

HUMAN RIGHTS AND
DEMOCRATIZATION IN
THE REPUBLIC OF GEORGIA

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HUMAN RIGHTS AND DEMOCRATIZATION IN THE REPUBLIC OF GEORGIA

TUESDAY, MARCH 28, 1995

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
WASHINGTON, DC.

The Commission met, pursuant to notice, at 2:10 p.m., in room 106, Dirksen Senate Office Building, Washington, DC., Hon. Christopher Smith, Chairman, presiding.

Commissioners Present: Hon. Christopher Smith, Chairman; Hon. Alfonse D'Amato, Co-chairman; and Hon. Frank R. Wolf, Commissioner.

Witnesses: Hon. Tedo Japaridze, Dr. Eduard Gudava, Ms. Erika Dailey, and Dr. Stephen F. Jones.

OPENING STATEMENT OF CHAIRMAN SMITH

Chairman **Smith**. I want to thank all of you for coming to this hearing, which to my knowledge is the first hearing in the history of the U.S. Congress focused exclusively on Georgia. This is the latest in a series of Helsinki Commission hearings that examine the state of democratization and human rights in individual countries and regions of the former Soviet Union.

In the late 1980's, Georgians began to organize politically to undo communism and to gain independence. They lived through a very exciting period, although a key element in the chronicle of the liberation movement was tragic, the April 1989 killings of peaceful protesters in Tbilisi by Soviet forces.

Since then, however, Georgia has endured very difficult times. It has been one of the most strife-torn New Independent States, a victim of internal political and ethnic divisiveness, and external provocation and aggression.

Georgia was the first former Soviet Republic whose elected president, Zviad Gamsakhurdia, was ousted in an armed uprising. The shock waves from that political earthquake have continued to rock the country ever since.

In March 1992, Eduard Shevardnadze, who had been Georgia's Communist Party leader before becoming Soviet Foreign Minister, returned to his deeply troubled homeland. Though his role in ending the cold war and removing Soviet troops from Eastern Europe is well known and appreciated in the West, Georgian supporters of the ousted president saw Shevardnadze's return as a betrayal.

A period of intense civil conflict ensued, with Georgia society polarized, and open military confrontations took place. At the same time, Abkhazia and South Ossetia launched movements that sought to alter their relationship with Tbilisi, threatening the territorial integrity of

Georgia. Russian forces were involved in these efforts by the Abkhazians and Ossetians, and Moscow's pressure on Tbilisi has been constant throughout this period.

Obviously these are not the best circumstances for democracy to flourish, but since his return, Mr. Shevardnadze has called for the establishment of a rule of law state in Georgia, where observance of human rights is a priority, and institutions have been put in place to ensure the implementation of human rights commitments.

The purpose of this hearing is to see how well he has done to date, by examining the general state of democratization and human rights in Georgia. The direct impetus for this hearing, however, were reports about violations of due process in the recently concluded trial of 19 individuals for various crimes, including an alleged assassination attempt.

Given the confrontational background of Georgian politics and society, this trial has taken on an unavoidable political coloring. In examining this case, therefore, I want to make clear that the Helsinki Commission is in no way supporting terrorism, and takes no position on the guilt or innocence of the accused. Our purpose simply is to ask whether the trial of these defendants has taken place according to international legal norms.

At the same time, I hope this hearing will also examine other key problems besetting Georgia: to what extent this trial reflects the general level of democratization and human rights, how to address the problems of rampant organized crime in Georgia, Russia's goals in Georgia, and Moscow's methods for achieving them.

Finally, I would like to say that we have some very fine witnesses, and I would like to begin by saying that we are very pleased to have Ambassador Japaridze, the Ambassador of the Republic of Georgia to the United States, who will present his perspective on these issues. The Ambassador has long served in Georgia's Foreign Ministry, where he has been Vice Chairman of the Council for UNESCO Affairs, head of the Political Department, Deputy Foreign Minister, and First Deputy Foreign Minister. In 1992, he was named National Security Advisor to the Head of State, Eduard Shevardnadze.

I just want to let you know, ladies and gentlemen, that I have been in touch on behalf of the Commission with Eduard Shevardnadze about the case that I mentioned earlier and about the general situation of human rights in Georgia. Just yesterday the Helsinki Commission received a letter from him in which he mentioned, among other things, that over 350 former policemen in Georgia are now in prison for various crimes, including human rights abuses.

I was sorry to learn that Georgian policemen have been engaging in these activities, but it is a welcome sign that the authorities are taking at least some measures to address the problem.

Mr. Shevardnadze also said that the case of the recently sentenced 19 defendants would be carefully reviewed, and that Georgia would welcome the involvement of Western human rights organizations in that process. This, too, is a very welcome announcement.

At this point I would like to, before inviting the Ambassador to address the Commission, ask my good friend and Co-chairman of the Commission, Mr. D'Amato, if he would like to make any opening comments.

OPENING STATEMENT OF CO-CHAIRMAN D'AMATO

Co-chairman **D'Amato**. Thank you, Mr. Chairman.

In the interest of time I am going to ask that my full statement be included in the record as if read in its entirety.

I have a vote coming up any minute in another conflicting hearing, but I want to assure the participants and the Ambassador, in particular, that that does not diminish my interest in this very serious and vexing problem.

I am going to take just a few seconds to indicate that we recognize the desperate situation in Georgia, a condition that some have described as, I quote, ``a stable crisis." We restate, I believe, the Commission view, that Georgia must make a serious attempt to meet its international obligations, especially those concerning human rights.

Building a law-based society out of the ruins of the old Soviet structure will help ensure respect for human rights, and it will serve as a foundation for economic revival, political stability, and general progress for Georgia.

So I certainly hope that we can at least move in that direction. I recognize that that may be an oversimplification, and I commend the Chairman for holding this hearing at this important time.

Chairman **Smith**. Thank you very much, Mr. Chairman, and without objection your full statement will be made a part of the record.

Co-chairman **D'Amato**. I thank the chair.

Chairman **Smith**. I would like to invite to the witness table the distinguished Ambassador from Georgia, Ambassador Japaridze.

Mr. Ambassador.

**TESTIMONY OF HON. TEDO JAPARIDZE,
AMBASSADOR OF THE REPUBLIC OF GEORGIA**

Ambassador **Japaridze**. Thank you, Mr. Chairman, distinguished members----

Chairman **Smith**. Could you bring the mike a little bit closer, please? Thank you.

Ambassador **Japaridze**. Thank you, Mr. Chairman, distinguished members of the Commission.

Mr. Chairman, I am pleased to have this opportunity to speak to your Commission on behalf of my country, the Republic of Georgia.

I have been asked to address the issue of human rights abuses in Georgia, and I intend to do so presently. Allow me to reflect for a moment on the irony of Georgia's position with respect to this Commission.

Only a few years ago no Georgian could have dreamed that he or she would have an opportunity to address any institution of the U.S. Congress. At that time, we had no right to present our nation abroad or even a right to any kind of independent statehood. Georgia, like many of what you call the new states, was part of an empire whose very purpose was to usurp our identity, deny our aspirations as an historic people and distinct culture, and prevent our freedom. To every Georgian America was the place where abuse of these kinds could never take place.

We watched with special pride and wonderment as the Congress and the American people championed the emergence of free countries from the beast of colonialism. I believe it was President Reagan who characterized the United States as a shining city on a hill. For those of us locked in colonial bondage, President Reagan's words rang with clarity.

It is no exaggeration to say that Georgians have always felt a special kinship with Americans, not the least because of our admiration for your support of human rights as an elemental building block in a civil society. We applauded when you set and enforced strict human rights standards in the conduct of foreign policy. How could we do otherwise? We know first hand what it is to be on the receiving end of an empire that places no value on human rights or the individual.

It is, therefore, ironic that one of my first official acts as the Georgian ambassador to Washington is to explain and defend our record in a single human rights event that is neither representative of our society as a whole, nor a fair description of the distance we have traveled in our efforts to build not just an acceptable human rights record, but, given the circumstances under which we live, a rather good one.

Moreover, the circumstances surrounding the alleged abuse are themselves far from clear, and there is substantial evidence to suggest that the reports of human rights abuse, particularly the British Helsinki Commission report, suffer from serious exaggerations and errors.

I mean no disrespect or sarcasm when I observe that the Georgian people, who are trying to develop a modern civilized state in the midst of economic devastation, civil strife and political instability, will wonder why Georgia's visible relationship with America should begin on this note and at this time. Without diminishing the importance of human rights, many will wonder about how priorities are set.

Cases like this one tend to distract attention from the significant gains Georgia has made in establishing a viable democracy and extending human rights guarantees throughout Georgian society in the face of unimaginable odds. Our country is still plagued by internal disorder, a huge refugee problem, industrial breakdown, economic stagnation, and political instability. We have not overcome the legacy of 70 years of communist rule which has left deep psychological scars on our vibrant nation, and which is at the root of many of the human rights violations that occur.

A society like Georgia that only recently threw off a system that minimized the right of individuals relative to the state cannot leap automatically to a full embrace of human rights, regardless of the best intentions to do so.

At the same time, I must mention that the biggest problem we face currently is terrorism, not terrorism of the kind that blows airplanes from the sky, although this is certainly possible. I mean the terror inflicted on the entire population of Georgia by those who are interested in de-stabilizing our politics and undermining our economy, and which resulted in emigration of up to 20 percent of Georgians from their homeland.

During the last 5 years, we suffered one civil war, two wars to defend our territorial integrity. The last two resulted in the documented ethnic cleansing of Georgians.

Mr. Chairman, I would like to remind one more time this Commission of more than 200,000 Georgian refugees in their own country who are victims of ethnic cleansing, massive abuse of human rights. The most recent abuses were noted on March 11-14, 1994, by the United States.

We asked countless times for the assistance of U.N. peacekeeping forces to calm the hostilities. We asked for peacekeeping help from the Western states. We asked for human rights groups to monitor the atrocities. Ultimately we accepted the Russian peacekeeping forces in the region.

I would be bending the truth if I claimed that the introduction of Russian peacekeeping forces was a popular step. Meanwhile the population of Georgia witnessed first hand the paralysis of peacekeeping and human rights organizations to offer them the most basic protection or mediation.

Every family in the country has been touched in some way by this terror. Not surprisingly, many of them have developed a healthy skepticism about the West's willingness or ability to defend their human rights in the face of flagrant abuse.

Against these formidable odds, Mr. Shevardnadze has led an aggressive effort to create the conditions that will make human rights less dependent to the altering adverse social, political, and economic factors that are at the root of many of man's baser instincts. Our goal is threefold.

First, we seek to reform society, which means to overcome our communist past. This will require changes in psychology of our population. Such changes cannot be imposed solely from within or exclusively from outside. They are the human outgrowth of changes elsewhere, particularly in the extension of economic opportunity and the normalization of our political life.

Second, we seek to build a modern state that possesses the kind of democratic institutions that are responsive to society and which can support a free and honest political process. Our efforts are mainly placed in three basic areas: (a) ensure the viability of multi-party parliament; (b) create an active civic society; and (c) establish an independent judiciary system.

We welcome any assistance from various international organizations and NGO's, including fact finding missions and international observers from the United Nations, OSCE, Amnesty International, International Alert, et cetera.

Third, the most important, we seek to reform the economy. It is self-evident that economic growth and recovery is the foundation upon which almost everything else must be built. We have sought and continue to seek Western, particularly American, aid to help us put this cornerstone in place.

I am not saying that without U.S. aid we will return to barbarism, but let us be frank and honest. American generosity is an important key to our recovery. Without it, creating the conditions that make human rights a central priority in our society will become infinitely more difficult.

Since our liberation from communist tyranny, we have made enormous, though certainly not complete, progress toward building a state that incorporates a respect for human rights and democracy at its very core. While Georgians wish we could be compared favorably to the stricter human rights standards that guide a number of Western nations, we know we are not yet ready for that comparison.

I do not mean to imply that we should not be held accountable to the higher standard. Of course, we should, but our zeal for perfection should not obscure the significant progress that has already taken place in

Georgia. When compared to where we were just two or three years ago, Georgia's human rights record is vastly improved. This improvement by itself should be seen as firm evidence of our commitment to achieve much more and as an implicit promise that we shall, indeed, do so.

What does our progress look like? Here are some examples.

First, nongovernmental human rights groups report significantly fewer abuses by Georgian security services during 1994. We have moved aggressively to curb the potential for human rights abuses in this area. For example, as Chairman Smith admitted, currently we detain under arrest more than 350 former policemen who are charged with a variety of crimes, including human rights abuses.

In addition, we have formally requested via the American Embassy in Tbilisi specialized help from the United States to train our police and other security forces in basic human rights policies and practices, as well as we expect assistance from the IPMT, International Police and Military Training, in this area.

Second, freedom of the press in 1994 was almost universal in Georgia, with active and important opposition media.

Third, multi-party elections that are free and fair are the norm throughout Georgia, and there are many, many other evidences.

I do not ask you to take my word for any of these achievements. These are the conclusions of the U.S. State Department in its most recent reports on human rights in Georgia. The reports also noted correctly that we have a long way to go.

Indeed, we do, but Georgians are extremely proud of these accomplishments, which I am sure you understand could not have happened without a great deal of pain and sacrifice and social disruption. These are not the accomplishments of a nation whose traditions and spirit are indifferent to human rights.

While these accomplishments set our course in the right direction, and even outdistance those of many states facing fewer obstacles and less perverse recent histories, they do not make us a perfect society. Far from it, individual passions still run high on many issues, and individuals in Georgia acting on their passions can and do violate human rights and the norms of common decency. Georgia is not unique in this regard.

At the same time, I can never agree that the heinous acts of a few individuals or group of individuals can be ascribed collectively to the Georgian people.

The State Department reports made another important and relevant observation. The Georgian government does not prevent nongovernmental organizations from investigating human rights violations. Quite the contrary, in fact, we have systematically removed impediments so that those who wish to investigate our human rights practices may do so.

The State Committee for the Protection of Human Rights, which Mr. Shevardnadze created in 1992, is no rubber stamp government department, as even our human rights detractors know. It is an active and energetic critic.

We have welcomed many human rights groups to Georgia. We intend to invite experts from the Victims of Torture, and we shall continue to do so.

At the same time, it is not the case that outside human rights groups are ipso facto correct in their analysis of what they believe to be human rights violations simply because they are outside groups. For example,

we do not accept the British Helsinki Commission's conclusions on the case at hand. The evidence they collected of abuse is one sided and tendentious. They, and not only they, did not even speak to the official organs they accuse of abusing the criminals. I have in mind the concrete investigators, concrete prosecutor, concrete prison employee or attendant.

Georgians rightly ask: how is it possible that these groups accept the word of criminals and terrorists over that of our officials? They dismiss out of hand the observation of American Embassy political secretary that the trial was fair and the behavior of the defendants was reprehensible. They have not considered other explanations for the apparent abuse, which are logical, supportable, and documented.

Their reports leave the impression that we are hiding something or, worse, that we are lying. Yet they fail to explain why we would throw open the doors to them and others to conduct their investigations if our intention is to deceive. Where is the logic?

Mr. Chairman, our government has undertaken to strengthen these areas of basic human rights not because we fear the scrutiny of committees and commissions, but because it is due and proper responsibility of Mr. Shevardnadze's government. We wish to be open and honest about our efforts.

I doubt that I am the first Ambassador to note the irony of this position, that our openness and willingness to be scrutinized by outsiders has resulted in the criticism that brings me before this Commission, but I can assure you that this is a risk we are prepared to accept.

With respect to this case of the convicted terrorists, Mr. Shevardnadze, as you, Mr. Chairman, admitted, has made it clear that due process will be followed and the defendants' rights and that international standards will be applied. The Appeals Commission must review the sentences, and if appropriate, Mr. Shevardnadze as Head of State will become involved after that review.

He has indicated his willingness to listen to all sides, including relevant human rights organizations who will have the right to examine all documentation, and he particularly requested yesterday OSCE to monitor the appeals process.

I would be remiss if I failed to note how difficult Mr. Shevardnadze's position is in this regard. No one disputes the defendants' guilt, and Mr. Shevardnadze is under great pressure from many Georgians for not doing enough to control terrorism and crime. Being tough on crime has a much different meaning in our context than in the United States of America, you can well imagine. It is, indeed, a delicate balancing act to be tough on crime, on one hand, while attempting to observe human rights when the methods of training required for these areas have not been yet fully implemented.

How carefully Mr. Shevardnadze walks this fine line will have a strong influence on Georgian public opinion on human rights issues, and it will set the tone for our ongoing efforts to improve human rights observance in Georgia.

Mr. Chairman, Georgians are no different from anyone else in our dislike of criticism, but we are very different from many states in our willingness to encourage healthy and honest criticism of our own national growth. We shall continue to ask the U.S. Government for assis-

tance in supporting our efforts to make human rights protection an integral part of our civic culture, and we shall continue to seek the advice of this Commission.

Thank you for your time and for your attention.

Chairman **Smith**. Mr. Ambassador, thank you very, very much for your testimony, and we do welcome the overture by Eduard Shevardnadze to welcome the OSCE to monitor the appeals process. I think that is a very positive step, and I would hope that you would be able to stay on while the other panelists make their presentations, at which time I and other members who I think will be joining us by then will pose some questions to our distinguished witnesses.

We do have three other witnesses to appear today, and I want to ask them to come to the witness table as I introduce them.

Erika Dailey is a researcher for Human Rights Watch/Helsinki, and was the Director of their Moscow office for the past year. She completed her tour of duty last week.

Ms. Dailey has written many reports on human rights, democratization, and nationality conflicts in the former Soviet Union. She is the author of three reports documenting abuses and violations of due process in the trial that I had mentioned earlier.

Welcome, Ms. Dailey.

Dr. Eduard Gudava, President of the U.S.-Georgia Foundation, was a dissident in Georgia during the Soviet period and left the USSR in 1987. I well remember his testimony before the Helsinki Commission at that time when he appeared before us.

He has been closely affiliated with a leading opposition force in Georgia, the National Democratic Party. The U.S.-Georgia Foundation, which he heads, promotes the transformation of Georgia into a democratic, free market society.

And finally, Dr. Stephen Jones, Associate Professor of Russian and Eurasian Studies, Mount Holyoke College, is a specialist on Georgia, where he spent 5 months doing research in 1994. He is the author of over 35 articles on past and current politics in Georgia and the Transcaucasus.

I welcome all of our witnesses and would ask, Erika, if you would begin, and then Dr. Gudava and Dr. Jones, if you would.

Thank you.

TESTIMONY OF MS. ERIKA DAILEY, RESEARCHER, HUMAN RIGHTS WATCH/HELSINKI

Ms. **Dailey**. Thank you very much, Mr. Chairman.

On behalf of Human Rights Watch, which is an independent, nonpartisan, human rights organization, I would like to thank you very much for the opportunity to address you today. We welcome the work of the Helsinki Commission. It has conducted extremely consistent and careful attention to the Georgian human rights situation.

From a human rights perspective, the Republic of Georgia holds a special place in the constellation of former Soviet republics. On the one hand, it practices and condones serious abuses, including state sponsored torture, and presides over a justice system that is often corrupt and fails to protect basic human rights and due process. On the other hand, much progress has been made, mostly notably in the area of free speech. Georgia does not interfere with foreign monitoring, and indeed, in many ways cooperates with it. It protects enough free speech to allow

violations to come to light and be discussed in a positive way, and the government and society as a whole generally respond positively to external pressure for change. It is also a country with which the United States enjoys good and active relations. Therefore, the United States can and should use its authority to push for change in abusive practices.

Human Rights Watch has conducted investigations on a broad spectrum of violations in Georgia several times a year since 1991, documenting violations of international law under both former President Zviad Gamsakhurdia and current Head of State Eduard Shevardnadze.

In my capacity as a researcher, I personally have been there four times since June 1994 alone and was in Abkhazia just 2 weeks ago.

Our representatives meet regularly with government officials and representatives of international organizations, take testimony from refugees, the wounded, combatants, and prisoners, and attend trials in which there are reported due process violations. We have issued reports on laws of war violations in South Ossetia and Abkhazia, and numerous reports and letters of concern about abuse of civil and political rights, and maintain an open dialog with the Georgian government.

Human rights abuse in Georgia spans the full scope of rights. Police arrest arbitrarily and harass individuals, sometimes because of their opposition to the current administration, and disrupt peaceful public demonstrations. Prison conditions are appalling, with prison doctors often presiding over the beatings and torture of inmates. The law enforcement bodies, judiciary and penal branches of government, are often corrupt and abusive. Today, however, I would like to focus on some of the most pressing violations, specifically the laws of war violations in Abkhazia, denial of the right to due process, and torture, by which we understand cruel and inhuman treatment.

Thanks to the ongoing U.N.-sponsored peace process in Abkhazia, the guns have largely fallen silent there between the Abkhazian rebels and Georgian government forces in the 16-month conflict spanning 1992 to 1994. This development has curbed perhaps the single greatest source of human rights in Georgia in recent years.

However, based on recent field work, Human Rights Watch believes there remains a great risk that human rights violations will persist on a large scale in Abkhazia. Individuals who have committed atrocities during the war on both sides have not been punished, and courts on the Georgian and Abkhazian sides are not equipped to arrest and try fairly their own combatants or those of the enemy.

Until those criminals are apprehended, there is little chance for reintegration of the warring sides in Abkhazia. A political deadlock and the unwillingness of the Abkhazian authorities to facilitate the safe return of displaced persons have left homeless some 200,000 individuals, overwhelmingly ethnic Georgians, denying them their right to return home.

Moreover, since Russia's attack on Chechnya in December 1994, Moscow has imposed strict controls on its border with Abkhazia. Ostensibly the controls were instituted to prevent arms and combatants from flowing into Chechnya and escalating the violence there. However, in effect, it has blocked food and medicine from reaching the civilian population in Abkhazia, exacerbating the humanitarian crisis. Russia has also failed to identify and punish members of its armed forces who provided arms to combatants during the war in Abkhazia, which were used against the civilian population causing widespread atrocities. If

the mandates for the U.N. military observers and Russian peacekeepers are not renewed in May, as they are scheduled to be, the fragile peace in Abkhazia is seriously jeopardized.

The brutality and lawlessness that characterized military behavior on both sides of the conflict in Abkhazia is an extension of the brutality practiced by Georgian law enforcement throughout the republic and, indeed, in many parts of the former Soviet Union. We have interviewed scores of individuals in Georgia who have been brutally beaten and in some cases burned with cigarettes, hot iron rods, and scalding water in order to extract confessions. Among these victims were old men and a blind woman.

By the accounting of the Georgian government's own Committee on Human Rights and Interethnic Relations, 50 detainees died in 1993 in a single facility in the capital due to mistreatment and neglect. Indeed, Human Rights Watch has found that brutality is so common during arrest and interrogation that many victims we spoke to did not even see it as torture, merely as routine.

To maintain the human face on victims of abuse in Georgia, Human Rights Watch has focused particular attention on a single criminal case recently prosecuted in the Georgian capital, Criminal Case No. 7493810, which you mentioned earlier, as did the Ambassador. I would like to read the testimony given to me by one of the suspects in that case who was arrested in 1992. The other 18 co-defendants in the case have complained of similar physical and psychological abuse at the hands of police and other prisoners at the behest of the prison officials.

I am citing now:

The same night I was arrested, the security forces started beating and torturing me. They didn't say what they wanted from me. They hit me with their fists, with clubs, kicked me, held me upside down, beat the soles of my feet, my head. It lasted all night. You hang there. People come in and out. I lost consciousness several times, but they would burn me or throw water on me to wake me up. I was covered in blood. I kept going in and out of consciousness.

The next day I was all blue from head to toe. My left leg and arm were broken, and I had cuts all over. They tried too hard. I couldn't stay conscious. The doctor said, "If you don't take him to the hospital he'll die." They took me to the hospital. I couldn't move. I could only sit or lie flat.

The interrogations continued, different people doing the interrogations. They would dictate my testimony. They began pouring boiling water on the right side of my neck and my back. They made me put on a shirt when they took me to the official. They made me wear a heavy jacket, which you can imagine on burned skin. . . .

I said, "Tell me what you want and I'll sign." I had said this before. First they said I should write that I was involved in the terrorist act against Jaba Ioseliani. They brought in electric shock cords. I was already dreaming of dying. I wanted them to apply the shock cords. It is easy to say now, but then I was hoping that they would kill me, but the chief officer said I was already ready to sign. I was held in solitary confinement for a month after that so that no one would see the results of the torture.

As in many cases in Georgia, such illegally obtained testimony is then submitted as evidence in court, although the fact of abuse by law enforcement agents is not. Indeed, as international protest against the

prosecution of Case No. 7493810 grew in 1994, the judge expelled 12 of the 19 defendants from the courtroom for the final several months of the trial. The man whose testimony I just read was expelled for allegedly smirking. That was the quotation from the legal document under which he was expelled from the courtroom. All but one of those expelled potentially faced capital punishment, and most were unrepresented by a lawyer.

All were convicted to prison sentences. Two are in legal limbo. Two await execution today.

This type of unbridled abuse has closely touched on U.S. interests as well. The man convicted of the 1993 murder of CIA Agent Fred Woodruff claims to have been tortured into confessing. These serious charges are not known to have been investigated, and Anzor Sharmaidze is currently serving a lengthy prison sentence in Georgia.

Our organization takes no position on the guilt or innocence of any of these individuals. Human Rights Watch draws attention to these cases for two reasons. First, because such appalling treatment demands redress. Second, we see Criminal Case No. 7493810 as a microcosm of abuse which is pervasive in Georgia. We hope that by focusing a spotlight of international attention on a specific case we cannot only help avert a gross miscarriage of justice, but in the long term break the pattern of abuse. We seek to set a precedent of government candor and responsibility for the actions of its law enforcement and judicial bodies and for establishing proper legal protections in the future.

We welcome the opportunity to speak before you today, in particular, because we are concerned that the U.S. Government is not known to have raised concern about Georgia's dismal human rights record recently, except for the letter that you recently mentioned.

The United States has provided critically needed humanitarian aid and administers extremely valuable educational programs in Georgia. The immediate intercession of the embassy has prevented abuse. In the past a single phone call from the Human Rights Officer has stopped prisoners from being beaten in detention.

However, the U.S. Government appears to have limited its protests almost exclusively to the work of its embassy and to the pages of its annual Country Reports on Human Rights Practices. The government's own findings are not known to have translated into the U.S. bilateral agenda. That must change.

We call on the U.S. Government to speak out publicly and vigorously against the broad spectrum of abuse practiced or tolerated by the Georgian government and to send a clear message that perpetuation of these practices will harm full cooperative relations with the United States. We also call on the U.S. Government to urge the Russian Government to lift the blockade of foodstuffs and medicines it has imposed along the Abkhazian border. We urge the Clinton administration to support the expanded work of the American Embassy, U.S. Aid Programs, and the OSCE in upholding and teaching about the rule of law, and to help furnish an OSCE mission with a human rights mandate in Abkhazia, and to help finance the U.N. peacekeeping and CIS de-mining program in Abkhazia. We respectfully request that President Clinton take advantage of Mr. Shevardnadze's scheduled visit later this year to communicate these concerns and to make respect for human rights the centerpiece for all future bilateral relations with the Republic of Georgia.

Thank you.

Chairman **Smith**. Ms. Dailey, I want to thank you for your very fine testimony, and in a few moments I will pose some questions to you, but at this point I would like to ask Dr. Gudava if he would make some comments.

Dr. **Gudava**. Thank you, Mr. Chairman.

Chairman **Smith**. And just let me note that your full statement, if you care to summarize, will be made a part of the record, but proceed as you wish.

Dr. **Gudava**. I am going to make just a partial statement, and I hope the full statement will be put in the record.

Chairman **Smith**. Without objection, it will be.

**TESTIMONY OF DR. EDUARD GUDAVA,
PRESIDENT, U.S.-GEORGIA FOUNDATION**

Dr. **Gudava**. Thank you.

Thank you for inviting me here. Unfortunately Georgia is plunged in darkness by all meanings of the word. Water, gas, and electricity are frequently unavailable, even in the capital Tbilisi. The economy is in shambles. Industry is functioning at less than a fifth of its capacity, and inflation is doubling each month. The standard of living has dropped far beyond poverty.

As for human rights, it is no wonder that in the background of such a disastrous general situation in Georgia, the abuses of internationally recognized human rights continues routinely.

I am familiar with all reports on that subject, both governmental and nongovernment. I entirely agree with these assessments. The only point that I believe really needs to be made here is that most of human rights abuses in Georgia were inherited from the past. They are nothing new. Generally speaking, the entire Georgian judiciary system consisting of the old Soviet appointees is corrupt. It often receives its orders from powerful personalities, both from within and from outside the government.

Also, there is nothing new in torture being used in criminal investigations or injustice found in penitentiaries. These are remnants of the old Soviet system. Anyone who was lucky enough to enjoy a relationship with the Soviet penitentiary system, and I was, can testify to the fact that prison officials use certain inmates to oppress other target prisoners.

Soviet investigators did not bother to waste their resources conducting costly investigations or trials, such as we do here, for example, O.J. Simpson. The Soviet judicial system tended to speed up the judicial process by simply forcing the criminal suspect to confess, regardless of the suspect's guilt.

These practices have been inherited by many of the USSR successor states, including Georgia.

However, there is something that is absolutely new and absolutely dangerous and menacing in many of the newly independent states, especially in Georgia: the explosion of killings, organized crime, and political assassinations in Georgia is coupled with another new phenomenon: the utter impotence of the authorities in dealing with these matters. These are the urgent human rights issues in Georgia and are of paramount importance.

I would like to switch the attention from the just mentioned 19 sentenced people in the recent trial which took place in Tbilisi to the same number, 19, political assassinations which we currently have in Georgia, investigations of which have gone nowhere.

It is true there have been contract killings in many other regions of the former USSR. The well-publicized recent assassination of Russian TV Network Director Vlad Listyev drew worldwide attention to the problem. Yet I would like to stress the evidence difference between such murders in Georgia and other regions.

In Georgia, political assassinations are committed in broad daylight. Killers do not bother to cover their faces or hurry up during and after their crimes. The criminals openly demonstrate their fearlessness of the law.

The flourishing of such a terrible criminal environment has been harmful for political and social life. As a result, efforts to transform Georgia into a democratic and civilized nation based on respect for the rule of law have been stymied.

Along with the corruption that plagues the current administration, Georgia, as well as many new republics and Russia, is sinking into an abyss of contract killings, drug trafficking, money laundering, and bank fraud.

Organized crime discredits the market system and undermines democratic institutions. The government must drastically reorganize their law enforcement and legal systems. It should involve the creation of entirely new criminal investigation agencies, the arrests and prosecutions of suspected prominent criminals, the rewriting of the criminal code to better define organized crime, and the recruiting and training of a new judiciary.

These are just a few first steps that should be taken.

Governments must apply economic policies that foster the free market, not mafia development. The West should cooperate with local law enforcement authorities as much as possible to share computerized data on criminal activity to identify trustworthy and reliable law enforcement personnel in Georgia, to provide help in writing criminal codes, and to create witness relocation programs, et cetera.

The topics of expanding crime in the former Soviet Bloc countries and appropriate Western reactions are in-depth topics, the details of which are beyond the bounds of the discussion today.

Nevertheless, this troublesome rise in crime should be the focus today because without dealing with this fundamental obstacle to the normalization and decriminalization of Georgia and other countries in the region, it is impossible to speak meaningfully about human rights and democratization.

Talking about democratization, what the United States could and should do, severe problems are on both ends of this process, both for the aid supplying country and recipient, Georgia. On the one hand, Georgia has met all of the qualifications to be excluded from U.S. assistance programs, such as Food for Progress, Public Law 480, and others because it does not meet the requirements for such assistance.

However, the United States-Georgia Foundation which I represent here does not recommend severing aid right now and considers it necessary to continue U.S. governmental assistance to the Republic of Georgia for a number of reasons.

If U.S. aid is eliminated entirely, it would worsen matters for the population because Georgia entirely depends on humanitarian grain shipments from abroad. Chaos and crime would intensify, resulting in advancement of organized crime structures.

Terminating U.S. aid to Georgia would leave her alone with the Russian modern expansionism that is worsening the situation in Caucasus. A slide into an irreversible and complete criminal anarchy that would endanger the stability of not only Georgia and the Transcaucasus region, but eventually this would affect the Western world through the expansion of organized crime. Hence, a cut in aid would actually be detrimental to U.S. national interests.

The United States-Georgia Foundation's democratic friends inside Georgia tell us that aid is still an important symbol of U.S. commitment to them in their standoff against the Russian drive to reestablish an empire. Aid visibly demonstrates the Western support to the cause of democracy in Georgia, and we at USGF strongly believe that the United States aid to the Republic of Georgia should be intensified despite the current disastrous situation indicates that the country is not currently moving substantially forward on its path toward democratization.

Stating that U.S. aid to the Republic of Georgia is greatly needed does not mean, however, that the current programs utilizing this aid denote the right solution. I would like to note that the effectiveness of the assistance to a foreign country in general, especially channeled through such a rigid, sophisticated, bureaucratic apparatus as the Agency for International Development, is highly questionable.

The countries which have been heavily subsidized by AID remain very poor because aid and technical assistance to them did not encourage the full scale transition to a free market. Instead, heavy dependence on foreign aid slowed down the development of the economic freedom infrastructures, and promoted statist economic policies.

Georgia does not need to be listed on AID's eternal list of subsidized countries. What Georgia desperately needs is the United States' tangible help setting up democratic institutions, the rule of law, and free market infrastructures. Precisely for this purpose, our foundation was created here in Washington, D.C., at the request of Georgia's political leaders and free market reformers.

Unfortunately, this type of potentially invaluable aid has not been provided to the republic yet. In spite of the fact that we prepared a number of pilot projects in many spheres of the democratization process, it has been impossible so far to move things from the ground because of the current bureaucratic incapability of the U.S. foreign aid complex.

Based on my first-hand experience in dealing with the system, we thoroughly support the current initiative of the leaders of the 104th Congress to modernize the U.S. foreign aid complex in order to make it more effective.

The success of supplying Georgia with United States aid rests on the following primary principles.

The first, control of the distribution of aid should decrease the possibility of this aid somehow serving to enrich the criminal elements in Georgia.

Second, the U.S. legislature should support innovative ways to improve the program design, efficiency, and delivery of aid to the Republic of Georgia.

Third, the best personnel, expertise, and technical resources available in both the United States and Georgia must be involved in the assistance process in order to make such aid effective and insure against worsening the Georgian situation.

Fourth, active U.S. intervention to assist Georgia in the transition to a free market economy and a healthy democratic state based on internationally recognized respect for the rule of law and human rights can be undertaken only with the consent and willingness of the powers that exercise control over Georgia.

Fifth, the Russian factor must be considered in all attempts of active engagement with Georgia. The Russian Federation must be aware and at least minimally supportive of Western assistance in Georgia in order to ensure stability and friendliness in the region, while protecting the practical feasibility of aid projects.

Sixth, it is naive to expect that Western aid will heal Georgian wounds overnight. However, so long as the United States remains engaged, there is a chance that Georgia will eventually join the community of civilized nations. If the United States and the West isolate themselves from Georgia, that possibility disappears.

To achieve American foreign policy goals, United States aid to the Republic of Georgia must be delivered quickly and efficiently. This cannot be accomplished if the old approach and reliance on AID experts remain.

In conclusion, I would like to list the steps to be made by the U.S. in order to achieve the needed results in providing aid to the Republic of Georgia.

First, continue conditioned assistance. A strong statement should be made in order to make clear for the Georgian people that such assistance is given not as a gesture of supporting the developments in Georgia, which have been quite bad, but this aid serves vital U.S. national security goals. Strong caution should be expressed. The Georgian government must understand that political support for the supply of aid cannot be maintained in the United States if the Georgian government continues its scornful attitude toward human rights and the rule of law.

Second, strict control of any assistance distribution. In order to stretch the value of U.S. taxpayer dollars and be sure that they are used for promoting and strengthening young democratic and free market structures, a control mechanism must be available. Otherwise the United States aid will disappear like water in the sand.

Moreover, if this aid ends up going to corrupt institutions, the final result is quite opposite. It strengthens the criminal structures. Therefore, control as to how the U.S. aid is distributed and used is crucial for the advancement of positive changes. The U.S. Embassy must have unlimited access to restrain any transactions involving U.S. aid funds.

Third, increase the volume of U.S.-Georgian nongovernmental program. We believe that private U.S. NGO programs are the most effective for supplying aid to Georgia. Since Georgia is a compact country, the scale of its aid programs does not require a huge administrative force and very successfully might be managed excluding big bureaucracies, such as AID, USIA, and others.

According to existing U.S. code, these types of programs must be conducted through a special bank account that must be under the total control of the U.S. Embassy. NGO delivered aid could be very valuable in Georgia since substantial amounts of aid funds could be saved in low overhead, administrative costs. Small private organizations are more dynamic and creative. Their financial activity in the recipient country is under the control of the U.S. Embassy. The funds to broaden assistance programs through private NGO's might be obtained from the shrinking of the government-to-government type of aid.

Fourth, provide support to independent NGO's in Georgia, specialized human rights monitoring groups, and independent media in Georgia. It is axiomatic that the best antidote for all kinds of shadowy activities is the existence of free and independent mass media. Therefore, it is of paramount importance to strengthen existing private media entities and to encourage the creation of new ones.

Fifth, intensify the U.S. foreign broadcast services. It is hard to understand that such a well developed and sufficient mechanism of civic education, such as Voice of America and Radio Liberty, which has been so effective during the communist era, now when there is a great need to transfer Western knowledge and expertise to the states of the former Soviet Union are losing its identity and becoming less effective.

We consider the Radio Liberty and Voice of America must utilize the Western expertise on the subjects and intensify their broadcasts to deliver to Georgian listeners the quality educational programs on human rights, the rule of law, and free markets.

And the last one, the United States should pursue innovative ways to improve the program design, efficiency, and delivery of aid to Georgia. In order to be effective, the aid must take advantage of the best experts, personnel, and technical resources available in both the United States and Georgia.

Thank you.

Chairman **Smith**. Thank you very much, Dr. Gudava.

And last, but not least, it is my privilege to welcome Dr. Jones to testify before our Commission, and again, proceed however you would like, Doctor, if you would like to summarize or if you would like to go with your entire statement.

**TESTIMONY OF DR. STEPHEN JONES,
ASSOCIATE PROFESSOR OF RUSSIAN
AND EURASIAN STUDIES, MOUNT HOLYOKE COLLEGE**

Dr. **Jones**. I will give a shortened version of the testimony.

Chairman **Smith**. Without objection, your full statement will be a part of the record.

Dr. **Jones**. Right. Thank you.

Thank you, Mr. Chairman and members of the Commission for inviting me here and giving me the chance to talk to you about Georgia.

When Mr. Ochs invited me to be a witness at this hearing, he asked me to give a broad context to the current situation in Georgia, and that's what I'll be doing.

When Eduard Shevardnadze came to power in Georgia in March 1992, of the multiple and interrelated tasks that he faced, the most pressing were an end to the wars in South Ossetia and West Georgia, accommo-

dation with Georgia's ethnic minorities, reestablishment of civilian control over the paramilitaries, and the restoration of some normality in economic life.

Shevardnadze's period in office has brought mixed results in all of these areas, and many of these problems remain unresolved. He has been dogged by powerful paramilitaries unwilling to cede their power, Russian military intervention in Abkhazia and to a lesser extent in South Ossetia, devastation of the economic and political infrastructures, and a population severely handicapped by its Soviet mentality.

Despite these obstacles, Shevardnadze's realism and his willingness to compromise brought the conflict in South Ossetia to an end within 3 months of his arrival. Within 7 months in October 1992, he had established a newly elected parliament and a temporary power structure with himself popularly elected as both Chairman of parliament and Head of State.

The appeasement of former President Gamsakhurdia's followers and the National minorities proved less easy. A civil war with ex-President Gamsakhurdia's supporters bested in the West Georgian region of Mingrelia lasted until the fall of 1993, and a more violent war with Abkhazian separatists which broke out in August 1992 and ended in Georgia's defeat in September 1993 with the loss of the Abkhazian autonomous republic and between five to 10,000 lives.

All of these things undermined Shevardnadze's attempt to rebuild Georgian institutions and "civilianize" the Georgia paramilitaries. The permanent military crisis increased the power of the paramilitaries particularly in the absence of a regular army, worsened the crime rate as armed soldiers returned home to joblessness, and undermined the legal power structures set up by the temporary law on power in November 1992.

The parliament, due to a bad electoral law designed to prevent a repeat of the single party monopoly under Gamsakhurdia, produced 26 parties. The inexperience of the new politicians, the limited power given to the speaker and parliamentary authorities to control the conduct of debates, the newness of procedure, and a traditional Georgian skepticism toward authority were not unsurmountable barriers to an effective legislature.

But fluctuations in the fortunes of war and mistakes in its conduct, and condemnation of Shevardnadze's policy of "capitulation" to the Russians who eventually forced Georgia back into the CIS, led to a hysterical legislature and highly charged partisanship which prevented compromise, sabotaged the parliament's legislative program, and undermined public confidence in parliamentary politics.

Bitter distrust between the parliamentary opposition and Shevardnadze grew as the latter, ignoring parliament's sensibilities but needing to take action, gained and used emergency powers to tackle Georgia's military, financial, and political crises. The weak and disorganized parliament has undermined a central pillar of the new constitutional structure in Georgia and has done great damage to the long-term health of Georgian democracy.

The war not only undermined Georgian democracy, but also undermined the Georgian economy. All resources were devoted to the war effort. Economic reform was indefinitely postponed, and following Georgia's defeat in Abkhazia, the state was burdened with almost a quarter of a million refugees.

Shevardnadze cannot be blamed alone for the 1994 levels of industrial and agricultural output and labor productivity which have fallen to below the level of the 1960's. He inherited many of these problems and was forced to fight a war without adequate resources.

But until September 1994, when under pressure from the World Bank and the IMF the first steps were taken to implement real economic reform, there has been no effective privatization of large scale industry, total confusion in land redistribution, continued massive price and employment subsidies, an absence of revenue collection, and an uncontrolled budget deficit.

This led to a massive decline in living standards and unprecedented levels of poverty as the salaries paid by the government in official coupons became totally worthless.

The Shevardnadze administration has made some progress in reducing crime, and since the appointment of Vardik'o Nadibaidze as Defense Minister in April 1994, he has begun to restore a regular military subject to civilian control. He has ended Georgia's international isolation and brought relations with the strategic neighbors of Russia, Armenia and the North Caucasus onto a more even keel.

Although his commitment to peaceful resolution of conflicts with the Abkhazians and the Ossetians backed by the Russians has brought only limited success, both Abkhazia and Ossetia remain outside Georgian control, and despite a signed agreement with the Abkhazian separatists in May 1994 for the return of refugees, very few have been permitted by the Abkhazians to return 10 months later.

In order to bring peace to Georgia, Shevardnadze has effectively sacrificed a great deal of Georgian sovereignty. Russia exercises the greatest influence in Abkhazia and South Ossetia, and in return for its arbitration of the separatist conflicts it had militarily supported, it has been granted four military bases, joint use of all Georgia's ports and airfields, and supervision of Georgia's borders.

Shevardnadze's administration, despite the war in Abkhazia, has improved relations with Georgia's national minorities. He has preserved basic civil liberties, despite pressures from a state under siege to introduce more authoritarian measures. His record in the field compares favorably with President Ter Petrosian of Armenia, who recently banned the largest official opposition party and closed down 12 newspapers and news agencies in Armenia. Shevardnadze also has an incomparably better record than Gaidar Aliev in neighboring Azerbaijan.

Regarding human rights, the charges against Shevardnadze's government are very serious indeed. Anybody who has read the British Helsinki Human Rights Group report on the torture of prisoners in Georgia must be greatly alarmed, but although it pains me to say this, I do agree with the Ambassador after reading the report that there were serious inaccuracies in this report, underlined in my view by a certain one-sidedness.

I will only say the following without any attempt to downgrade the abuses highlighted by the Helsinki Watch Commission.

First, in the political chaos of Georgia, the disregard of rules and responsibility continue to affect all institutions from the parliament and ministries to the police and the judiciary.

Second, the wiring of the old Soviet state is still in place, by which I mean a corrupt judiciary and police force. Everyone is aware of that, including Eduard Shevardnadze, and there is as yet very little opportunity to replace them with new and untainted personnel.

This requires time and more attention to the problem than Western countries have been willing to give so far.

Third, Georgia shares with other former Soviet republics absent legacies, such as the rule of law, accountable bureaucracies, and relationship of trust with the government.

Fourth, traditional Georgian political culture emphasizes patron-client relationships rather than institutional ones. Loyalty, even when it's misguided, and the use of gifts and bribes to secure influence have all contributed to Shevardnadze's inability to institutionalize Georgian democracy or to make it more than surface deep.

As head of state, Shevardnadze has a large apparatus which parallels the government, but despite full use of his prerogatives to issue decrees and states of emergency, his power to change old habits is limited. He can punish, which he should do more energetically than he is doing currently, but I don't think it is useful to spotlight Shevardnadze's role when discussing the abuse of prisoners, just as I would not single out the Clinton administration for racism in the Los Angeles police force.

The problem of human rights abuse in Georgia cannot be solved by fiat. Rather, it is a reflection of a brutal legacy, the current state of society, and the absence of effective institutional control from above and civic control from below.

But it must be said that the concentration of power in Shevardnadze's hands, his seeming indifference to the self-destruction of the Georgian parliament, and the retention of conservative "apparatchiks" in policymaking positions is undermining popular faith in the institutions of democracy and the market.

Shevardnadze managed to save the Georgian ship of state when it was perilously close to sinking, but he has given it little direction since, partly because of the permanent political and military crisis in the country. In attempting to reassert political authority and end the feudalization of Georgian politics characterized by the rise of unaccountable economic and political barons who run their spheres through informal networks, mutual favors, and obligations, Shevardnadze faces a dilemma.

Should he continue to keep power in his own hands, promote trusted but conservative friends, ignore the ineffective legislature, and stall major economic change which can only temporarily at least worsen the population's economic well-being? This is a course designed to muddle through.

Or should he take a risk and remove economic subsidies, reform the welfare system, replace experienced "apparatchiks" with inexperienced reformers, push harder for a reconstructed and perhaps more challenging parliament, and remove corrupt leadership figures like Jaba Ioseliani who out of government may de-stabilize Georgian society at a time of intensified economic pain?

The second course in the short term is more politically unstable and certainly more painful, but unless Shevardnadze's administration is encouraged to take it with substantial economic support from the West, Georgians may find themselves led by a politician who lacks the scruples and the experience of Eduard Shevardnadze.

Western Europe and the United States can help Shevardnadze's government accomplish the second course. This is not a time to reduce aid, nor after the experience in Chechnya which was partly a result of the West's passivity and indifference to similar Russian behavior in Abkhazia is it a time to further isolate Georgia.

All human rights abuses must be condemned. The most egregious, of course, are happening today in the Russian controlled area of Abkhazia, but engagement, education, and economic carrots are the way to deal with it, not economic penalties, which will only further de-stabilize Georgia and make further human rights violations more rather than less likely.

Thank you.

Chairman **Smith**. Thank you very much, Dr. Jones.

I would like to acknowledge that Congressman Wolf, Commissioner Wolf, is with us today, and he has been a longstanding member of this Commission, very concerned about human rights everywhere in the world, especially in the newly independent states, and himself was briefly in Tbilisi last September.

Before beginning some of the questioning, I noticed as each of you was speaking that some were nodding in agreement or disagreement. If there might be some comments, Mr. Ambassador, you might want to make in response to some of the comments made by our witnesses, not to turn this into a free-for-all, but I think it would be helpful to hear some of the interplay between our panelists, and then I intend on posing some questions.

Mr. Ambassador.

Ambassador **Japaridze**. Thank you, Mr. Chairman.

First of all, I would like to thank you very much, you personally and the Commission members, for this opportunity to participate in these extremely interesting, positive hearings concerning my country, the Republic of Georgia, and I would like to thank very much the participants, the panel, and participants of this discussion for their constructive criticism, their ideas, their suggestions.

Though with some of them I cannot agree and some of them, as panel participants have just admitted, some of these arguments are just one-sided. I would like to come back to Mr. Jones' phrase about Georgians' traditional skepticism toward government and toward law. Maybe it is true, but at the same time we should take into account where Georgia used to be just a couple of years ago.

We may put it another way, you know. Unfortunately, Georgians traditionally had antipathy toward Soviet law, and it should take a certain amount of time before Georgians, I speak about Georgian society, Georgian citizens, understand that they should be obedient to law, and it is not already Soviet, but it takes time. I agree with Mr. Jones' remarks in general.

Speaking about Ms. Dailey's remarks, there is no doubt we cannot agree with what is going on in Georgia speaking about the law enforcement officers, but this at the same time, you know, is the concrete case. It is not the microcosm of what is going on in Georgia in general.

I would like also to say Ms. Dailey, how you look at Georgia--the bottle is half empty or the bottle is half full. For me it is half full, and it's a process. It's a very positive process, though I also am very open to your criticism and will take your remarks in general into consideration. At the same time I want to mention the terrible story you have

just told. You did not mention the name of this poor man or lady. I have different arguments and as an ambassador I should not accept your arguments. I received a letter from the First Deputy Prosecutor of Georgia who says the opposite--maybe he is wrong. I don't know, and maybe you are wrong, but I would have appreciated your argument about this torture incident or this story about this man or lady if after visiting the prison you would have gone to the place where these 350 policemen are detained now and you would have asked the question to one of them who might have participated in torturing these people because I'm sure that these policemen, you know, if you had asked this question, might have told you another story.

But at this time, Mr. Chairman, I would like to thank all of the panelists and first of all Ms. Dailey, who was especially critical, for this constructive criticism, and we'll take all of this information back home and inform my government.

Thank you.

Chairman **Smith**. Ms. Dailey, did you want to respond?

Ms. **Dailey**. Yes. We certainly welcome the Ambassador's statements and look forward to future dialogue on these issues, which I know are of mutual interest and importance.

Concerning the issues of torture, I respectfully disagree. We have followed the issues of police brutality for several years now, and as I said, we believe that these are not isolated instances. This is common practice.

As Mr. Gudava mentioned, this has certainly been going on since the Soviet period. What we're looking forward to in Georgia is, through the assistance of the international community and the cooperation of the Georgian authorities, to recognize this as the problem that it is, which is widespread, and to curb it immediately.

As you know, under international law there is never any justification for torture under any circumstances. There have been statements by the authorities that, for example, as part of the fight against terrorism many things happened. Certainly our respected guests will appreciate that there is no justification and that certainly the fight against terrorism is not furthered by the practice of torture.

These are issues that we have engaged in dialogue with the Georgian authorities about and look forward to cooperating on.

Ambassador **Japaridze**. Just a short remark, Mr. Chairman.

I thank Ms. Dailey for her counter-remark. At the same time, I would like one more time to admit that I would like Georgia to be, as well as I understand you want, to be a shining city, but we are not a shining city. We were formally independent; we were formally sovereign; we are members of different international organizations, but the most important thing is that we are in a transitional period, and we are within this process, which is a long, painful, and as I told Ms. Dailey and other participants and the members of this Commission, that we are open to any kind of constructive criticism and will be ready to accept it. Just in the morning I get a call from Mr. Shevardnadze, and he asked me to deliver his gratitude and his appreciation for this Commission's efforts.

He told me, you know, that he expects, you know, this constructive criticism and is ready to answer any question and work with any human rights organization or the delegation from your or other Commission.

Chairman **Smith**. Let me say that that kind of transparency and openness is certainly appreciated.

You know, the U.S. State Department Country Reports on Human Rights Practices notes that police routinely beat, and I am quoting here, routinely beat and otherwise mistreated detainees during pre-trial detention. I was wondering of the 350 policemen who are incarcerated for, quote, various crimes how many, if any, are there because of brutality inflicted upon detainees or prisoners.

Ambassador **Japaridze**. Sure, sure.

Chairman **Smith**. And are these recent cases, the 350, because that is all we have.

Ambassador **Japaridze**. I have been informed by Mr. Shevardnadze and Mr. Kavsadze, whom Ms. Dailey maybe knows--he is the Chairman of this Committee on Ethnic Minorities and Human Rights, and this is an absolutely correct figure, and I hope that representatives of human rights organizations, as well as other international organizations will visit these people and investigate why they are in this, why they are detained.

Chairman **Smith**. It would be helpful for the Commission if we got that information, and also as this dialog gets deeper, the kind of training. I mean we have in this country and every country has problems with police who misuse the privilege that they have been given, entrusted, if you will, by the people, and there is always due process and rights afforded the accused that help to guard against that kind of abuse. The more Georgia matriculates to a rule of law and those rights are put firmly in place, that the accused have certain rights that cannot be abridged by an errant police officer, the less often these kinds of abuses will happen.

If anybody would like to comment on that, because I think that is part of the key issue, that accused people have access to competent attorneys to defend them, that they are not taken off to some detention area where God knows what happens to them.

Ambassador **Japaridze**. Mr. Chairman, you should excuse me because I am taking time of the panel participants.

Chairman **Smith**. That is why we are here.

Ambassador **Japaridze**. Yes, that is why I am here, and when you mention policemen and police people, just to be more exact, one incident or one let's call it a story came into my mind. When we speak about the standards and the goals the Georgian police and Georgia itself, you know, should pursue. Just a couple of days ago I walked to the embassy office. We have no embassy residences, small two rooms in a building, which is nearby the White House. I was walking nearby the White House and there was a demonstration of janitors, and they blocked the streets, you know, near the White House, and the police appeared.

As far as I was preparing myself for these hearings, it was interesting for me--it was a very open lesson for a Georgian Ambassador--to watch, how they interact with each other. I should tell you they arrested these demonstrators, but putting this in general terms, though there was some pushings and other things, but I can qualify these pushings as friendly hugging.

I understand it is an ideal thing to have this kind of police in Georgia, but another idea came to mind. We will never have this kind of police until the society is not the same. So what is Georgian police? It is a reflection of Georgian society, of the conditions in which the Georgian society is now.

The panelist mentioned two civil wars, town war, economic stagnation.

Thank you.

Chairman **Smith**. Mr. Ambassador, for the record, because we have gotten conflicting reports, just so it is very clear and unambiguous, what is the official view of the Georgian Government? Was any of the 19 defendants in this case, who have been accused of terrorism, subjected to torture or physical mistreatment? What is the official government position on that?

Ambassador **Japaridze**. I myself have not been involved in this case, and I can use just official information. I received, as I told you, a couple of days ago. This information admits that during the process of investigation, this paper says that there was no torture used. That's the information I received, you know, from official structures.

Chairman **Smith**. Again, that's---

Ambassador **Japaridze**. But, you know, what Mr. Shevardnadze told is that he will take under his control this case and get information, additional information, wherever torture has been used during investigation or not.

Chairman **Smith**. This is where the problem with credibility comes in because, again, Mr. Shevardnadze himself confirmed the use of torture at a press conference in October 1992, and the delegation to the CSCE meeting in Budapest in October 1994 also acknowledged that one of the defendants was tortured. I would hope we could get a clear-cut clarification from the government on that so we can make it a part of the record.

Ambassador **Japaridze**. Yes. I will inform my government, and as soon as I get the more detailed information, I will transmit this information to your Commission.

Chairman **Smith**. Mr. Wolf.

Mr. **Wolf**. Mr. Ambassador, just one question, and I appreciate your coming and the entire panel.

Will there be a retrial? Will the 19 have an opportunity for---

Ambassador **Japaridze**. Sure, sure. I concluded my statement before you came, and I just mentioned that retrial might take place.

Mr. **Wolf**. It will take place?

Ambassador **Japaridze**. Reconsideration might take place, these people can appeal to the parliamentary commission, and the case might come to Shevardnadze's attention. So there are certain phases.

Mr. **Wolf**. So there is an opportunity that there will be a retrial?

Ambassador **Japaridze**. Oh, yes.

Mr. **Wolf**. What should the Commission do then? Should Mr. Smith and the members of the Commission do a letter to our Ambassador in Tbilisi asking that he go in to see Mr. Shevardnadze urging that there be a retrial? What would be---

Ambassador **Japaridze**. Mr. Smith already delivered the letter to Mr. Shevardnadze, and Shevardnadze just transmitted his response, and you can read the letter, which explains the process concerning the case of these sentenced people.

Mr. **Wolf**. Our embassy has been working with your government.
Ambassador **Japaridze**. I hope.

Mr. **Wolf**. Yes. It depends sometimes, but I just wanted to know before leaving. That was why I came, because of the 19. Is there a commitment, and maybe I am missing some and I apologize for coming in late? When will the retrial take place?

Ambassador **Japaridze**. As I understand there is a certain legal procedure after sentencing these people. There is a legal base for this reconsideration or retrial. So in a certain period of time, you know, this retrial, reconsideration process will start.

Mr. **Wolf**. Yes. The letter that Mr. Smith got back does not say yes or no. It says, "Should the appeals process reach the point where it is appropriate where I believe the state to become involved, I will pay strict attention to not only the documentation of the case thus far, but to those concerns voiced by the human rights organizations. I will endeavor to ensure that the myriad considerations of this case be addressed in as fair and transparent a way as possible."

I would urge you, and maybe Mr. Smith and I will do another letter again asking that there be a retrial, and if we could get notification, what we will do is we will cable our embassy, ask them to formally go in and ask officially for a retrial, and if you could get back to Mr. Smith and he could let me know when that will take place.

I know you have a difficult situation there. I was there in September for a brief period of time. We were picked up at the Armenian border and drove through there, and I know you have got a pretty rough situation there, but I think if you really want to move into a more democratic way, the best thing you can obviously do is to have a retrial of the 19 people, have it fair. We would then ask that a representative of our embassy attend the trials, and then at that time I think perhaps there could be some reconciliation, and then I think it would be very, very positive.

Ambassador **Japaridze**. Congressman, we will inform my government.

Mr. **Wolf**. No, you go ahead.

Ambassador **Japaridze**. It is in a legal code of Georgia. After sentencing, these people should appeal, you know, to the court of appeals, and then after the decision of the court of appeals, the reconsideration process starts. Mr. Shevardnadze just met yesterday OSCE representative in Georgia, and he asked this organization to monitor the appeals process.

So this process will be open, and if your embassy will participate, we will appreciate and welcome it.

Mr. **Wolf**. Yes, we will do a letter to the Ambassador asking, one, that we get a firm date; two, that they participate.

Ambassador **Japaridze**. And, Congressman Wolf, I can mention for the record, you know, the lady who works in the U.S. Embassy in Georgia, who is already involved in this process, Mrs. Jessica LeCroy, and you can appeal directly to her or to the Ambassador. We will appreciate it. That is what I can tell you.

Mr. **Wolf**. How is the relationship between our embassy and your government? Does the American ambassador have a good relationship with Shevardnadze?

Ambassador **Japaridze**. As far as I used to work as Shevardnadze's National Security Advisor, I personally had very open, very constructive, very frequent communications with Ambassador Kent Brown, who has frequent communications with Shevardnadze, who is also open to your Embassy. Any time the U.S. Ambassador wants to come to Mr. Shevardnadze, just to ask a question, to inform back--he is welcome.

Mr. **Wolf**. Would it also help if former Secretary Baker made a request to Mr. Shevardnadze on this issue?

Ambassador **Japaridze**. Please.

Mr. **Wolf**. Thank you very much.

I thank the panel.

Chairman **Smith**. Thank you, Commissioner.

Again, before we go on to another question, the question of whether or not this appeal actually occurs is of great interest, especially in your own testimony, Mr. Ambassador, when you said no one disputes the defendants' guilt.

As I said in my opening statements, we are not saying pro or con. We do not know if they are guilty or not, but the means of extracting confessions would not hold up in any court that I know of, and if, indeed, torture was employed against at least one and perhaps several of these individuals, that taints any outcome, calling for a mistrial and hopefully a retrial under open and fair circumstances.

Dr. Jones, would you like to comment on some of this?

Dr. **Jones**. I would just like to add that I agree with the Ambassador that Georgia is going through a tremendous transition at the moment, and that most of the judiciary is Soviet trained judiciary. Most of the police force is an ex-Soviet police force. In both of these institutions there is corruption, and in the police force a tradition of brutality.

I don't expect that to change any time soon, and that must be taken into account when we discuss these questions of police brutality in Georgia.

Chairman **Smith**. In addition to humanitarian aid, then, would it be wise if some of the international aid was focused on human rights training?

Dr. **Jones**. Absolutely. I think that it really has not been significant so far.

Chairman **Smith**. On the issue of humanitarian aid, if I could, Dr. Gudava, you made a very strong appeal for that aid not to dissipate. You say if it was stopped, things could worsen for the population. It could lead to anarchy and other very, very bad outcomes, and yet you provided several suggestions as to how that aid might be better focused and delivered.

I wonder if our other witnesses, especially my comment on whether or not U.S. aid sent today is being diverted to bandits and gangsters and thieves, whether or not it is getting to its intended population and what we might do to better funnel that aid to its intended recipients.

Ms. Dailey.

Ms. **Dailey**. I can only agree heartily that humanitarian aid is desperately needed, and we would certainly welcome all efforts on the part of the U.S. Government and the international community generally to further those efforts. It is desperately needed.

Chairman **Smith**. Mr. Ambassador.

Ambassador **Japaridze**. Mr. Chairman, I also support what Dr. Gudava said and Ms. Dailey commented about, U.S. aid to Georgia, as well as to other republics, because this is one of the central political issues for Georgia, and for your information, we work very closely and constructively with the State Department, especially with Ambassador Simons' office, and what we can recommend is the U.S. Congress to redirect U.S. aid from the humanitarian to technical and investment oriented. We talked about this when we met, if you remember.

Chairman **Smith**. Let me just ask a couple of additional questions.

Ms. Dailey, as you probably know, the State Department Country Reports on Human Rights Practices suggests that there are no political prisoners in Georgia. Do you agree with that?

Ms. **Dailey**. It is a very difficult question, and the one thing that I would point out in terms of the U.S.' position on this is that in the 1993 Country Report, it was stated that there were more than 100 political prisoners in Georgia. In this year's report, however, it states that there are none without any explanation. For example, if there had been an amnesty which had released them, that would explain it. So I would actually appreciate a clarification on the part of those who prepare these reports about why that is, where these 100-plus people have gone to. Clearly, it would not be because of a change in the definition, but at the same time it leaves a lingering question mark.

We have not taken a position on this issue to date. There is strong evidence to believe that there are people who have been certainly persecuted because of their political positions, but we have not been able to confirm this.

Chairman **Smith**. Mr. Ambassador, please.

Ambassador **Japaridze**. Yes, just a very brief comment, Mr. Chairman, because as Ms. Dailey just admitted, there used to be just about 100 political prisoners less than a year ago, and now the document issued by the State Department about human rights conditions in the world, including Georgia, as well as other documents, indicate that there is no Georgian political--we have no political prisoners in Georgia.

These kind of contradictions, and I agree with Ms. Dailey, just disorient not only Georgians, but as I understand also Americans. We will appreciate if we get objective information what kind of conditions we have with human rights, straightforward from the State Department, as well as from the U.S. Congress.

Thank you.

Chairman **Smith**. Elections are supposed to take place in October 1995. Considering the extent of corruption at high levels and the influence of organized crime, in your view--and I would ask all of you if you would like to touch on this--can free and fair elections be held in Georgia, and what do you make of the Communist Parties that have been re-registered and united into one unified organization? Do they have a good prospect of winning in Georgia?

Would anyone like to start? Dr. Jones.

Dr. **Jones**. Well, my suspicion is the answer to that is no. Another question was whether there could be free and fair elections?

Chairman **Smith**. Free and fair elections.

Dr. **Jones**. What the Georgians are working on currently is a new electoral law. I commented in my statement that one of the problems with the last election was a poorly designed electoral law which led to a fractious and incohesive parliament.

Corruption is widespread throughout Georgia, and there are certainly recorded electoral abuses, but not to the extent that the last elections were considered unfair. I think that given a good electoral law, there is no reason why there should not be free and fair elections in Georgia.

Chairman **Smith**. Dr. Gudava?

Dr. **Gudava**. I think that the question here is in a definition, what do we consider a free and fair election. I don't think that future elections this year, the upcoming elections, might be less fair than the previous one, if we agree that the previous elections are free and fair.

Chairman **Smith**. Nobody else would like to comment on that one.

Let me just conclude by asking what you think the Russian goals are currently, especially with the peacekeeping mandate in Abkhazia. What is the expiration date on that?

Ms. **Dailey**. May.

Chairman **Smith**. May. What do you think will happen post-May? What do you think the Russians will do, as well as the Georgian government?

Mr. Ambassador.

Ambassador **Japaridze**. May I start?

Chairman **Smith**. That would be fine.

Ambassador **Japaridze**. Nobody knows. It's a very good question, but this question is also very, very complicated because nobody knows, you know, what Russia can do. There are problems, you know.

At the same time I would have appreciated it if this Commission, the Helsinki Commission, and other U.S. Congress committees and commissions would have been more active before 1994. Let's say if they had been more active in 1990 and 1992, as Mr. Jones absolutely correctly admitted, that certain forces from Russia manipulated the problems inside Georgia.

And just as a follow-up, when Ms. Dailey speaks about human rights, you know, violations, she speaks about the Republic of Georgia, and when she speaks about, you know, other issues, she uses Abkhazia and Georgia, which might confuse the distinguished panel and you, Mr. Chairman, because as I understand it, Russia and the United States, they confirm that Abkhazia is a territorial, historical part of Georgia. We mentioned the behavior of certain Russian forces of Russia from 1992, you know.

There is no doubt that they manipulated with our problems, and we have the negative result. We have more than 200,000 refugees still out of their homes, and this might be the answer to your question, what Russian peacekeepers are doing, but at the same time I'd like to admit that there is slight, you know, progress in the region.

And we will appreciate if alongside with Russian peacekeepers, and as I understand the Russian side is also ready for this, other international organizations will be more active.

But what Russia might undertake in the future I cannot tell you.

Chairman **Smith**. Would anyone like to? Yes, Ms. Dailey.

Ms. **Dailey**. Mr. Chairman, if I might make an important clarification, our organization takes no position on the status of Abkhazia. We merely make those distinctions because the war took place on Abkhazian territory, and between the residents of Abkhazia and government forces in Georgia.

Our position in terms of the blockade has been that we object to any attempt to impede the transmission of foodstuffs and medicine, which is effectively what has happened. We have not heard of that problem existing in larger Georgia. We have only heard of that existing in Abkhazia proper.

If there is a correction to be made, I would appreciate that.

Ambassador **Japaridze**. But we talked about this, Russia closed the border not with Abkhazia, but the border with Georgia?

Ms. **Dailey**. Yes, that is correct. We don't make that distinction.

Ambassador **Japaridze**. Okay.

Ms. **Dailey**. It is our understanding from a recent field visit that foodstuffs and medicine are being prevented from entering Abkhazia. That is a de facto blockade.

Ambassador **Japaridze**. But this blockade is used not to transfer and smuggle weapons.

Ms. **Dailey**. Again, whatever happens across that border, our only concern is that foodstuffs and medicines reach the civilian population.

Chairman **Smith**. I only have two final questions, but just let me preface the first. Some years back Mr. Wolf and I visited one of the gulags in Russia, then the Soviet Union, Perm Camp 35. As a precondition to our going, we got an explicit statement from the Procurator General that there would be no repercussions to those with whom we spoke, and we met with a number of political and religious dissidents and prisoners who were in Perm 35, and we met with them for several hours, tape recorded their comments, and videotaped them, and then brought them out and widely disseminated them.

To the best of our knowledge, people were not injured as a result of that visit. We worried about it. We sweated over that, and I was wondering, Ms. Dailey, in your contacts with people behind bars if you've gotten those assurances and, most importantly, if anyone has been adversely affected for talking to you.

Ms. **Dailey**. It's a terribly important question. I'm glad that you raised it.

Our work is predicated on that guarantee. We, like the ICRC, the International Committee of the Red Cross, will not meet with prisoners unless we have obtained that guarantee ahead of time and also unless we are able to meet with detainees one on one in full confidentiality.

I have met with individuals under those circumstances, again, with those guarantees. I would like to point out, though, that in one instance my meeting with someone in the prison hospital resulted in that person being put under strict isolation by the judge in the case. He was removed punitively after our meeting the following day, in fact, removed from the prison hospital back to the prison where conditions are even worse, frankly, than in the hospital, and it took us a month of lobbying and asking for that person to be returned to have him actually returned to the hospital where he could get proper medical care.

This is not the first time that this has happened. In fact, I'm told by representatives of the American Embassy that the same thing had happened with them, that when they met, again, with this same individual, he was forcibly removed from the hospital against the wishes of his doctor, and again, it took them about a month of phone calling and requests to have that person returned to the hospital.

Chairman **Smith**. Ms. Dailey, if you could ensure that this Commission knows the names and the specifics of each of these cases.

And, Mr. Ambassador, I would just ask that you would use your good offices to try to ensure that, again, no one has any adverse effects for simply speaking to a human rights activist or to their own counsel.

Again, one of the rules of law is that you can convey information to your defense counsel without fear of the prosecutor using bully tactics against you, that is to say, torture.

One final question, and this would be to Dr. Gudava. The Georgian opposition strongly criticizes Mr. Shevardnadze. Can you suggest that any other politician, given the fact that there's a tremendous amount of Russian pressure, widespread corruption: could somebody else do a better job in your view?

Dr. Gudava. Oh, Mr. Chairman, well, it's a difficult question, but in short, I think that there is not an alternative candidate to this position nowadays in Georgia. The problem with Mr. Shevardnadze is not that he is a bad politician or a bad person, but the environment in which he started, after his return in Georgia, is such that the qualities which made him famous worldwide are useless in the criminal environment of today's Georgia. So he has come up with the matters and problems with which I doubt he ever dealt before. I am talking about organized crime. I am talking about political assassinations. I am talking about explosion of all of these criminal activities and taking over almost the entire sphere of life in the Republic of Georgia, as well as many other places of the former Soviet Union.

Therefore, the answer is that I think that Shevardnadze's presence in Georgia was and is a very positive one, but because of the reasons which are beyond his maybe ability, the situation is worsening. So I don't see any other candidate who could do a better job than Shevardnadze, taking into account the circumstances which are in Georgia today.

Chairman Smith. Dr. Jones, did you want to comment?

Dr. Jones. Generally I would agree with Mr. Gudava about that, but I do think there are alternatives to Eduard Shevardnadze. There must be alternatives to Eduard Shevardnadze because he cannot go on forever.

I think one of his problems is that because of the complete collapse of power in Georgia, many of the things that he wants to get done are not done. He has really limited control over many of the things that are happening in Georgia, particularly in the regions.

One of the criticisms that could be leveled at Mr. Shevardnadze is that he is too cautious, and displays a lack of energy in tackling particular some major economic problems in Georgia, although this last fall that has been remedied to a certain extent. There are also serious problems in his personnel policy. He appoints people that he trusts, that he knows, and that he feels can cope better with the situation in Georgia rather than looking for reformers. But it is the latter where his emphasis should go. He should be encouraged at this stage to change his government and employ as many reformers as possible and take a much more energetic line in terms of the economic transformation of Georgia.

Chairman Smith. I thank you, and I want to thank our very distinguished panel for your testimony. I think it will be very helpful to the Commission, and we will endeavor to make this information that you've

imparted to us available to every member of both the House and Senate, especially as we proceed to marking up the foreign aid bill which is just around the corner.

One of the other hats that I wear is as Chairman of the International Operations and Human Rights Committee. We'll be marking up our legislation some time right after the recess, and then we go to the full foreign assistance bill immediately after that.

So this information will be very, very useful, and I can assure you we will make it available to members who will be in strategic decisionmaking positions in the very, very near future.

So I thank you for your testimony. It is most enlightening, and without further ado, this hearing is adjourned.

[Whereupon, at 3:55 p.m., the hearing was concluded.]

