No.858 (1993), S/RES/858 (1993).

<sup>208</sup> At the time its mandate expired, UNOMIG consisted of 129 military observers and 16 police officers in Abkhazia. Stephanie Nebehay, "Georgia, Russia, Hold Security Talks in Geneva," Reuters (*accessed through AbkhazWorld Portal*), May 19, 2009, <http://www.abkhazworld.com/news/230-geneva-talks.html> (accessed February 28, 2011).



The UN Security Council extended UNOMIG's mandate every six months, following a report by the UN Secretary-General on the situation in Abkhazia. Such reports included updates on peace talks, but also covered relevant security incidents on the ground. UNOMIG was forced to fold its operations in June 2009, when Russia vetoed the extension of its mandate.<sup>209</sup>

In 1996 the UN and OSCE established a Human Rights Office within UNOMIG jointly staffed by the OSCE and the UN Office of the High Commissioner for Human Rights (OHCHR).<sup>210</sup> The Human Rights Office had a protection mandate, including to gather information from victims and witnesses and to follow up on individual complaints regarding due process violations, impunity, the mistreatment of detainees, forced disappearances, property rights violations, and the like. The office also ran capacity-building and awareness-raising projects.<sup>211</sup> The Abkhaz authorities successfully resisted repeated calls by the Security Council to open a sub-office of the Human Rights Office in the town of Gali to better serve the needs of ethnic Georgian returnees.<sup>212</sup>

In 2003 the Security Council extended UNOMIG's mandate to add a police component.<sup>213</sup> UNOMIG police were tasked to work with local law enforcement authorities to strengthen their ability to fight crime. Although the UN called for UNOMIG to deploy police on both sides of the administrative boundary line, the authorities in Abkhazia never allowed them into Gali district.<sup>214</sup>

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<sup>209</sup> Russia Vetoes Extension of UN Mission in Georgia", UN News Center, June 15, 2009, <http://www.un.org/apps/news/story.asp?NewsID=31151&Cr=georgia&Cr1> (accessed on February 18, 2010).

<sup>210</sup> Security Council Resolution 1077 (1996).

<sup>211</sup> Walter Kälin, "Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons," Addendum, Mission to Georgia, December 21-24, 2005, para 24.

<sup>212</sup> UN Security Council, Resolution 1615 (2005), S/RES/1615 (2005) [http://www.unic.or.jp/security\\_co/pdf/res1615%282005%29.pdf](http://www.unic.or.jp/security_co/pdf/res1615%282005%29.pdf) (accessed June 6, 2011); Resolution 1582 (2005), S/RES/1582 (2005) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No5/223/15/PDF/No522315.pdf?OpenElement>; Resolution 1554 (2004), S/RES/1554 (2004) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No4/444/70/PDF/No444470.pdf?OpenElement>, Resolution 1524 (2004), S/RES/1524 (2004) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No4/225/73/PDF/No422573.pdf?OpenElement>, Resolution 1494 (2003), S/RES/1494 (2003), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No3/446/49/PDF/No344649.pdf?OpenElement> (accessed June 6, 2011).

<sup>213</sup> UN Security Council Resolution 1494 (2003), S/RES/1494 (2003), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No3/446/49/PDF/No344649.pdf?OpenElement> (accessed June 6, 2011).

<sup>214</sup> Walter Kälin, "Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons," Addendum, Mission to Georgia, December 21-24, 2005, para 25.

The UN continues to co-chair the Geneva talks established after the August 2008 conflict. It also heads the Incident Prevention and Reporting Mechanism (IPRM) meetings in Gali, established in 2009 by the participants of the Geneva talks. However, Russia's termination of UNOMIG's mandate has left the breakaway region with insufficient human rights monitoring and reporting.<sup>215</sup>

The issue of the return of refugees and displaced persons has been at the heart of the Georgian-Abkhaz peace process. The UN General Assembly adopted several resolutions supporting the right of displaced persons to return to Abkhazia, most recently resolution 64/296 of September 2010.<sup>216</sup> However the UN's presence in Georgia has been severely reduced since Russia vetoed the extension of the withdrawal of UNOMIG.<sup>217</sup>

As noted, the Representative of the UN Secretary-General on the human rights of internally displaced persons has made several visits to Abkhazia and regularly includes an update on Abkhazia in his reports to the Secretary General and other UN bodies.

UNHCR is the lead international agency promoting the return of displaced persons to Abkhazia and continues to operate on the ground. Its activity in and around the Gali district is split between its Zugdidi and Gali offices. UNHCR operations have included housing and infrastructure rehabilitation, provision of shelter assistance for displaced persons, the reconstruction of schools, support for income-generation projects, and assistance to other aid agencies in the district.<sup>218</sup> The United Nations Development

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<sup>215</sup> Council of Europe: Commissioner for Human Rights, "Report on Human Rights Issues Following the August 2008 Armed Conflict in Georgia," CommDH(2010)40, October 7, 2010, [http://www.coe.int/t/commissioner/WCD/visitreportsbycountry\\_en.asp#](http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#) (accessed February 28, 2011). Section 2.6.

<sup>216</sup> UN General Assembly, "Status of Internally Displaced Persons and Refugees from Abkhazia, Georgia, and the Tskhinvali Region/South Ossetia, Georgia," Resolution 64/296, A/RES/64/296, September 7, 2010, <http://www.un.org/en/ga/64/resolutions.shtml> (accessed February 28, 2011).

<sup>217</sup> Stephanie Nebehay, "Georgia, Russia, Hold Security Talks in Geneva," Reuters (accessed through AbkhazWorld Portal), May 19, 2009, <http://www.abkhazworld.com/news/230-geneva-talks.html> (accessed February 28, 2011).

<sup>218</sup> UN High Commissioner for Refugees, "UNHCR Hopes to Improve Conditions For Returnees to Abkhazia in 2009," October 22, 2008, <http://www.unhcr.org/print/48ff51084.html> (accessed February 28, 2011), and also: European Union: Delegation to Georgia, "Overview of EC Assistance to People Affected by the Conflict in Georgia," December 2010, [http://ec.europa.eu/delegations/georgia/documents/projects/overview\\_post\\_conflict\\_ec\\_assistance\\_dec2010\\_en.pdf](http://ec.europa.eu/delegations/georgia/documents/projects/overview_post_conflict_ec_assistance_dec2010_en.pdf) (accessed February 28, 2011) p. 4.

Program (UNDP) has also engaged in reconstruction and rehabilitation projects alongside UNHCR, UNICEF and international NGOs.<sup>219</sup>

## The European Union (EU)

Compared to the UN, the EU is a relatively new actor in conflict resolution efforts in Georgia. However by 2006 Brussels had become the largest donor organization in Abkhazia, funding projects aimed at improving living conditions for people affected by the conflict and creating conditions for the return of displaced persons.<sup>220</sup> The EU's political visibility in the region increased substantially with the appointment of an EU special representative for the South Caucasus in July 2003.<sup>221</sup> The special representative was equipped with a mandate to "contribute to the settlement of conflicts and ... facilitate the implementation of such settlement in close coordination with the United Nations [and] ... the [OSCE]."<sup>222</sup> Peter Semneby, the special representative from March 2006 to February 2011, travelled widely throughout the region and engaged with Tbilisi and the de facto leadership in Abkhazia. He maintained two police advisors in Zugdidi who had access to Gali and participated in investigations into security incidents on the ground.<sup>223</sup>

Following the August 2008 conflict, Brussels appointed another special representative for the Crisis in Georgia – Pierre Morel. Semneby's mandate expired in February 2011 and the new EUSR is expected to be recruited by September 2011. In an absence of the EUSR for the South Caucasus, Morel inherited the two police advisors and some other staff who had previously worked under Peter Semneby. Brussels decided to unite the two posts and is in the process of recruiting for a new Special Representative for the South Caucasus and Crisis in Georgia.<sup>224</sup> The EU should equip the new EUSR with a strong mandate and sufficient budget to maintain and expend activities on the ground.

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<sup>219</sup> Ibid p. 4.

<sup>220</sup> From 2008 to 2010, the EU earmarked as much as 500 million euros in aid for various development and humanitarian projects. See: Delegation of the European Union to Georgia, "Conflict Resolution – Support to Conflict-Afflicted Persons," [http://ec.europa.eu/delegations/georgia/projects/overview/conflict\\_resolution/index\\_en.htm](http://ec.europa.eu/delegations/georgia/projects/overview/conflict_resolution/index_en.htm) (accessed February 28, 2011).

<sup>221</sup> The first EUSR, Ambassador Heikki Talvitie, was replaced by a Swedish diplomat, Peter Semneby, in March 2006.

<sup>222</sup> Article 3 (d) of Council Joint Action 2006/121/CFSP [O] L 49 of 21.2.2006, p.15].

<sup>223</sup> Human Rights Watch interview with the EUSR's political advisor, Tbilisi, February 15, 2011.

<sup>224</sup> Human Rights Watch interview with a European diplomat, Tbilisi, June 16, 2011; Andrew Rettman, "Ashton to Axe Congo Conflict Envoy," *EUOBSERVER*, May 17, 2011, at <http://euobserver.com/18/32348> (accessed June 25, 2011).

In response to the August 2008 hostilities, the EU deployed the EU Monitoring Mission (EUMM) to Georgia. The EUMM is an unarmed civilian monitoring mission with more than 200 civilian monitors to observe compliance by all sides with the EU-brokered peace agreement of August 12, signed by Georgia and Russia.<sup>225</sup> The EUMM's main task is to prevent the renewal of an armed conflict and to contribute to the safety and security of local residents living close to the administrative boundary lines.<sup>226</sup> Although the EUMM's mandate covers the entire territory of Georgia within its internationally recognized borders, in reality the de facto authorities of South Ossetia and Abkhazia have denied the EU monitors access to territories under their control. The EUMM is, however, a participant in the Incident Prevention and Reporting Mechanism that meets regularly in Gali.

The EU Delegation to Georgia implements a number of programs in the Gali district. Under the guidance of the European Commission, the delegation supports humanitarian, development, and civil programs that are implemented by a number of international and local organizations throughout Georgia and its breakaway regions. The European Commission's financial assistance, provided through the financial instrument of the European Neighborhood Policy (ENPI), includes 4 million Euros (approximately US\$ 5.7 million) to support housing, and facilities reconstruction, as well as other community development projects in Gali and adjacent areas in western Georgia implemented by UNHCR, UNDP, and a number of NGOs.<sup>227</sup>

## The Organization for Security and Co-operation in Europe

The OSCE mission in Georgia was deployed in 1992 with a broad democratization mandate. Although the OSCE was not directly involved in negotiations to resolve the conflict in Abkhazia, it played a prominent role in negotiations to resolve the Georgian-South Ossetian conflict. Furthermore, as mentioned above, the OSCE was a partner with

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<sup>225</sup> EUMM Website, about EUMM, [http://www.eumm.eu/en/about\\_eumm](http://www.eumm.eu/en/about_eumm) (accessed March 25, 2011). The EUMM mandate was approved on September 15, 2008 and the mission started its monitoring activities on October 1, 2008. The mandate was approved for 12 months initially, but extended twice since then and is currently effective until September 14, 2011.

<sup>226</sup> Ibid.

<sup>227</sup> European Union: Delegation to Georgia, "Overview of EC Assistance to People Affected by the Conflict in Georgia," December 2010, [http://ec.europa.eu/delegations/georgia/documents/projects/overview\\_post\\_conflict\\_ec\\_assistance\\_dec2010\\_en.pdf](http://ec.europa.eu/delegations/georgia/documents/projects/overview_post_conflict_ec_assistance_dec2010_en.pdf) (accessed February 28, 2011), pp. 4,5.

the UN in the Human Rights Office in Abkhazia. The OSCE also participated in a Joint Assessment Mission together with the UN to the Gali district in November 2000.<sup>228</sup>

In December 2008 Russia vetoed the extension of the OSCE's mandate in Georgia. Moscow argued that its recognition of South Ossetia as an independent state invalidated the territorial mandate of the OSCE mission to Georgia. In spite of the termination of its mandate, the OSCE continues to participate in the Geneva talks and is also involved in the Incident Prevention and Reporting Mechanism (IPRM).

In February 2010, OSCE High Commissioner on National Minorities, Knut Vollebaek, visited Abkhazia (Gali and Sukhumi) and Tbilisi. He voiced his concerns directly with officials of the de facto government in Sukhumi, criticizing what he said was pressure placed on ethnic Georgians living in Abkhazia. Vollebaek said that the closure of the administrative boundary by the Abkhaz authorities placed an unwarranted burden on those wishing to maintain family ties with relatives and those seeking medical care on the other side of the boundary.<sup>229</sup>

## The Council of Europe

Following the August 2008 conflict, the Council of Europe Commissioner for Human Rights Thomas Hammarberg visited Georgia on four separate occasions in 2009 and 2010. In a report issued in October 2010 the Commissioner called for respect of the right of return for internally displaced persons (including provision of care and support for such persons); protection from explosive remnants of war (through demining activity); improvement of the security situation in areas of tension; an end to arrests and detentions for boundary line crossings; and free access for international organizations and human rights monitors to all regions of the country. In his report, Hammarberg was also critical of the departure of the OSCE monitors and UNOMIG.<sup>230</sup> In an earlier report issued in 2009, Hammarberg had already highlighted the problems faced by those displaced persons who had returned to

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<sup>228</sup> "Report of the Joint Assessment Mission to the Gali District," November 20-24, 2000. The Assessment mission found that "there remain serious obstacles to a secure and dignified return of IDPs. 'Obstacles' means both the difficulties displaced persons face in choosing to return, and the hardships and challenges of daily life once back in the Gali district."

<sup>229</sup> "OSCE Commissioner on Georgians in Gali," *Civil Georgia*, April 14, 2009, <http://www.civil.ge/eng/article.php?id=20730> (accessed February 28, 2011), and also: Organization for Security and Co-Operation in Europe, "Annual Report 2009," Published 2010, <http://www.osce.org/secretariat/67759> (accessed February 28, 2011) p. 80.

<sup>230</sup> Council of Europe: Commissioner for Human Rights, "Report on Human Rights Issues Following the August 2008 Armed Conflict in Georgia (2010)," CommDH(2010)40, October 7, 2010, [http://www.coe.int/t/commissioner/WCD/visitreportsbycountry\\_en.asp#](http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#) (accessed February 28, 2011).

Gali district, including security for returnees, freedom of movement across the administrative boundary line, identity documentation, the restriction of Georgian language in education, and the need for a continued international presence on the ground.<sup>231</sup>

In May 2009 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Abkhazia to report on conditions in places of detention, and was provided almost full access to all facilities under consideration.<sup>232</sup>

Additionally, the European Commission Against Racism and Intolerance (also under the auspices of the Council of Europe) released a report on Georgia in April 2010 which expressed concern regarding restrictions on the use of Georgian language in education in Gali district.<sup>233</sup>

## **Georgia's Regulatory Legislation on Engagement with the Breakaway Regions**

In October 2008, shortly after the Russian-Georgian war over South Ossetia, the Georgian parliament passed the Law on Occupied Territories, which creates restrictions on freedom of movement in and out of Abkhazia and South Ossetia and on economic activities in the breakaway regions. Amongst other things, the law stipulates that non-Georgian citizens are only permitted to enter the two regions through the uncontested Georgian territory and bans any type of economic activity that under Georgian law requires a permit, license or registration if that has not been granted by the Georgian authorities.<sup>234</sup> In practice Georgia's ability to implement the restrictions imposed by this legislation is limited because it has no control over Abkhazia's border with the Russia.

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<sup>231</sup> Council of Europe: Commissioner for Human Rights, Report on Human Rights Issues Following the August 2008 Armed Conflict (2009),” CommDH(2009)22, May 15, 2009, <http://www.unhcr.org/refworld/docid/4a0d1e6f2.html> (accessed 28 February 2011).

<sup>232</sup> Council of Europe: Committee for the Prevention of Torture, “Report on the visit to the region of Abkhazia, Georgia (from 27 April to 4 May 2009),” CPT/Inf (2009) 38, December 23, 2009, <http://www.cpt.coe.int/documents/geo/2009-38-inf-eng.pdf> (accessed February 28, 2011), p. 5.

<sup>233</sup> Council of Europe: European Commission on Racism and Intolerance, “ECRI Report on Georgia,” CRI(2010)17, April 28, 2010, <http://www.cpt.coe.int/documents/geo/2009-38-inf-eng.pdf> (accessed February 28, 2011), p. 32.

<sup>234</sup> The law specifies that in case of Abkhazia, one should enter from the Zugdidi district; entering Abkhazia from the Russian side is considered illegal according to the Georgian legislature, although Tbilisi currently exercises no control over Abkhazia's border with Russia. The law envisages exceptions to the rule based on a “special permit”, which can be issued if the trip “serves Georgia's state interests; peaceful resolution of the conflict; de-occupation or humanitarian purposes.” “Bill on Occupied Territories Signed into Law”, *Civil Georgia*, Tbilisi, October 31, 2008, <http://www.civil.ge/eng/article.php?id=19868> (accessed June 7, 2011).

The European Commission for Democracy through Law (Venice Commission), the Council of Europe's advisory body on constitutional matters, expressed a number of concerns regarding the law, including the criminalization of irregular entry and economic activities in the breakaway regions.<sup>235</sup>

In January 2010 Tbilisi adopted the State Strategy on Occupied Territories,<sup>236</sup> and later the Action Plan for this strategy.<sup>237</sup> Both documents intend to foster confidence between the sides and acknowledge the role local and international organizations play in confidence-building efforts.

Following the State Strategy and the Action Plan, the Georgian authorities adopted "Modalities for Conducting Activities in the Occupied Territories of Georgia", stating that any activities in the breakaway regions should be based on "constructive dialogue between the government of Georgia and the parties involved."<sup>238</sup> The document describes criteria for the Georgian government to issue permits for activities in the breakaway regions. The State Ministry for Reintegration has been put in charge of issuing such permits.<sup>239</sup> Local and international non-governmental organizations who want to work in Abkhazia, must obtain prior consent to do so, as must international agencies such as UNDP.

Local and international organizations are concerned that the new regulations pose a risk of government interference and restrictions on their activities in the regions.<sup>240</sup> Thus far, the authorities have given permission to all organizations and agencies which have

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<sup>235</sup> European Commission For Democracy Through Law (Venice Commission), "Opinion On the Law on Occupied Territories of Georgia", Adopted by the Venice Commission at its 78<sup>th</sup> Plenary Session, Venice March 13-14, 2009, <http://www.venice.coe.int/docs/2009/CDL-AD%282009%29015-e.pdf> (accessed June 7, 2011). Following the Venice Commission's recommendations the law was amended in February 2010.

<sup>236</sup> "State Strategy on Occupied Territories: Engagement Through Cooperation", Government of Georgia, January 28, 2010, <http://www.smr.gov.ge/uploads/file/SMR-Strategy-en.pdf> (accessed June 7, 2011).

<sup>237</sup> "Action Plan for Engagement", Office of the State Minister for Reintegration, July 6, 2010, [http://www.government.gov.ge/files/225\\_31228\\_760402\\_action\\_plan\\_en.pdf](http://www.government.gov.ge/files/225_31228_760402_action_plan_en.pdf) (accessed June 9, 2011).

<sup>238</sup> Regulation of the Government of Georgia No. 320 On Approval of the Modalities for Conducting Activities in the Occupied Territories of Georgia, October 15, 2010, <http://www.smr.gov.ge/uploads/file/041010/Modalities%20for%20Engagement.pdf> (accessed June 7, 2011).

<sup>239</sup> The Ministry has 21 working days to issue a consent or objection to a project request by local or international organizations.

<sup>240</sup> Giorgi Margiani, "New Regulatory Legislation: A Threat to Peace-building in Georgia", November 30, 2010, <http://humanrightshouse.org/Articles/15513.html> (accessed June 7, 2011).

applied, but if this practice were to change, the concern remains that the law provides authorities with legal grounds to restrict their work.<sup>241</sup>

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<sup>241</sup> Human Rights Watch telephone interview with a representative of an international agency carrying out activities in Abkhazia, Tbilisi, June 7, 2011.



# Recommendations

## To the De Facto Authorities in Abkhazia

### *On the Right to Return and Human Rights Monitoring*

- Recognize, respect and fulfill the right of persons displaced from Abkhazia to return to their homes in Gali district and elsewhere in the territory under the Abkhaz authorities' effective control.
- Refrain from adopting measures incompatible with the right of return and with relevant international and European human rights standards, as well as measures that would endanger the sustainability of return.
- Allow and facilitate the establishment of an international human rights presence, including international human rights monitoring, in Abkhazia.

### *On Identity Documentation*

- Amend measures on citizenship and identity documentation and eliminate any provisions, such as those that automatically grant citizenship based only on ethnic identity or on residence in Abkhazia during the conflict period, which are discriminatory and incompatible with international human rights law.
- End policies and practices which render enjoyment of and access to human rights and civil liberties conditional on possession of Abkhaz identity documents.
- End policies and practices with regard to identity documentation which place undue or arbitrary burdens on returnees. Abolish the requirement that returnees should relinquish their Georgian citizenship in order to obtain Abkhaz identity documents.
- Ensure that the civil and political rights of returnees who retain Georgian citizenship are fully respected.

### *On Crossing the Administrative Boundary Line*

- Allow all returnees to the Gali district to freely cross the Administrative Boundary Line in both directions.
- Take concrete step to end the practice of requiring those wishing to cross the boundary to obtain permits. Until the practice is abolished ensure that permits are free of charge and easy to obtain, not only in the town of Gali, but also at the crossing points. Passes good for multiple crossings should be issued. Crossing permits should not be required of those needing to cross the boundary for humanitarian or medical reasons.

- Establish additional crossing points across the administrative boundary line so that Inguri Bridge is not the only place where the returnees can cross.
- Investigate and address allegations of corruption and extortion among border guards. Formalize and widely publicize crossing procedures as a means of combating corruption.
- Abolish administrative or criminal sanctions for so called “illegal crossing” of the administrative boundary.

### *On the Right to Education*

- Recognize and respect the right of returnees to use their mother tongue, including in educational institutions.
- Amend the unified curriculum to allow for Georgian-language education in schools in upper and lower Gali districts.
- Until the unified curriculum is amended, publicly commit to maintaining existing Georgian-language schools.

### *On Security of Returnees*

- Promptly and thoroughly investigate acts of violence against returnees. Such investigations should lead to the prosecution of perpetrators.
- In order to build trust between Georgian returnees and local law enforcements, allow the international civilian police mission to operate in Gali district.

## **To the United Nations (UN)**

- Call on the authorities in Abkhazia to provide human rights guarantees to the returnees in the territories under their effective control.
- Consider reviving a permanent presence in Abkhazia to monitor human rights and report regularly on developments.
- Until a permanent UN human rights monitoring presence can be resumed in Abkhazia, undertake frequent missions to the region to report on the human rights situation there and work with the authorities to address the human rights problems.
- The UN refugee agency (UNHCR) should continue to engage with Georgian and Abkhaz authorities to undertake the verification of returnees to the Gali district. Such an exercise would end the dispute over the number of returnees and enable the donor community to better assess the humanitarian needs on the ground.

## To the Government of the Russian Federation

- Urge the Abkhaz authorities to recognize and implement the right of return, as described above.
- Facilitate the establishment of multiple crossing points across the administrative boundary.
- Engage with the Abkhaz authorities to ensure simplification of crossing procedures.
- Engage with the Abkhaz authorities to ensure a permanent international human rights monitoring presence in Abkhazia.
- End the practice of detaining Georgian citizens who are within Georgian jurisdiction.

## To the European Union (EU)

- Provide the new Special Representative for the South Caucasus and Crisis in Georgia with a strong mandate and sufficient budget to maintain and expend activities in Gali and adjacent territories.
- Seek active dialogue with the Russian Federation and the de facto authorities in Abkhazia to secure greater rights for returnees to Gali district.
- Extend the mandate of the European Union Monitoring Mission (EUMM) beyond September 2011.
- Continue to demand access for the EUMM to Gali district so that the mission can perform the humanitarian and human security aspects of its mandate.
- Make respect for returnees' human rights an integral component of all engagement with the Abkhaz authorities.
- Continue to support the development of civil society organizations in Abkhazia committed to the protection of the human rights of returnees.

## To the Council of Europe

- The Parliamentary Assembly of the Council of Europe (PACE) should deliberate on the human rights situation in Abkhazia and adopt a resolution calling for a greater international presence in Abkhazia.
- The Commissioner for Human Rights of the Council of Europe should undertake frequent missions to Abkhazia and specifically to Gali district to report on the human rights situation there.

## **To the Organization for Security and Co-operation in Europe (OSCE)**

- The OSCE High Commissioner on National Minorities should conduct further field missions to Abkhazia and specifically to Gali district, to study the human rights situation there and engage with the Abkhaz authorities to address the issues.
- The OSCE should consider the re-establishment of the joint UN/OSCE human rights officer responsible for Abkhazia.

## **To the Governments of the United States, member states of the European Union and other members of the International Community**

- Make respect for the human rights of returnees an integral component of all engagement with the Abkhaz authorities.
- Ensure that bilateral programs implemented in Abkhazia have human rights components.
- Support the development of human rights organizations in Abkhazia committed to human rights monitoring in Abkhazia, including in Gali district.

## **To the Government of Georgia**

- Ensure that the Law on Occupied Territories and the modalities for engagement is not used to hinder the operations, and humanitarian access to Abkhazia, of international organizations and their implementing partners, nor to exercise inappropriate interference with or control over the work of non-governmental organizations.

## Acknowledgements

This report was researched by Giorgi Gogia and Tanya Lokshina, senior researchers in the Europe and Central Asia Division of Human Rights Watch. Additional research was conducted by Varvara Pakhomenko, and research assistance was provided by Alexander Mnatsakanyan, both consultants for Human Rights Watch. It was written by Giorgi Gogia. Daniel Sheron, intern in the Europe and Central Asia Division, conducted research and contributed to the international response chapter of the report.

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Production assistance was provided by Erica Lally, associate in the Europe and Central Asia Division, Anna Lopriore, creative manager and photo editor, Kathy Mills, publications coordinator, and Fitzroy Hepkins, administrative manager.

Human Rights Watch expresses its sincere thanks to the many individuals who met and spoke to us and shared their experiences with us. We are also grateful to the de facto authorities of Abkhazia for meeting with us.

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*Front cover: People walk across the Inguri Bridge, the only crossing point between Abkhazia and uncontested Georgian territory allowed by the Abkhaz authorities.*

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*Below: A man crosses the Abkhaz-Georgian administrative boundary at a crossing that the Abkhaz authorities consider illegal.*

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Almost 18 years after a cease-fire ended the Georgian-Abkhaz war, the conflict over the breakaway region of Abkhazia remains as far from a political resolution as ever, leaving in limbo the lives of more than 200,000 people, mostly ethnic Georgians displaced by the conflict. The only area where Abkhazia's de facto authorities have allowed returns of displaced persons is the Gali district, where ethnic Georgians constituted 96 percent of the pre-conflict population.

About 47,000 displaced people have returned to their homes in Gali district. But, as this Human Rights Watch report documents, the Abkhaz authorities have erected barriers to their enjoyment of a range of civil and political rights, driving some to leave for uncontested areas of Georgia. Those barriers have also presented serious obstacles for large scale, sustainable returns of displaced persons to their homes in Abkhazia.

The authorities in Abkhazia require all residents to obtain Abkhaz passports as a prerequisite for the exercise of certain rights. However, for ethnic Georgian returnees, the process of obtaining a passport is often discriminatory and overly burdensome. Further, for those without passports, the procedure to obtain a permit to cross the administrative boundary to uncontested areas of Georgia is onerous. These arbitrary restrictions lead many to cross unofficially, thereby risking detention, fines, and imprisonment. Additionally, the Abkhaz authorities' education policies have increasingly limited access to quality education for ethnic Georgian youth.

Although Abkhazia is not recognized as an independent state under international law, the authorities there nevertheless have obligations under international law to respect and protect human rights. This report calls on the authorities in Abkhazia to ensure freedom of movement across the administrative boundary, and non-discrimination, in particular with regard to the issuance of identity documents –and the right to education.