

# AMNESTY INTERNATIONAL

## Media Briefing

AI Index: EUR 56/001/2006 (Public)  
News Service No: 017

**Embargo Date: 2 February 2006 00:01 GMT**

## **Georgia: Torture and ill-treatment still a concern after the "Rose Revolution" Summary**

Published

When coming to power following the "Rose Revolution" in November 2003, the government inherited a system in which torture and ill-treatment were widespread and perpetrators routinely went unpunished. While important steps have since been taken, the government still has a long way to go to end torture and ill-treatment in the country.

Since 2004, the Georgian authorities have introduced or implemented a number of measures to tackle the issue of torture and ill-treatment and at least 10 perpetrators of such crimes are serving prison terms. The measures have included legal amendments and extensive monitoring activities of detention facilities under the jurisdiction of the Ministry of Internal Affairs conducted in particular by the office of the Public Defender of Georgia (Ombudsman).

However, Amnesty International has continued to receive reports about torture and ill-treatment. It is impossible to make definite statements about the number of people subjected to such treatment as there are no comprehensive and reliable statistics. The victims have included men, women and children.

The methods used to torture or ill-treat detainees, as indicated in the reports Amnesty International has received since the "Rose Revolution", include electric shocks; putting plastic bags over the head of a detainee; suspending a detainee from a pole between two tables; cigarette and candle burns; placing the barrel of a gun in a detainee's mouth and threatening to shoot; blindfolding with adhesive tape; hitting a detainee's ear with open palms; threats to beat the detainee's family; gagging the detainee with a piece of cloth so they cannot shout; beatings, including with truncheons and butts of guns, and kicking.

Amnesty International received a large number of allegations that the special police unit (Special Operative Department) ill-treated suspects or detainees. In many cases the officers were masked. Against this backdrop the organization was particularly concerned that officers of the special police unit have been exempted from the requirement to wear ID tags that was introduced for other police officers in November 2005. Masks or other means of disguising officers' personal identities should only be used exceptionally, if such measures are necessary for the personal protection or security of the officers concerned or similar reasons of necessity; in such cases the need for each officer to be identifiable by such means as a unique traceable identification number is particularly important.

The information contained in Amnesty International's report *Georgia: Torture and ill-treatment. Still a concern after the "Rose Revolution"*, is mainly based on interviews and materials obtained during three fact-finding missions to Tbilisi and Zugdidi in 2004 and 2005. Sources of information during the missions included government officials and employees of the Ministry of the Interior, the Ministry of Justice, the General Procuracy, the National Security Council, the Ombudsman, representatives of intergovernmental organizations (IGOs), non-governmental organizations (NGOs), lawyers, journalists and independent experts. In addition, Amnesty International visited several detainees in the investigation-isolation prisons no. 1 in Tbilisi and no. 4 in Zugdidi who alleged they had been tortured or ill-treated.

## **TORTURE/ILL-TREATMENT: INTERNATIONAL LAW AND STANDARDS**

Ill-treatment is the term used to describe a spectrum of practices including physical or psychological abuse, confinement in a dark cell, denial of detainees' basic needs, and other forms of abuse. Torture represents the most severe and deliberate end of this spectrum, and it is not always possible to draw a clear line between the type of abuse that amounts to torture, and that which amounts to cruel, inhuman or degrading treatment.

Some of the cases featured in Amnesty International's report are so severe that they unquestionably amount to torture, for example, when Geno Kulava was allegedly suspended from a pole between two tables, kicked and beaten with truncheons, dropped on the floor and a burning candle was held against his forearm. But, irrespective of definitional questions, all forms of torture or other ill-treatment are unequivocally prohibited under international human rights law. This prohibition is set out in numerous treaties and other instruments, and international customary law, which applies to all states, irrespective of whether they are party to specific treaties containing the prohibition.

## **MORE NEEDS TO BE DONE TO ERADICATE TORTURE AND ILL-TREATMENT**

### ***Bringing cases to light***

For an effective system to end torture and ill-treatment, particular attention has to be directed to removing all obstacles that prevent victims of torture and ill-treatment from complaining about their treatment by police so that all cases can be appropriately investigated.

Amnesty International notes that a number of government agencies such as the Department on Human Rights and Monitoring at the Ministry of Internal Affairs and the Ombudsman have put substantial effort into bringing torture and ill-treatment cases to light.

In addition, in August 2005 Georgia acceded to the Optional Protocol to the United Nations Convention against Torture (OPCAT) requesting states parties to establish their own national monitoring mechanism/s for the prevention of torture and other ill-treatment. It is crucial that any such mechanism has functional independence and that particular attention is paid to the selection of its members as well as to their training. The selection of members must be conducted in a transparent manner; they must have the required capabilities and professional knowledge, and they must be independent.

There are still significant obstacles to bringing all cases of torture and ill-treatment to light. The level of monitoring in the regions compared to that in Tbilisi is still very low and Amnesty International believes it was not likely that it could have had a significant impact there. In addition, there are strong indications that police continue to cover-up many cases and that detainees are often afraid to complain about torture or ill-treatment and prefer not to identify the perpetrators for fear of repercussions.

According to data made available to Amnesty International by the Department on Human Rights and Monitoring covering the period from 1 to 27 April 2005, not a single detainee complained about police ill-treatment in the Samegrelo-Zemo Svaneti region. Merab Gergaia, Head of Samegrelo-Zemo Svaneti regional police, told Amnesty International in May 2005 that since he had taken up the post in December 2004 "*there [had] not been a single complaint about torture or ill-treatment*". His deputy Temur Sajaia said that for one year there had not been any torture or ill-treatment case in the whole region.

However, Amnesty International has received information about several cases involving allegations of torture and ill-treatment in Samegrelo-Zemo Svaneti region in 2004 and 2005 that were passed on to the authorities by lawyers, the regional representative of the Ombudsman or human rights groups. A forensic medical expert in Zugdidi for 32 years, told Amnesty International in May 2005 that he examined people with bodily injuries, that may have been caused by torture or ill-treatment, on a regular basis. Such cases and reports indicate that it is likely that cases involving torture and ill-treatment allegations are still often not being picked up and reported by police structures.

*Vakhtang Guchua said that approximately 15 officers, of whom only one was unmasked, detained him in his house early on 18 April. Vakhtang Guchua reported that the men took him to the building of the special police unit in Kedia street in Zugdidi and ill-treated him for some four hours until approximately 8am. He told Amnesty International: "They beat and kicked me and hit me with butts of their guns. I was lying on the floor most of the time. They wanted to put a plastic bag over my head but when I begged them not to do so because I have serious problems with my lungs they didn't do it." According to Vakhtang Guchua, the officers wanted him to sign a "confession" stating that he participated in the June 2002 killing of Jamal Narmania, a former government official in the region.*

**Unless all complaints are investigated promptly, thoroughly and impartially and the perpetrators are brought to justice, victims will have good reason to be afraid to come forward.**

#### ***Legal safeguards and implementation***

Georgian domestic legislation had already provided for a number of crucial safeguards against torture and ill-treatment and the current government has taken important steps to further strengthen legislation to protect detainees from police abuse.

However, Amnesty International has received numerous reports alleging shortcomings in the implementation of legal safeguards. The Ombudsman's monitoring of police stations and preliminary detention facilities revealed that out of those detainees interviewed by the Ombudsman and his staff in Tbilisi in August 2005, 31 detainees were not explained their rights as suspects; 26 were not informed of their right to legal defence; 29 were not told of their right to remain silent; and 20 were not given a copy of a leaflet outlining their rights as detainees. The right of family members to be informed after a detention has also been breached.

*Zurab Dapkviashvili was detained at 12.30 on 4 October 2005 in the flat of an acquaintance in the Saburtalo district of Tbilisi, accused of possession of drugs. His family told Amnesty International in October 2005 that although Zurab Dapkviashvili asked the police to immediately inform his family of his detention the family only found out about it when neighbours told them at around midnight that his detention was reported on the television station Rustavi-2. "We still had no idea where he was held. Only when a police investigator came to our house the next day to conduct a search did we find out that he was being held in a cell in the building of the Interior Ministry on Vazha Pshavela avenue," said one of his relatives.*

According to the Criminal Procedure Code of Georgia, the family of the detainee has to be notified of the arrest by the investigator or procurator within five hours and, in the case of a minor, within three hours of the arrest. The European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) has identified the detainee's right to have the fact of their detention notified to a close relative or third party of their choice as one of the "fundamental safeguards" against ill-treatment.

Some legal amendments introduced since the "Rose Revolution" -- such as the introduction of the plea-bargaining system -- have also been criticized by lawyers and human rights activists as they believed the amendments increased the risk that detainees are subjected to torture or other ill-treatment by law enforcement officers. The authorities have taken legislative steps to address the concerns and Amnesty International will monitor their implementation.

**Enforcement is essential to the effectiveness of legal safeguards in preventing torture and**

**ill-treatment. It is therefore crucial that the authorities promptly and impartially investigate all allegations that law enforcement officers circumvented the necessary procedures and that police, procurators or judges were involved in covering up torture or ill-treatment or did not take appropriate action to verify and adequately react to reports involving such treatment.**

### ***Bringing the perpetrators to justice***

Bringing perpetrators to justice is key to the eradication of torture and other ill-treatment.

In some areas government measures to bring perpetrators to justice have brought noticeable results, most significantly the sentencing to prison terms of several police officers. It is important that the authorities regularly inform the public about prosecutions of officials for torture and ill-treatment. Such publicity can encourage victims to come forward and seek justice. In addition, it often has a deterrent effect on other police officers.

However, impunity for torture is still a big problem. Amnesty International was concerned that procurators did not open investigations into all potential torture and ill-treatment cases in a systematic manner. In dozens of cases where the procuracy has opened investigations the perpetrators have not been brought to justice.

In Georgia investigations of torture allegations have often not been conducted impartially and been tainted with conflicts of interest of the investigating procurators. In some cases procuracy officials were themselves implicated in reportedly torturing and ill-treating the detainee. Often investigations have not been launched promptly and conducted in a thorough manner. Amnesty International learnt of several cases where investigations were reportedly not conducted thoroughly and even not launched after being reported.

*Alexander Mkheidze, a 27-year old architect, was detained by police in the village of Tsqneti near Tbilisi on 6 April 2005. He alleged that he was beaten and kicked while he was being taken to the building of the Ministry of Internal Affairs, where police allegedly continued to beat him. Later that day he was transferred to the preliminary detention facility no.1 in Tbilisi. The doctor who examined him upon entering the detention facility recorded Alexander Mkheidze's complaint of ill-treatment by police, but diagnosed him as "healthy". Just two days later Alexander Mkheidze was examined for a second time when transferred to the investigation-isolation prison no. 1 in Tbilisi. The doctor there found a dark blue bruise on his right shin, a scratch mark on his right hand covered with a dark red scab and a dark blue-yellow coloured bruise on the inner surface of his right thigh near his groin. He added that Alexander Mkheidze complained about pain in his head, neck and spine and stated he sustained these injuries by police officers in the village of Tsqneti. This conclusion was confirmed two weeks later by a forensic medical investigation.*

It is crucial that the body conducting investigations into allegations of torture and ill-treatment has functional independence. Its members must also be competent and impartial with the authority and obligation to obtain all the information necessary to the inquiry.

**In order to end impunity in Georgia, the old system that provided for rampant impunity has to be fundamentally reformed to ensure that all allegations of torture and ill-treatment are promptly, thoroughly and impartially investigated by a body independent of the alleged perpetrators. The scope, methods and findings of such investigations should be made public. Officials suspected of committing torture or other ill-treatment should in all cases be suspended from active duty during the investigation. Complainants, witnesses and others at risk should be protected from intimidation and reprisals.**

### **RECOMMENDATIONS TO THE GEORGIAN AUTHORITIES**

Amnesty International recommends to the Georgian authorities to keep the eradication of torture and ill-treatment on the government's agenda as a priority issue. The authorities should promptly and fully implement the recommendations by the Special Rapporteur on Torture and other intergovernmental human rights bodies. More specifically, the organization calls on the Georgian authorities to:

Set up an independent body to carry out a detailed review of investigations conducted by law enforcement officers into allegations of torture and ill-treatment and of judicial proceedings in such cases. The body must have the authority to present its findings and make recommendations to the relevant authorities and the powers to issue a public report.

Promptly launch investigations in all cases where detainees have visible bodily injuries after they are detained by police and/or allege that they have been tortured or ill-treated.

Pay special attention to ending torture and ill-treatment in the regions of Georgia outside Tbilisi.

Conduct prompt specialist medical examinations in all cases where torture or ill-treatment (including ill-treatment of a predominantly psychological nature) has been alleged.

Ensure that all law enforcement officers including special unit police wear identification tags at all times when conducting arrests, when visiting places of detention and deprivation of liberty as well as during meetings with detainees and prisoners.

Prohibit the use of masks or other means of disguising officers' personal identities. Only make exceptions if such measures are necessary for the personal protection or security of the officers concerned.

Fulfil all requirements outlined in the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment when setting up the national mechanism/s for the prevention of torture. Ensure that the mechanism has functional independence; that the members of the mechanism/s have the required capabilities and professional knowledge; that they are independent; and that their selection is conducted in a transparent manner.

**See report:** *Georgia: Torture and ill-treatment -- still a concern after the "Rose Revolution"*, (AI Index: EUR 56/001/2005) <http://web.amnesty.org/library/index/engeur560012005>

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