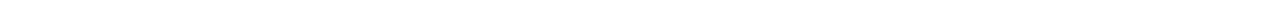




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## Q & A: Violence in South Ossetia

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**August 15, 2008**

### **1. What's going on in South Ossetia?**

Violence has escalated in South Ossetia, a breakaway province of Georgia and one of the "frozen conflicts" of the former Soviet Union. The conflict heated up dramatically in the early morning of August 8, 2008. Georgia declared that it intended to restore constitutional order and launched a large-scale military offensive. Russia sent additional troops to South Ossetia, saying they were reinforcements to Russian peacekeepers who are in the area to monitor a 1992 ceasefire between Georgian and South Ossetian forces.

The following questions and answers set out basic elements of international humanitarian law (the laws of war) governing recent and potential military actions by Russian, Georgian and Ossetian forces in South Ossetia. Human Rights Watch has yet to conclude an on-the-ground investigation of the fighting. Our purpose is to provide analytic guidance on the law for those who are examining the conflict, and to encourage legal compliance by the parties to the conflict as well as those with the capacity to influence them.

This Q & A addresses only the rules of international humanitarian law, known as jus in bello, which

govern the way each party to the armed conflict must conduct itself in the course of the hostilities. In accordance with its institutional mandate, Human Rights Watch maintains a position of strict neutrality on issues concerning the legitimacy of using armed force, known as *ius ad bellum*, because we find it the best way to promote our primary goal of encouraging both sides to a conflict to respect international humanitarian law. Therefore, this Q & A does not address issues of Georgia's territorial integrity, of South Ossetia's bid for independence, Russia's interests in South Ossetia, or other matters concerning the legitimacy of resorting to armed conflict.

## **2. What's the background to the latest round of fighting?**

South Ossetia was an autonomous province of the former Soviet republic of Georgia. It declared independence in 1990, and armed conflict with Georgia ensued in 1991-1992. The conflict culminated in 1992 in a *de facto* secession of South Ossetia and an agreement that established a ceasefire; a peacekeeping force with Ossetian, Georgian, and Russian peacekeepers; and a framework for quadripartite negotiations involving Russia, Georgia, South Ossetia, and North Ossetia, a province of Russia bordering South Ossetia. For the past year Georgian authorities have aimed to change the negotiations format, which they view as skewed against Georgia, and have refused to participate in negotiations. Russia has called for a renewal of negotiations in the current format. In recent years, Russia has granted Russian citizenship to residents of South Ossetia. Under the 1992 agreement, Russian, Georgian and Ossetian forces acting as peacekeepers have been deployed in South Ossetia. Russia has said that the troops it sent in this week were additional peacekeepers whose mandate is to protect Russian peacekeepers that have come under attack and also to protect Russian citizens. Georgia has said that under the 1992 agreement no new peacekeepers can be added without the consent of all parties to the agreement.

## **3. Is this an internal or international armed conflict? What law governs it?**

Under international humanitarian law, an international armed conflict is that which takes part between two states. Hostilities occurring between Russia and Georgia would constitute an international armed conflict. International armed conflict is governed by international humanitarian treaty law (primarily the four Geneva Conventions of 1949 and its first additional protocol of 1977 (Protocol I), and the Hague Conventions of 1907 regulating the means and methods of warfare), as well as the rules of customary international humanitarian law. Both Georgia and Russia are parties to the 1949 Geneva Conventions and Protocol I.

The authoritative Commentary of the International Committee of the Red Cross notes that the determination of the existence of an armed conflict between states in which the conventions apply does not depend on a formal declaration of war or recognition of a state of hostilities. Rather, the factual existence of armed conflict between two states party automatically brings the Conventions into operation. Thus any hostilities between Georgian and Russian forces would fall within the full Geneva Conventions.

Under international humanitarian law, conflict between a state and a non-state armed force is

considered to be a non-international (internal) armed conflict. Because the South Ossetian forces are considered a non-state armed group, any fighting between South Ossetian forces and Georgian forces would be considered an internal armed conflict. Internal armed conflicts are governed by Article 3 common to the four Geneva Conventions of 1949 (Common Article 3), the second additional protocol of 1977 to the Geneva Conventions (Protocol II, to which Georgia is a party), as well as customary international humanitarian law.

International humanitarian law – whether in international or internal armed conflicts – is designed mainly to protect civilians and other noncombatants from the hazards of armed conflict. A fundamental principle is that parties must distinguish at all times between combatants and civilians. Civilians and civilian objects may never be the object of attacks. As discussed below, warring parties are required to take all feasible precautions to minimize harm to civilians and civilian objects and to refrain from attacks that would disproportionately harm the civilian population or fail to discriminate between combatants and civilians.

International humanitarian law also provides a number of fundamental protections for noncombatants, (such as civilians, peacekeepers, and those who are no longer taking part in hostilities, such as captured combatants, and those who are unable to fight because of wounds or illness). It prohibits violence against such persons – particularly murder, cruel treatment and torture – as well as outrages against their personal dignity and degrading or humiliating treatment. It also prohibits the taking of hostages and “the passing of sentences and the carrying out of executions” if basic judicial guarantees have not been observed.

#### **4. What is a lawful target under international humanitarian law?**

Two fundamental tenets of international humanitarian law are those of “civilian immunity” and the principle of “distinction.” They impose a duty to distinguish at all times in the conduct of hostilities between combatants and civilians, and to target only the former. It is forbidden in any circumstance to direct attacks against civilians; to do so intentionally amounts to a war crime.

It is also generally forbidden to direct attacks against what are called “civilian objects,” such as homes and apartments, places of worship, hospitals, schools or cultural monuments, unless they are being used for military purposes. Military objectives that are legitimately subject to attack are those that make an “effective” contribution to military action and whose destruction, capture or neutralization offers a “definite military advantage.” Where there is doubt about the nature of an object, it must be presumed to be civilian.

The mere fact that an object has civilian uses does not necessarily render it immune from attack. It, too, can be targeted if it makes an “effective” contribution to the enemy’s military activities and its destruction, capture or neutralization offers a “definite military advantage” to the attacking side in the circumstances ruling at the time. However, such “dual use” objects might also be protected by the principle of proportionality, described below.

Even when a target is serving a military purpose, precautions must always be taken to protect

civilians.

## **5. What precautions must be taken in carrying out military attacks?**

All parties to a conflict have a legal duty to protect the life, health and safety of civilians and other noncombatants. The targeting of military installations and other military objectives is permitted, but parties must take all feasible precautions to avoid civilian harm and are prohibited from targeting civilians, launching indiscriminate attacks, or attacking military objects if the anticipated harm to civilians will be disproportionate to the expected military advantage. Military commanders must choose the means of attack that can be directed at military targets and will minimize incidental harm to civilians. If the weapons used are so inaccurate that they cannot be directed at military targets without imposing a substantial risk of civilian harm, then they should not be deployed. Deliberately attacking civilians is in all circumstances prohibited. Individuals who attack civilians with criminal intent are responsible for war crimes.

## **6. Are peacekeepers combatants or civilians?**

Russia has said that it sent additional troops to South Ossetia to support the peacekeepers. Peacekeepers, who are partaking in a peacekeeping mission in accordance with the Charter of the United Nations, are not parties to the conflict and for the purposes of international humanitarian law are treated as civilians and are protected from being objects of attacks. Attacks directed against them would be a serious violation of international humanitarian law. However, peacekeepers are required to maintain neutrality and not become a party to the conflict. Force used must be strictly limited to actions that are necessary for self-defense or defense of any civilian objects which they have a mandate under the peacekeeping agreement to protect. Force used in this way must be strictly proportionate to that goal. If Russian peacekeepers in South Ossetia act in a manner that is not neutral and become a party to the conflict by taking a direct or active part in hostilities, they lose the protection afforded them as civilians and may lawfully be subject to attack.

Peacekeepers who use their protected status to carry out attacks are acting perfidiously, which is a serious violation of international humanitarian law.

## **7. Are parties entitled to target infrastructure such as airports, roads, bridges and power stations?**

Airports, roads and bridges may be dual-use targets if actually used for military purposes. Even then, the rule of proportionality applies, requiring the parties to the conflict to weigh carefully the impact on civilians against the military advantage served; they must consider all ways of minimizing the impact on civilians; and they should not undertake attacks if the expected civilian harm outweighs the definite military advantage. Among the factors to be considered are whether the destruction of particular roads or bridges serve in fact to impede military transport in light of readily alternative routes – that is, whether the infrastructure attacked is making an “effective” contribution to the party’s military action and its destruction offers a

“definite military advantage” – or whether its destruction seems aimed more at inconveniencing the civilian population and even preventing it from fleeing the fighting and seeking safety.

Electrical facilities supplying the civilian population are unlikely to be legitimate military targets. On the one hand, they might be considered dual-use targets, given that both civilians and armies use electricity. On the other hand, the harm to civilians when electricity supplies fail is often enormous, affecting refrigeration, sanitation, hospitals and other necessities of modern life; in urban society, electricity is arguably “indispensable to the survival of the civilian population,” meaning that it can be attacked only in extremely narrow circumstances. Meanwhile, the military effect of targeting electrical facilities serving the civilian population often can be achieved in more focused ways, such as by attacking military facilities themselves or the portion of an electrical grid directly serving a military facility.

### **8. What are the parties' obligations regarding the use of civilian areas for military activities?**

Where attacks on combatants take place in populated areas, all parties must be especially aware of their obligations to protect the civilian population, which will be at significantly higher risk. International humanitarian law obliges all belligerents to avoid harm to civilians and civilian objects.

The defending party must take all necessary precautions to protect civilians against the dangers resulting from armed hostilities. They must to the extent feasible avoid locating military objectives, such weapons, ammunition and headquarters, within or near densely populated areas. They must never use the presence of civilians to purposefully shield themselves from attack, which is a war crime.

In calculating the legality of an attack on premises where military forces are present, parties to the conflict must take into account the risk to civilians. They are not relieved from this obligation on the grounds that they consider the defending party responsible for having located legitimate military targets within or near populated areas, or that the defending party may be using the civilian population as a shield.

In any event, the presence of military forces or military facilities in a populated area never justifies attacking the area as such rather than the particular military target. It is a prohibited indiscriminate attack, and a war crime, to treat an entire area as a military target instead of attacking the particular military facilities or personnel within that area.

### **9. What is meant by using human shields?**

The crime of “shielding” has been defined as intentionally using the presence of civilians to render certain points, areas, or military forces immune from military attack. Taking over a family's house and not permitting the family to leave for safety so as to deter the enemy from attacking is a simple example of human shields. Using human shields is a war crime. While it may be unlawful, as noted above, to place forces, weapons and ammunition within or near densely

populated areas, it is only shielding when there is a specific intent to use the civilians to deter an attack.

#### **10. Can parties to the conflict attack radio and television stations?**

Military attacks on broadcast facilities used for military communications are legitimate under international humanitarian law, but such attacks on civilian television or radio stations are prohibited if they are designed primarily to undermine civilian morale or to psychologically harass the civilian population. Civilian television and radio stations are legitimate targets only if they meet the criteria for a legitimate military objective; that is, if they are used in a way that makes an “effective contribution to military action” and their destruction in the circumstances ruling at the time offers “a definite military advantage.” Civilian broadcasting facilities are not rendered legitimate military targets simply because they spout pro-Russian or pro-Georgian propaganda.

Should stations become legitimate military objectives because of their use to transmit military communications, the principle of proportionality in attack must still be respected. This means that an attacking force should verify at all times that the risks to the civilian population in undertaking any such attack do not outweigh the anticipated military benefit. Special precautions should be taken in relation to buildings located in populated areas. Advance warning of an attack must be given whenever possible.

#### **11. Should belligerent parties give warnings to civilians in advance of attacks? What constitutes an “effective” warning?**

International humanitarian law requires, so long as circumstances permit, that warring parties give “effective advance warning” of attacks that may affect the civilian population. What constitutes an “effective” warning will depend on the circumstances. Such an assessment would take into account the timing of the warning and the ability of the civilians to leave the area. Bomb damage to roads and bridges, as well as air attacks on civilian vehicles, would also affect the ability of civilians to flee an expected attack.

Civilians who do not evacuate following warnings are still fully protected by international law. Otherwise, warring parties could use warnings to cause forced displacement, threatening civilians with deliberate harm if they did not heed them. So, even after warnings have been given, attacking forces must still take all feasible precautions to avoid loss of civilian life and property. This includes canceling an attack when it becomes apparent that the target is civilian or that the civilian loss would be disproportionate to the expected military gain.

International humanitarian law also prohibits “acts or threats of violence the primary purpose of which is to spread terror among the civilian population.” Statements calling for the evacuation of areas that are not genuine warnings, but are primarily intended to cause panic among residents or compel them to leave their homes for reasons other than their safety, would fall under this prohibition. This prohibition does not attempt to address the effects of lawful attacks,

which ordinarily cause fear, but rather those threats or attacks on civilians that have this specific purpose.

## **12. What is meant by “collective punishment” of the civilian population?**

International humanitarian law prohibits the punishment of any person for an offense other than one that he or she has personally committed. Collective punishment is a term used in international humanitarian law to describe any form of punitive sanctions and harassment, not limited to judicial penalties, but including sanctions of “any sort, administrative, by police action or otherwise,” that are imposed on targeted groups of persons for actions that they themselves did not personally commit. The imposition of collective punishment is a war crime. Whether an attack or measure could amount to collective punishment depends on several factors, including the target of the measure and its punitive impact, but of particular relevance is the intent behind a particular measure. If the intention was to punish, purely or primarily as a result of an act committed by third parties, then the attack is likely to have been collective punishment.

## **13. What are the parties’ obligations to agencies seeking to provide humanitarian assistance?**

Under international humanitarian law, parties to a conflict must allow and facilitate the rapid and unimpeded passage of impartially distributed humanitarian aid to the population in need. The belligerent parties must consent to allowing relief operations to take place, and may not refuse such consent on arbitrary grounds. They can take steps to control the content and delivery of humanitarian aid, such as to ensure that consignments do not include weapons. However, deliberately impeding relief supplies is prohibited, and doing so as part of an effort to starve civilians is a war crime.

Additionally, international humanitarian law requires that belligerent parties ensure the freedom of movement for humanitarian relief personnel essential to the exercise of their functions. This can be restricted only temporarily for reasons of imperative military necessity.

## **14. Are attacks on humanitarian convoys unlawful?**

International humanitarian law requires parties to a conflict to respect and protect humanitarian aid personnel, objects used for relief operations and civil defense personnel as well as civil defense buildings. Attacks intentionally directed at humanitarian personnel or properties are considered war crimes.

## **15. What are the obligations under international humanitarian law of Russian forces while they exercise effective control over areas in South Ossetia, Abkhazia or other parts of Georgia?**

Under international humanitarian law, and in particular the Fourth Geneva Convention and Protocol I, protected persons are those who, in case of a conflict or occupation, find themselves in the hands of a party to the conflict or occupying power of which they are not a national. Under this principle of humanitarian law, if Russia occupies or exercises effective control over

particular areas, it must treat all persons humanely, in a nondiscriminatory manner and ensuring full respect for fundamental guarantees, including the right to life, the prohibition on torture, inhuman and degrading treatment, including sexual violence, the right to liberty and security and the right to due process. Individual or mass forcible transfers or deportations of the civilian population are strictly prohibited.

Forces occupying or exercising effective control over a territory must also ensure that the civilian population has access to adequate foodstuffs, medicines and clothing, and in particular that the needs of children and mothers and expectant mothers are met. Hygiene and public health services must be maintained, as must institutions for the care of children. Should any of these basic humanitarian needs not be adequately met, an occupying or controlling force must allow and facilitate impartial humanitarian relief action to be undertaken.

A party has a duty to protect property in areas that its forces exercise control over or occupy. Pillage is prohibited, and the destruction of any real or personal property is only permitted where it is rendered absolutely necessary by military operations. If Russia occupies any territory, it would also have a duty to ensure public order and safety, and must be prepared to provide security to the civilian population at such point as they may be in effective control of any territory. With respect to enforcement of law and order, all guarantees of a fair trial, including the right to counsel of the defendant's choice, should be respected.

#### **16. To what extent does international human rights law apply?**

Human rights law is applicable during armed conflicts, and both Georgia and Russia are parties to several international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). These treaties outline guarantees for fundamental rights, many of which correspond to the rights to which civilians are entitled under humanitarian law (e.g. right to life, prohibition on torture, inhuman and degrading treatment, nondiscrimination, liberty and security of the person, due process). While in a time of war or public emergency restrictions on and derogations from many of these rights are permitted (e.g. restrictions on freedom of assembly and right to privacy), such restrictions are limited to those strictly required by the necessity of the situation and which are compatible with obligations under international humanitarian law.

Russia and Georgia will be held responsible under international law for any violations of the rights protected by the treaties. In particular, on August 12, the president of the European Court of Human Rights, considering that the situation in and around South Ossetia "gives rise to a real and continuing risk of serious violations of the ECHR" took the step of calling on both states to comply with their obligations under the ECHR, in particular in respect of the right to life and the prohibition of torture.

#### **17. What laws govern the treatment of the dead?**

Human Rights Watch learned that it took several days before the bodies of Georgian soldiers

killed during fighting in South Ossetia were removed from the village of Khetagorova and from some roads. International humanitarian law requires that the dead be disposed of in a respectful manner and graves respected and properly maintained. Parties to the conflict must endeavor to facilitate the return of the remains and the personal effects of the deceased upon request of the party to which they belong or to their relatives. This rule of customary law is codified in article 34 of Protocol I, which requires that as soon as circumstances and the relations between parties permit, there should be agreement to “facilitate the return of the remains of the deceased and of personal effects to the home country upon its request or, unless that country objects, upon the request of the next of kin.”

**18. Must parties to a conflict provide humanitarian organizations access to prisoners-of-war and other detainees? Must parties to a conflict provide humanitarian organizations access to prisoners-of-war and other detainees?**

The Third and Fourth Geneva Conventions require parties to a conflict to permit access by the International Committee of the Red Cross (ICRC) and other relief agencies to prisoners-of-war (PoWs) and interned civilians. The ICRC must be granted regular access to all persons deprived of their liberty to monitor the conditions of their detention and to restore contact with their families. The ICRC has full liberty to select the places it wishes to visit and to interview persons confidentially. Visits may only be refused for reasons of “imperative military necessity,” and as an exceptional and temporary measure. Other humanitarian agencies may request access to PoWs and detained civilians. The detaining authority shall facilitate such visits, though it may limit the number of humanitarian agencies visiting persons held.

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## **Georgia/Russia: Do Not Attack Civilians in South Ossetia**

(New York, August 9, 2008) – Georgia and Russia should not under any circumstances target civilians as the current hostilities intensify in South Ossetia, Human Rights Watch said today. Human Rights Watch, concerned by reports of attacks targeting civilians, called on all sides to respect the absolute ban against targeting civilians or carrying out attacks that indiscriminately harm civilians.

“All sides must remember that attacks on civilians, or acts intended to terrorize civilians, clearly violate international humanitarian law, and may constitute war crimes,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch. “This would be true even if they are carried out in reprisal for indiscriminate attacks by the adversary.”

After weeks of low-level hostilities, the conflict in South Ossetia, a breakaway region of Georgia backed by Moscow, escalated dramatically in the early morning of August 8, 2008. Georgia declared that it intended to restore constitutional order and launched a large-scale military offensive. Russia sent additional troops to South Ossetia, saying they were reinforcements to Russian peacekeepers who are in the area to monitor a 1992 ceasefire between Georgian and South Ossetian forces.

South Ossetia authorities claimed that Georgian forces used Grad multiple launch rocket systems to shell civilian areas, particularly in the capital, Tskhinvali, and that dozens of buildings were destroyed or damaged, including the university, the hospital, a shopping center, schools, and several government buildings. According to unconfirmed media reports, several Ossetian villages, including Dmenis and Tsunar, also sustained significant damage.

Reports on casualties vary widely, with different media agencies citing figures ranging from 15 to 1,400 people killed in South Ossetia as a result of the attacks. None of these reports could be confirmed.

According to the Russian Federal Migration Service, 971 people fled South Ossetia on August 8 and sought refuge in North Ossetia, a Russian province that borders South Ossetia. North Ossetian hospitals reported that they were ready to admit the wounded; but the head of the regional hospital was quoted by Kavkazskii Uzel, a news website, as saying that, “the road which was intended for evacuation of the wounded has been bombed,” and doctors did not have access to the wounded.

Russia's military command claimed that 12 Russian peacekeepers deployed in South Ossetia were killed and 120 injured, and also blamed the Georgian side for obstructing the evacuation of the wounded from Tskhinvali.

In the meantime, according to the BBC and other international media, Russian tanks have reportedly reached the northern suburbs of Tskhinvali while the Russian air force has been

carrying out air raids in South Ossetia and further into Georgian territory. Georgian President Mikheil Saakashvili accused Moscow of bombing Georgian air bases and towns, resulting in the deaths of 30 military personnel and civilians.

Human Rights Watch called on both parties to abide by the fundamental principle of international humanitarian law, which requires armed forces to distinguish between combatants and civilians, and between military objects and civilian objects, at all times. It is also forbidden to carry out indiscriminate attacks or attacks that cause damage disproportionate to the anticipated concrete military advantage.

South Ossetia was an autonomous province of Georgia during the Soviet era. It declared independence from Georgia in 1990, and armed conflict between South Ossetian and Georgian forces ensued in 1991 and 1992. The conflict ended in 1992 with a ceasefire and establishment of a tripartite peacekeeping force, with Russian, Ossetian and Georgian peacekeeping battalions. The ceasefire adhered, but tensions continued, with Georgia accusing Russia of providing assistance to South Ossetia's separatist movement.

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## **Georgia/Russia: Update on Casualties and Displaced Civilians**

(Vladikavkaz, August 10, 2008) – Human Rights Watch is concerned about the lack of accurate information on the conflict in South Ossetia and other parts of Georgia, specifically the dramatically different reports on the number of civilians killed and wounded, as well as the number of people displaced by the conflict. Human Rights Watch researchers collected the following data first-hand during investigations on the ground in North Ossetia. Human Rights Watch investigators will continue to work on both sides of the conflict in Georgia.

### **Wounded**

Human Rights Watch visited the only field hospital located in North Ossetia, in Russia. The hospital is run by the Russian Ministry of Emergencies and is located near the village of Alagir, where some of the displaced found refuge. A hospital representative told Human Rights Watch that between the time it was established in the morning of August 9 to the evening of August 10, it received 52 wounded, "about 90 percent of whom were military personnel." According to the representative, almost all of the wounded who end up in the hospitals in North Ossetia go through the field hospital first (the only exceptions are those requiring neurosurgical assistance and those with minor wounds not requiring immediate medical assistance). Most of the 52 were from the city of Tskhinvali, the capital of South Ossetia, and neighboring villages.

The hospital was expecting another 170 wounded (20 of them suffering serious injuries), who were expected to be delivered by ambulances from a mobile military clinic in the South Ossetian village of Java, approximately halfway to Tskhinvali. The hospital representative also said that ambulances could get from Java to North Ossetia unhindered.

### **Displaced People**

Human Rights Watch obtained official figures on the number of displaced persons tallied by the Russian Operative Headquarters for Providing Humanitarian Assistance to the Residents of South Ossetia, located in Vladikavkaz. According to the documents provided to Human Rights Watch by a representative from the headquarters, from August 8 to the afternoon of August 10, the Federal Migration Service registered 24,032 persons who crossed the border from South Ossetia into Russia. However, 11,190 of those went back. The document mentions that "the overall number [of the displaced] was decreasing because of the people who return to join to volunteer militias of South Ossetia."

The representative also told Human Rights Watch that the figures cannot be considered accurate, as many people cross the border back and forth and thus get registered two or more times. The lists of people with names and places of origin have not been compiled yet. The displaced individuals are currently being accommodated in makeshift dormitories in schools, colleges, kindergartens and other available facilities. In the Alagir area, the authorities also put up a tent camp for the temporary accommodation of displaced people. Several hundred women and children have been transported to summer resorts in Krasnodar and Stavropol in the south of Russia.

## **Accounts by Displaced Civilians**

Human Rights Watch visited a camp for the displaced in the village of Alagir and interviewed more than a dozen individuals, including those from Tskhinvali and neighboring villages. Those from the city reported spending more than three days in the basements of their houses, unable to come out because of the incessant shelling. Two individuals from Tskhinvali – a mother and her pregnant daughter – said their apartment building was severely damaged by shells and they only dared to come out of the basement on the fourth day, early in the morning of August 10, when Russian troops took full control of the city and started transporting local residents to a safe zone. They said the convoy consisted of six buses (about 27 people each), escorted by the military to the safety zone.

Residents of Satikhar village told Human Rights Watch that after the village came under heavy artillery fire on the night of August 7, all women, children and elderly (more than 100 people) started fleeing their homes; most of them spent the next two days hiding in the woods and then trying to make their way toward the Russian border. They were assisted by the Russian military in the village of Ger and transported to North Ossetia.

Many families were separated while fleeing the fighting in South Ossetia, and to date they have not been able to obtain any information as to the fate and whereabouts of their relatives whom they left behind.

### **One elderly man told Human Rights Watch:**

“I’ve never heard such heavy shelling in my life. For the first two days, I was hiding in the basement with my family. Finally, I tried to step outside. As I was outside, a shell hit the roof of the house. I fell to the ground and tried to bury myself under a tree. At that point, another shell hit the ground not far to me – I got my leg hurt by the fragments. I was so scared – I just started running away and left my family behind. Now no one can tell me what happened to my two sons, my daughter, and my two grandchildren. No one knows where they are.”

While all the people interviewed by Human Rights Watch talked about multiple civilian casualties in Tskhinvali and neighboring villages, these reports were based on secondary sources rather than first-hand information

## Georgia/Russia: Use of Rocket Systems Can Harm Civilians

(New York, August 12, 2008) – Human Rights Watch is deeply concerned about the use of indiscriminate weapons, particularly Grad and Uragan rockets, in populated areas during the conflict over South Ossetia.

On August 11, 2008, Human Rights Watch in South Ossetia saw Russian military trucks, including at least two Uragan 16-round multiple rocket launchers and four trucks with rockets, being moved toward South Ossetia's administrative border with Georgia. The Uragans were among numerous pieces of heavy artillery being moved by the Russian army toward Georgia on August 11.

The soldiers who operated the trucks told Human Rights Watch that they were moving toward the Georgian border and were waiting for the orders to strike. Meanwhile, Russian television on August 12 aired video images of Grad and Uragan rockets being fired into the Kodori Gorge, an area of Abkhazia that had been under Georgian control.

In addition to high-explosive fragmentation warheads, both 122MM Grad (Hail) and 220MM Uragan (Hurricane) rockets also have cluster munition warheads that contain submunitions. Grads and Uragans are designed to affect areas rather than specific targets.

“These are all indiscriminate weapons when used in populated areas, as they cannot be targeted against only military targets and therefore risk causing unnecessary harm to civilians,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch. “They simply shouldn't be used in areas where there are civilians.”

Human Rights Watch learned that about 1,500 people, almost all of the population of the Kodori Gorge, had been evacuated before the shelling started.

On August 11, Human Rights Watch researchers traveled to the South Ossetian town of Java to collect more data on the people displaced by the conflict and the number of casualties, as well as to obtain more information on the humanitarian consequences of the fighting in South Ossetia. Human Rights Watch is currently obtaining figures on the same from the Georgian side of the conflict.

Java is about halfway between Tskhinvali, the capital of South Ossetia, and the South Ossetian border with North Ossetia, in Russia. All along the route from the border, Human Rights Watch researchers witnessed Russian military columns (including armored personnel carriers, tanks, heavy artillery, and other military vehicles) moving toward Tskhinvali.

According to information collected in South Ossetia, the Georgian airstrikes continued on August 11. Residents of Java told Human Rights Watch that Georgian airplanes fired two rockets near the village of Gufta on the outskirts of Java. No damage to the village has been reported. The residents said the planes appeared to be targeting a “strategic bridge” crucial to the movement of the Russian troops, but missed. The residents also said that previously, on August 8,

Georgian planes had also fired rockets near the bridge, causing severe damage to two houses in the village of Sakire. As a result of the attack, a child in the village was wounded.

A doctor at the Java hospital told Human Rights Watch that on August 9 and 10 the hospital treated about 50 wounded (both military and civilians), and on August 8 had already treated 60 (also military and civilians) , with the help of the Russian emergency medicine mobile hospital. The seriously wounded were then taken to North Ossetia. It is likely that many of the same people were later treated by the field [hospital](#) there.

The doctor also said that five bodies were delivered to the hospital between August 8 and 11, all military personnel and South Ossetian volunteer militias from outside of Java. Representatives of Java town administration told Human Rights Watch that over the last four days, four people were killed in the town. The administration initially said that all of the casualties were civilians, but later clarified that in fact three of the dead were members of the militias, and one of them, a woman, was a civilian.

Human Rights Watch observed that many local residents refer to the members of volunteer South Ossetian militias as "civilians" thus distinguishing them from Russian military servicemen.

Several Java residents as well as people displaced from other parts of South Ossetia told Human Rights Watch that almost all the men from their areas joined volunteer militias, often after moving their families to safety in North Ossetia. All civilian officials Human Rights Watch met with were wearing camouflage fatigues (including the Java head of administration and a Java-based member of the South Ossetian parliament). These officials also confirmed that virtually all able-bodied males were enlisted into militias "to defend their families and their motherland, together with the Russian army." The officials in Java also said that Russian Cossacks were fighting alongside Ossetian militias.

Java administration staff told Human Rights Watch that the town serves as a transfer point for the displaced moving from Tskhinvali to North Ossetia. As of the evening of August 11, the authorities informed Human Rights Watch that there were no displaced persons in Java, and the officials said they have not compiled any lists of people who passed through Java. They said, however, that over the last two days multiple buses have been transporting people from Tskhinvali to North Ossetia.

Indeed, along the road, Human Rights Watch saw several buses with the displaced moving from South to North Ossetia, while similar buses packed with young men in camouflage fatigues were moving in the opposite direction.

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## **Safe Corridor Urgently Needed for Civilians in Gori District**

(Tbilisi, August 13, 2008) – Human Rights Watch in Tbilisi has received alarming reports that civilians are trapped in villages in the Gori district of Georgia that are currently under Ossetian control.

A Human Rights Watch researcher spoke with a village official from the Gori district who has been in contact with the trapped villagers. Vasiko Tevdorashvili, the official, said the villagers were terrified and in need of a safe corridor out of the area. Tevdorashvili said hundreds of villagers feared attacks by Ossetian militias, who had burned at least three villages in Gori district—Koshki, Guguaantkari, Zariantkari.

“All forces should immediately ensure a safe way for civilians to leave the area,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch. “They should ensure that civilians are fully protected from attacks and reprisals.”

## **Georgian Villages in South Ossetia Burnt, Looted**

(Java, August 13, 2008) – Human Rights Watch researchers in South Ossetia on August 12, 2008, saw ethnic Georgian villages still burning from fires set by South Ossetian militias, witnessed looting by the militias, and learned firsthand of the plight of ethnic Ossetian villagers who had fled Georgian soldiers during the Georgian-Russian conflict over the breakaway region of South Ossetia.

In South Ossetia, Human Rights Watch researchers traveling on the evening of August 12 on the road from the town of Java to Tskhinvali, the capital of South Ossetia, witnessed terrifying scenes of destruction in four villages that used to be populated exclusively by ethnic Georgians. According to the few remaining local residents, South Ossetian militias that were moving along the road looted the Georgian villages and set them on fire. Human Rights Watch saw numerous vehicles carrying South Ossetian militia members, as well as Russian military transports moving in the direction of Tskhinvali.

Numerous houses in the villages of Kekhvi, Kvemo Achabeti (Nizhnie Achaveti in Russian), Zemo Achabeti (Verkhnie Achaveti in Russian), and Tamarasheni had been burnt down over the last day – Human Rights Watch researchers saw the smoldering remnants of the houses and household items. The villages were virtually deserted, with the exception of a few elderly and incapacitated people who stayed behind either because they were unable to flee or because they were trying to save their belongings and cattle.

“The remaining residents of these destroyed ethnic Georgian villages are facing desperate conditions, with no means of survival, no help, no protection, and nowhere to go,” said Tanya Lokshina at Human Rights Watch.

In the village of Kvemo Achabeti, Human Rights Watch researchers spoke to an elderly man who was desperately trying to rescue his smoldering house using two half-empty buckets of dirty water brought from a spring. He told Human Rights Watch that the vast majority of the residents, including his family, fled the village when active fighting between Georgian forces and South Ossetian militias broke out on August 8, but he decided to stay to look after the cattle. He said members of the South Ossetian militia came to his house on August 11, and tried to take away some household items. When he protested, they set the house on fire and left. The man said he had no food or drinking water; his hands were burned and hair was singed – apparently as he was unsuccessfully trying to extinguish the fire – and he appeared to be in a state of shock. He said that there were about five to ten elderly and sick people left in the village, all in a similar desperate condition, and many of the houses were burned.

In the village of Kekhvi, many houses were set on fire between 6.30 pm and 7.30 pm on August 12 – they were ablaze as Human Rights Watch researchers moved along the road. Two elderly women from Kekhvi were weeping as they told Human Rights Watch about what happened in the village. One of them explained that the members of South Ossetian militias passed by the village and stopped at her house and “threw something” that set it on fire. She did not manage to rescue anything from the house and at the time of the interview could not even enter the house as it was still burning. She had no money on her and did not know if she could survive in this situation.

Human Rights Watch researchers also saw armed Ossetian militia members in camouflage fatigues taking household items – furniture, television sets, heaters, suitcases, carpets, and blankets – out of houses in the village of Kvemo Achabeti, and loading them into their trucks. Explaining the looters’ actions, an Ossetian man told Human Rights Watch, “Of course, they are entitled to take things from Georgians now – because they lost their own property in Tskhinvali and other places.”

A representative of the local administration in the town of Java told Human Rights Watch that the authorities had arrested two men who were looting the ethnic Georgian villages, but was adamant that they were not members of the South Ossetian militias. His colleague, however, said, “Isn’t that what they [Georgians] have been doing to us? These old people shouldn’t be complaining – they should be happy they weren’t killed.”

International humanitarian law applicable to the fighting between South Ossetian militias and Georgian forces prohibits attacks on civilian property, as well as looting or pillaging. Individuals, including commanders, participating in the deliberate or reckless destruction or looting of civilian property are responsible for war crimes. International humanitarian law also prohibits “acts or threats of violence the primary purpose of which is to spread terror among the civilian population.”

Russian Minister of Internal Affairs Rashid Nurgaliev said there would be “decisive and tough” measures taken against looters.

“The Russian government should be held to this promise to punish looters but much more needs to be done to ensure that all sides protect civilians,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch.

Human Rights Watch researchers also interviewed South Ossetian women displaced from the Leningori district of South Ossetia. The women, from the mountain villages of Tsinachari, Monasteri, Zakori, Tsubeni and Tsair, told Human Rights Watch that they had fled with children and elderly people when Georgian military personnel entered their villages on the night of August 7/8.

The displaced persons spent several days in the woods with brief respites in neighboring villages before being picked up by South Ossetian militia and transported to the town of Java. This group of approximately 100 people was accommodated in the Java school building for the night and was due to be moved by buses to North Ossetia in Russia on August 13.

A woman from Tsinachari told Human Rights Watch,

The Georgians came to the village at around two o'clock in the morning. They told us not to be afraid and said that if our men wouldn't shoot, they wouldn't shoot either. They shot in the air – probably trying to frighten us. They entered the houses, checked identification documents, even took away the passports from some of our neighbors. They also looked for young guys and for the men. Though all our males were already gone by then – they joined the militia and hid themselves in the woods. The Georgians were also looking for firearms but our men had taken their weapons with them, so there was nothing much to find. We were very scared and could not stay in the village while the Georgians were there, so we also fled into the woods. For the first night, we just walked non-stop.

A woman from Tsair, who fled with her two small children, said that her husband and brother were both in the militia, and told Human Rights Watch that the Georgian soldiers stole whatever money she kept at the house. They also took away the rifle that the men in the family had left behind as well as the passports of the residents, all of whom have citizenship in the Russian Federation.

Another woman from Tsinachari told Human Rights Watch that on August 8, a group she was with was stopped in the woods by the Georgian military. According to the woman, the soldiers said, “Tell your men not to open fire. If they don't shoot we aren't going to shoot either.”

During the time they spent in the woods the fleeing civilians were provided with food and assistance by the members of South Ossetian militia, mostly their own relatives. When the militia finally drove them to Java, the women said a wounded man was transported along with them. He was a member of the South Ossetia militia who they were told had been seized by Georgian soldiers in the mountains, beaten up and released. He suffered several broken ribs from the beating.

## Russia/Georgia: Investigate Civilian Deaths

### High Toll from Attacks on Populated Areas

(Tbilisi, August 14, 2008) – Forces on both sides in the conflict between Georgia and Russia appear to have killed and injured civilians through indiscriminate attacks, respectively, on the towns of Gori and Tskhinvali, Human Rights Watch said today. Human Rights Watch expressed its deep concern over the apparently indiscriminate nature of the attacks that have taken such a toll on civilians.

“Russian, Georgian and South Ossetian forces all have an obligation under international humanitarian law to protect civilians from attack,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch. “The latest information on civilian casualties in Gori, Tskhinvali and surrounding areas calls into question whether the forces are respecting that obligation.”



Keti Javakhishvili, 25, was wounded during an attack on the Georgian town of Gori on August 12, 2008.

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### Attack on Gori town square

An attack on the main square in the Georgian town of Gori on August 12, 2008, killed and injured dozens of civilians, Human Rights Watch said today. The attack took place in the morning in front of the Gori Municipality Administration building, where several dozen civilians had gathered to collect food distributed by local officials. Victims of the attack described to Human Rights Watch how they saw numerous small explosions within seconds before they fell to the ground.

According to victims, at least eight people died immediately, including a Dutch journalist. The injured were initially taken to the Gori hospital, but were evacuated to Tbilisi, the Georgian capital, due to the deteriorating security situation. On August 12, the Gudushauri National Medical Center of Tbilisi admitted 23 civilians from Gori, many of them injured in the morning's attack.

Although the Russian military initially denied that it was involved in military operations in Gori, Foreign Minister Sergei Lavrov confirmed on August 13 that Russian forces were active in the area. There were also several aerial bombardments of Gori from August 9 through 12 which could only have been carried out by Russian airplanes.

Keti Javakhishvili, 25, told Human Rights Watch researchers in Tbilisi that she went with her neighbors to get bread and was injured in the attack: “I heard an explosion and dropped to the ground.” Javakhishvili suffered massive trauma to her liver, stomach, and intestines, as well as hemorrhagic shock, said Dr. Merab Kiladze, head of the medical center's surgery department.

Another victim, Nodar Mchedlishvili, 54, told Human Rights Watch that he went to the

municipality building to get food to feed eight people displaced from South Ossetian villages. "In a couple of seconds from everywhere I heard what sounded like massive gunfire. We fell on the ground and some people never got up." Mchedlishvili sustained shrapnel wounds to his left leg and knee. He was driven to Gori hospital in a car with six other victims as part of a convoy of the injured before being transferred to Tbilisi. Giorgi Malkhaziani, 59, whose right leg was shredded as a result of the attack, corroborated Mchedlishvili's accounts of events.

"The circumstances suggest that Russian forces either carried out the attack on Gori or at least should know of an attack by South Ossetian forces," said Cartner. "Russia clearly has the duty to investigate this incident as a potential war crime and hold those responsible to account."

It is unclear whether there was a legitimate military target in the area. The Georgian military were reported to have withdrawn from Gori the previous night. Victims interviewed by Human Rights Watch indicated there was no military presence in the area. The multi-story municipality building is clearly visible, and as a civilian object is protected from targeting.



Nodar Mchedlishvili, 54, was wounded during an attack that took place in front of the Gori Municipality Administration Building the morning of August 12, 2008. He and other civilians had gathered there to receive food and other humanitarian assistance.

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### Attacks in Tskhinvali

When Human Rights Watch entered Tskhinvali on August 13, the city was largely deserted. Human Rights Watch researchers saw numerous apartment buildings and houses damaged by shelling. Some of them had been hit by rockets most likely fired from Grad launchers, weapons that should not be used in areas populated by civilians, as they cannot be directed at only military targets and are therefore inherently indiscriminate. Also, Human Rights Watch saw several buildings that bore traces of heavy ammunition as if fired from tanks at close range. There was some evidence of firing being directed into basements, locations where civilians frequently

choose as a place of shelter.

Since Georgian and Russian forces use identical Soviet-era weapons systems including main battle tanks, Grad multiple-launch rockets, BMP infantry fighting vehicles and tube artillery, Human Rights Watch cannot definitely attribute specific battle damage to a particular belligerent, but witness accounts and the timing of the damage would point to Georgian fire accounting for much of the damage described below.

Human Rights Watch researchers interviewed about 30 individuals, including civilians who had remained in the city during the entire period of the fighting, a few civilians who had just returned to check on the state of their homes, and several members of South Ossetian forces.

One man identified only as Giorgi took Human Rights Watch researchers to his apartment building at 50 Luzhkov Street, which he explained suffered severe damage during fighting that took place between Georgian and South Ossetian forces from August 7 to 10. He told them:

“They had no pity for civilians. When the fighting started, everyone who remained in the building rushed to the basement. We stayed there for the next two days, unable to step outside because the shelling was so heavy. On August 9, a BMP [infantry fighting vehicle] fired right into the basement, leaving a gaping hole in the wall. The noise was deafening and debris was flying all over the place. My neighbor’s elderly father-in-law was so scared that he started running away, slipped and broke his legs. No one was killed because everyone was in the adjacent room.”

Human Rights Watch saw the hole in the wall, and learned that those in the basement survived only because they were in an adjacent room.

Giorgi also showed Human Rights Watch a completely destroyed building nearby and explained that when the building was hit by a Grad rocket, six of the tenants, four women and two men, (all ethnic Azeris) were thrown from the window by the blast wave and fell to the ground. They suffered severe concussions and multiple bruises, but managed to crawl into the basement and hide there. They were hiding in the basement until August 10, with the neighbors taking care of them.

### **Casualty numbers in Tskhinvali**

A doctor at Tskhinvali Regional Hospital who was on duty from the afternoon of August 7 told Human Rights Watch that between August 6 to 12 the hospital treated 273 wounded, both military and civilians. She said her hospital was the only clinic treating the wounded in Tskhinvali. The doctor said there were more military personnel than civilians among the wounded and added that all of the wounded were later transferred to the Russian Ministry of Emergencies mobile hospitals in South and North Ossetia. As of August 13, there were no wounded left in the Tskhinvali hospital.

The doctor also said that 44 bodies had been brought to the hospital since the fighting began, of both military and civilians. The figure reflects only those killed in the city of Tskhinvali. But the doctor was adamant that the majority of people killed in the city had been brought to the hospital before being buried, because the city morgue was not functioning due to the lack of electricity in the city.

From August 8 to 11, the doctor said, staff had to move all the patients into the hospital basement because of the constant shelling. The doctor said the hospital was under fire for 18 hours. Human Rights Watch documented the damage caused to the hospital building by a rocket believed to have been fired from a Grad multiple rocket launcher which hit the hospital, severely damaging treatment rooms on the second and third floors.

The doctor told Human Rights Watch that she could not leave the hospital because of the heavy shelling. She also said that two sisters, hospital employees, were killed on August 8 or 9, as

they were hiding in the basement of their house.

### **Selected accounts of the fighting**

Two women living on Luzhkov Street spoke to Human Rights Watch about their ordeal of spending more than two days in the basement of their apartment building, also damaged by shelling. One of them, a teacher at the local kindergarten, said: "They were shooting from Grad rocket launchers, paying no attention to civilians living in these houses. We went deaf from the shelling. They simply wanted to wipe us off the face of the earth."

The woman showed Human Rights Watch researchers the kindergarten building hit by the Grad rockets, as well as fragments of the rocket itself. The children from the school had been evacuated earlier, and two members of the South Ossetian forces told Human Rights Watch that young volunteer militia had been hiding in the building.

On the neighboring street, witnesses told Human Rights Watch that a woman, who was eight months pregnant, peeped out of the basement on the second day of the fighting, was hit by a stray bullet, and died from her wounds.

Pavel, a man living at 20 Isak Kharevov Street, showed Human Rights Watch his building, which had been completely destroyed by the shelling. He said he spent three days in the basement, together with his wife. He said all the residents of the building were hiding in the basement without food or drinking water. The men took turns trying to fetch water under heavy artillery fire. Pavel told Human Rights Watch that when he went to get water, a shell hit the ground next to him.

### **Burning and looting of Georgian villages**

On August 13, Russian forces seemed to be taking measures to prevent the looting of Georgian villages; the road south from the town of Java to Tskhinvali was closed to members of South Ossetian paramilitary groups. Russian officers at the checkpoint told Human Rights Watch that the road closure was due to the massive looting taking place in Georgian villages along the road.

However, moving back from Tskhinvali to Java on the evening of August 13, Human Rights Watch researchers saw, for the second day running, houses that were ablaze in several Georgian villages. They had clearly just been torched. One counterintelligence officer of the South Ossetian forces claimed to Human Rights Watch that: "We burned these houses. We want to make sure that they [the Georgians] can't come back, because if they do come back, this will be a Georgian enclave again and this should not happen."

The officer went on to describe events during the fighting, including the execution of a Georgian armed man: "The day before yesterday [August 11, 2008], the Georgians killed two of my soldiers in the village of Tamarasheni. We had been conducting a sweep operation there. We detained

three of them. Two of them didn't do anything to us so we just let them go – we couldn't take them anywhere as I had to take care of my own men first. The third one seemed to be high on something – a normal person would have surrendered, and this one was shooting at us instead. We questioned him and then executed him.”

He expressed concern about the ongoing pillaging: “There are looters everywhere in these villages. ... The looters are now moving to Gori (I went there this morning). The fighting there is over, and now the looters are looting there to profit from this war. Someone has to do something about it.”

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## Georgia: Russian Cluster Bombs Kill Civilians

### *Stop Using Weapon Banned by 107 Nations*

(Tbilisi, August 15, 2008) – Human Rights Watch researchers have uncovered evidence that Russian aircraft dropped cluster bombs in populated areas in Georgia, killing at least 11 civilians and injuring dozens, Human Rights Watch said today. Human Rights Watch called upon Russia to immediately stop using cluster bombs, weapons so dangerous to civilians that more than 100 nations have agreed to ban their use.

“Cluster bombs are indiscriminate killers that most nations have agreed to outlaw,” said Marc Garlasco, senior military analyst at Human Rights Watch. “Russia’s use of this weapon is not only deadly to civilians, but also an insult to international efforts to avoid a global humanitarian disaster of the kind caused by landmines.”

Human Rights Watch said Russian aircraft dropped RBK-250 cluster bombs, each containing 30 PTAB 2.5M submunitions, on the town of Ruisi in the Kareli district of Georgia on August 12, 2008. Three civilians were killed and five wounded in the attack. On the same day, a cluster strike in the center of the town of Gori killed at least eight civilians and injured dozens, Human Rights Watch said. Dutch journalist Stan Storimans was among the dead. Israeli journalist Zadok Yehezkeili was seriously wounded and evacuated to Israel for treatment after surgery in Tbilisi. An armored vehicle from the Reuters news agency was perforated with shrapnel from the attack.



Georgians look at the remnants of an RBK-250 cluster bomb dropped by Russian aircraft on the village of Ruisi, near South Ossetia, Tuesday, Aug. 12, 2008. Human Rights Watch has identified the weapon as a RBK-250 cluster bomb.

This is the [first known use of cluster munitions since 2006](#), during Israel’s war with Hezbollah in Lebanon. Cluster munitions contain dozens or hundreds of smaller submunitions or bomblets. They cause unacceptable humanitarian harm in two ways. First, their broad-area effect kills and injures civilians indiscriminately during strikes. Second, many submunitions do not explode, becoming de facto landmines that cause civilian casualties for months or years to come. In May 2008, 107 nations agreed to a total ban on cluster munitions, but Russia did not participate in the talks.

Human Rights Watch researchers interviewed numerous victims, doctors, and military personnel in Georgia. They examined photos of craters and video footage of the August 12 attack on Gori. Human Rights Watch has also seen a photo of the submunition carrier assembly and nose cone of an RBK-250 bomb in Gori. The Gori video showed more than two dozen simultaneous explosions during the attack, which is characteristic of cluster bombs. Two persons wounded in Gori described multiple simultaneous explosions at the time of the attack. Craters in

Gori were also consistent with a cluster strike.

Doctors at the two main hospitals in Tbilisi described numerous injuries to civilians hurt in the attack on Gori they believed were consistent with cluster bombs. Human Rights Watch researchers saw a submunition fragment extracted from one victim's head.

Human Rights Watch interviewed several hospitalized victims of the attack in Gori. Twenty-five-year-old Ketj Javakhishvili suffered massive trauma to her liver, stomach, and intestines, as well as hemorrhagic shock. Two other victims sustained fragment wounds to their legs and abdominal regions. All the wounds were consistent with those caused by submunitions from cluster bombs.

Photographic evidence on file with Human Rights Watch shows a civilian in Ruisi holding a PTAB submunition without realizing it could explode at the slightest touch. This incident highlights the dire need to educate immediately the population of Georgia about the dangers of these submunition "duds."

Human Rights Watch called on Russia to provide precise strike data on its cluster attacks in order to facilitate clean up of the inevitable lingering contamination from cluster bomb submunitions that failed to explode on contact but remain deadly.

Human Rights Watch also called on Georgia, which is known to have RBK-500 cluster bombs in its stockpiles, to join the international move to ban the use of cluster munitions and publicly to undertake not to use such weapons in this conflict.

Russia was not part of the Oslo Process launched in February 2007 to develop a new international treaty banning cluster munitions. In May 2008, 107 nations adopted the Convention on Cluster Munitions, which comprehensively bans the use, production, [trade and stockpiling](#) of the weapon. It will be open for signature in Oslo on December 3, 2008.

"Russia should never have fired cluster munitions against a town in Georgia and now it should help in the clean-up to avoid any more deaths," Garlasco said.

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## **Russia/Georgia: Militias Attack Civilians in Gori Region**

### ***Russia Should Curb Militias and Allow in Humanitarian Aid***

(Tbilisi, August 17, 2008) – Russian authorities should immediately take steps to end Ossetian militia attacks on ethnic Georgians in the Gori district of Georgia, Human Rights Watch said today. The Russian military should also ensure safe passage for civilians wishing to leave the region and for humanitarian aid agencies to enter.

"The Russian military has effective control of the Gori region, making it responsible for the security and well-being of all people living there," said Rachel Denber, Europe and Central Asia deputy director at Human Rights Watch. "Russia should prevent any further militia attacks and allow humanitarian aid to reach the hundreds of vulnerable civilians still in the area, including many elderly."

Human Rights Watch researchers interviewed ethnic Georgians from the city of Gori and surrounding villages who described how armed Ossetian militias attacked their cars and kidnapped civilians as people tried to flee in response to militia attacks on their homes following the Russian advance into the area. In phone interviews, people remaining in Gori region villages told Human Rights Watch that they had witnessed looting and arson attacks by Ossetian militias in their villages, but are afraid to leave after learning about militia attacks on those who fled.

Russian military forces remain in Gori and the surrounding villages since advancing from South Ossetia on August 13, 2008. They have denied access to some humanitarian missions seeking to assist civilians. The UN, which has described the humanitarian situation in Gori as "desperate," has been able to deliver only limited food supplies to the city.

"Dato," a victim of an Ossetian militia attack, told Human Rights Watch that on August 12, militia fighters stopped a minivan carrying him and several other civilians near Tkviavi. The militia fighters attempted to abduct the male passengers, but Dato and four others managed to escape. No further information is available about the fate of at least eight men whom the militia abducted from the vehicle. Kidnapping and enforced disappearances are both prohibited under international law, and may amount to crimes against humanity or war crimes, depending on the circumstances in which they occur.

Vasiko Tevdorashvili, a Georgian official from a Gori district village, told Human Rights Watch that some 250 civilians remain trapped in three villages. He stated that they fear attacks by Ossetian militia and need help to leave the area. Acts intended to spread terror amongst the civilian population are also prohibited and may amount to a war crime. In a phone interview with Human Rights Watch, "Anna," a school teacher trapped in the village of Mereti, described her plight: "There are about 60 people, mostly elderly, remaining in the village. We are hiding in the gardens and in the forest ... Our [relatives] learned that three houses in our village were looted and burned by Ossetians, and we are scared that they will come for us as well. Many of us want to leave, but we are scared to do so ... we are afraid that if we try to leave, Ossetians

will kidnap us."

Although Human Rights Watch was able to speak by phone to people in Gori region villages, many of those who have fled the region have no information about the fate of their relatives who have remained.

On August 12 and 13, Human Rights Watch documented how Ossetian militias looted and burned houses in ethnic Georgian villages in South Ossetia, along the road from Java to Tskhinvali (for more background, please visit: <http://www.hrw.org/english/docs/2008/08/13/georgi19607.htm>; for a slideshow of the burning and looting, please visit: <http://www.hrw.org/photos/2008/georgia0808/>).

Russian forces controlling Gori also denied access to most journalists trying to enter the city.

As the party to the conflict exercising effective control over Gori and the surrounding areas, Russia has an obligation under international humanitarian law to ensure the security and welfare of the civilians in the area. If it fails to take appropriate measures to protect civilians, ensure their security, and allow humanitarian access, it may be held responsible under humanitarian law for serious violations against civilians.

"The Russian military should immediately establish a safe corridor to and from Gori," said Denber. "No one should be forced to leave their homes, but those who wish to leave should be able to do so safely. Humanitarian relief workers should be allowed in to assist those who chose to remain or are unable to leave."

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## **Georgia: International Groups Should Send Missions**

### ***Investigate Violations and Protect Civilians***

(Tbilisi, August 18, 2008) – Mounting evidence that Russian and Georgian military used armed force unlawfully during the South Ossetian conflict highlights the need for international fact-finding missions in Georgia, Human Rights Watch said today. Ongoing militia attacks and a growing humanitarian crisis also indicate the urgent need for the deployment of a mission to enhance civilian protection.

At the start of the military conflict on August 7, 2008, Georgian military used indiscriminate and disproportionate force resulting in civilian deaths in South Ossetia. The Russian military has since used indiscriminate force in attacks in South Ossetia and in the Gori district, and has apparently targeted convoys of civilians attempting to flee the conflict zones. Ongoing looting, arson attacks, and abductions by militia are terrorizing the civilian population, forcing them to flee their homes and preventing displaced people from returning home.

“This conflict has been a disaster for civilians,” said Rachel Denber, Europe and Central Asia deputy director at Human Rights Watch. “An international security mission should be deployed to help protect civilians and create a safe environment for the displaced to return home. And international organizations should also send fact-finding missions to establish the facts, report on human rights, and urge the authorities to account for any crimes.”

Human Rights Watch called on the European Union, with the agreement of the parties, to deploy a robust European Security and Defense Policy (ESDP) mission consisting of police and security forces to ensure protection of civilians and the return of displaced persons to their homes.

Human Rights Watch noted that there are a number of options open to the international community in relation to fact-finding missions. As a first step, the chairman-in-office of the Organization for Security and Cooperation in Europe (OSCE) could send a special envoy to Georgia, including to South Ossetia, supported by a team of experts in international humanitarian law, to look at violations.

Human Rights Watch also called on the United Nations to send a team to assess options for a fact-finding mission, and called for consideration to be given to using the International Humanitarian Fact Finding Commission established under Article 90 of Protocol I of the Geneva Conventions, to which both Georgia and Russia are party. Russia has already accepted the competence of the commission. This would be the first time that the commission would carry out an investigation in a conflict, and in line with the treaty provisions, it would have a mandate to investigate serious violations of International Humanitarian Law.

### **Attacks by Russian forces**

In interviews with Georgians who fled South Ossetia and the Gori district following Russian forces'

assault on the area, Human Rights Watch has documented the Russian military's use of indiscriminate force and its seemingly targeted attacks on civilians, including on civilian convoys. The deliberate use of force against civilians or civilian objects is a war crime. Human Rights Watch has also confirmed the Russian military's use of cluster bombs in two towns in Georgia (<http://www.hrw.org/english/docs/2008/08/14/georgi19625.htm>).

### **Attacks in South Ossetia**

Slava Meranashvili, 32, from Kekhvi, an ethnic Georgian village in South Ossetia, north of the South Ossetian capital, Tskhinvali, told Human Rights Watch that his village was bombed by Russian jets several times. He told Human Rights Watch, "On August 9 or 10, massive bombing started and the village administration building and a hospital building were destroyed. Bombing took place day and night. It looked like they were targeting big buildings that could be housing the Georgian military."

Meranashvili's house was next to a school that was bombed, but he said that no Georgian forces were housed there or were present near his house. He also told Human Rights Watch: "During the bombing on August 9, my uncle's neighbor was killed. My uncle buried him in his backyard."

Meranashvili left Kekhvi on August 12, and described his flight: "We had to walk through the woods to Gori district villages and then our military helped us to evacuate. When we were walking through the woods, the bombing continued. I had to lie in swamps and crawl for hours. I was afraid to get up."

Human Rights Watch interviewed six civilians fleeing from different villages in South Ossetia in convoys of civilian cars on August 8. The convoys came under aerial bombardment, apparently by Russian military aircraft, near the village of Eredvi, along a road that bypasses Tskhinvali.

Witnesses traveling in one convoy of several dozen cars told Human Rights Watch that around 4 p.m., five Russian aircraft flew over the convoy, then returned and opened fire. Temo Kasradze from the village of Kemerti, who was fleeing with his grandson, described the attack: "There were five people in our car. Suddenly [there was an] explosion. Perhaps four or five cars were hit. ... I saw that people were injured and killed. There was blood." Three witnesses described seeing two sisters traveling in a white Niva car killed in the attack. According to the witnesses, there were no military objects, military personnel or military vehicles on the road.

At around 7 p.m. on August 8, Tengiz Magaldadze, 41, also from Kemerti, was driving the same route in a minivan with 20 other people. Just after they had turned onto the main road in Eredvi, Magaldadze saw three explosions about 20-25 meters in front of the vehicle. Magaldadze did not remember hearing any aircraft, but, because there were three explosions shortly after each other, he concluded they had been fired from an airplane.

Also in the evening of August 8, Emzar Babutsidze traveled in a pickup truck with several other

civilians on the bypass road in a convoy of three civilian cars. Less than two kilometers before a checkpoint manned by Russian forces, the pickup truck was hit by a shell, which killed the driver and the only woman in the car. Babutsidze believes the shell was fired from a BMP-2 infantry fighting vehicle. The passengers put the remains of the driver and the woman in the trunk of one car and took them to Gori hospital before driving on to Tbilisi.

### **Attacks in Gori district**

As the Russian military advanced into the district and city of Gori, they launched attacks that killed civilians in their homes and as they were preparing to flee.

Vasiko Tevdorashvili, the administrator of Mereti, a village in Gori district, told Human Rights Watch that Russian aerial bombing of Mereti started on the morning of August 9. One woman, asleep in her home, died in the initial attack. As villagers started to assemble in one of the village neighborhoods in preparation for leaving, Russian aircraft again attacked, this time dropping five bombs in the neighborhood, instantly killing five people. Two later died of wounds sustained in the attack. Another witness stated that at least 10 civilians were wounded in the attack. One bomb completely destroyed two houses and seriously damaged several others.

Tevdorashvili described the aftermath: "There were many wounded. I had to decide who had better chances of survival and stuff them into the ambulance. We buried the dead in the yards and fled the village." Tevdorashvili said there was no Georgian military base in the village and no Georgian military forces present at the time of the attack.

On August 11, Nunu Chlaidze, a schoolteacher, fled with her husband from Pkhvenesi village after Russian forces attacked military targets in and around the village earlier that day, causing collateral damage to civilian homes. She fled with her husband and neighbors, but turned back after seeing television news reports that civilians in the Gori district were not being attacked. But as they approached a Russian military roadblock near the village of Sakasheti, their car came under fire. She believes her husband was shot and lost control of the car, which then hit a Russian tank. Chlaidze was shot twice in the back, and Russian soldiers took her to a field hospital where she was treated. She ran away from the hospital. She has no information about the fate of her husband.

### **Attacks by Georgian forces in South Ossetia**

Human Rights Watch continues to document Georgian forces' use of indiscriminate force during their assault on Tskhinvali and neighboring villages on August 7-8, causing numerous civilian casualties and extensive destruction.

"Any comprehensive investigation takes time, but we continue to gather information that points to indiscriminate attacks by Georgia's forces," Denber said.

Human Rights Watch interviews with more than 100 people in Tskhinvali and in the villages of

Nizhni Gudjaver and Khetagurovo yielded a clearer picture of Georgian forces' indiscriminate use of Grad multiple rocket launchers and tank fire. In Tskhinvali, Human Rights Watch saw numerous severely damaged civilian objects, including a hospital, apartment buildings, houses, schools, kindergartens, shops, administrative buildings, and the university (<http://www.hrw.org/english/docs/2008/08/12/georgi19594.htm>).

Georgian forces started shelling close to midnight on August 7, and continued uninterrupted through the night. The hardest hit areas of Tskhinvali were the city's south, southeast, and central parts. When the first shells hit, many residents, including women, children and the elderly, rushed to their basements for shelter. They spent two days in their basements, emerging only on August 10, when the Russian military took full control of the city. Some were so frightened that they stayed in their basements until August 13.

The shelling of Tskhinvali caused civilian casualties. For example, a Grad rocket hit the home of Anisim Jagaev, 74, on Kulaeva Street. His daughter told Human Rights Watch: "During the shelling, a Grad rocket hit the house, setting the roof on fire. [My father] went outside to try to put out the flames, and at that moment another rocket hit. He was wounded in his thigh by a piece [of shrapnel]. Our mother dragged him to the basement and spent several hours trying to stop the bleeding – but she had nothing to bandage the wound with. He slowly bled to death in her arms."

According to Tskhinvali residents, when the Georgian ground offensive started on the morning of August 8, Ossetian militias in some neighborhoods took up defensive positions inside civilian apartment buildings, which drew fire from Georgian forces. The militias were armed with automatic weapons.

For example, local residents said that at around 3:30 p.m. on August 8, a Georgian tank opened fire at an apartment building on Tselinnikov Street, in the western part of Tskhinvali, after a group of Ossetian militias started withdrawing through the neighborhood. Six tank shells hit the building, destroying five apartments. Building residents told Human Rights Watch: "We all rushed to the basement, but an elderly man, some 80 years old, who lived on the fourth floor, didn't manage to make it to the basement in time. His apartment was hit by a shell and caught fire. When the attack was over, we went upstairs and saw that the old man burned to ashes. We ... buried [his] remains in the yard."

Neighborhood residents told Human Rights Watch that the attack did not result in any casualties among the militias, with whom they were all acquainted.

Ossetian militias were a legitimate military target. However, international humanitarian law imposes a duty on all parties to avoid or minimize harm to civilians and damage to civilian objects. In particular, where feasible, a belligerent party should not endanger civilians by having military targets, such as combatants, present in or near densely populated areas.

The Georgian military, however, were also obligated to take into account the risk to civilians of

their attack, and not to conduct the attack if it was apparent that the civilian casualties would outweigh any likely military advantage they would gain.

Also on August 8, according to villagers, at least four civilians died in Khetagurovo, a village of about 750 residents southwest of Tskhinvali, as a result of attacks by Georgian forces. Human Rights Watch researchers saw several houses in the village that were hit by multiple Grad rockets and shells from mortars. Villagers told Human Rights Watch that an elderly woman died in a fire caused by a Grad rocket that hit her house.

After the shelling, Georgian infantry entered the village, spraying the gates and fences of homes with bullets, demanding that the militias surrender. According to witnesses, one of the stray bullets killed an elderly woman, Anastasia Jiueva, as she went to feed her chickens.

Villagers claimed that at that point no militias were in the village, as they had left before the shelling and were hiding in the woods.

At least some Georgian infantry were not aware that civilians remained in the village. One elderly man said that when infantrymen entered his yard, they were shocked to find him and his wife there. According to him, the serviceman said: "Have you been here the whole time, during the shelling and everything? We thought the civilians had all fled." None of the 15 villagers interviewed by Human Rights Watch complained about cruel or degrading treatment by Georgian servicemen, who searched the houses looking for remaining militias and arms.

Villagers remained concerned that there may be more casualties that they are not yet aware of. Madina, 30, told Human Rights Watch: "We are not sure who managed to flee and who died. The village is virtually deserted now. It will take time to find out the exact extent of the losses."

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## **Russian Attacks in Georgia Show Need for Convention on Cluster Munitions**

By Bonnie Docherty, Researcher, published in [JURIST](#)  
August 19, 2008

Russia has not only caused civilian casualties with its use of cluster munitions in Georgia, but it has also blatantly disregarded the international decision to ban the weapons. In the process, Russia has demonstrated that states around the world cannot become complacent about the Convention on Cluster Munitions, which 107 of them adopted in May. They must sign and ratify the treaty as soon as possible so that its obligations enter into force and its stigmatization power grows.

Russian cluster bombs killed eleven civilians and injured dozens more in two air strikes on August 12, 2008, according to Human Rights Watch. Some survivors suffered massive trauma to their abdomens and limbs. Two foreign journalists were among the casualties. Cluster munitions - large weapons containing dozens or hundreds of smaller submunition - endanger civilians because of both their broad area effect and the large number of explosive duds they leave behind. Photographs show local residents handling duds from these strikes so, without risk education, additional casualties are sure to occur. Furthermore, Russia is believed to have hundreds of millions of stockpiled submunitions, which it could use at any time if left unchecked. Georgia also stockpiles the weapons. The casualties reported in Georgia so far and the potential for so many more are reminders of the need for a treaty that bans cluster munitions.

The Convention on Cluster Munitions is the best tool for preventing future harm. It prohibits the use, production, stockpiling, and transfer of the weapons and establishes important remedial obligations such as victim assistance and clearance. Once the treaty enters into force, upon thirty ratifications or accessions, it will prohibit state parties from launching strikes like those launched by Russia. It will also require stockpile destruction within eight years. States committed to ending the humanitarian harm of cluster munitions, like that which occurred in Georgia, should join the Convention on Cluster Munitions as soon as possible.

Although cynics argue that military powers, including Russia, will not ratify or accede to the convention, even those states can be influenced by its provisions. The Mine Ban Treaty shows that the stigma of a weapons treaty can be powerful. China and the United States are not party to the Mine Ban Treaty, but they have not used mines since that treaty took effect. The Convention on Cluster Munitions should have a similar impact if states widely join it. It was already adopted by more than 100 states, including large numbers of users, producers, and stockpilers of cluster munitions. By signing and ratifying the treaty, those states can signal to Russia and others that use of these weapons is considered internationally unacceptable as well as unlawful.

States should condemn Russia's attacks on Georgia and call on both sides of that conflict not to make further use of their stocks of cluster munitions. Otherwise they tacitly support Russia's

conduct. States must also, however, take steps of their own to help ensure there are not future casualties. In particular they must publicly pledge to sign the Convention on Cluster Munitions in Oslo in December and to ratify the new instrument as soon as possible after that. Russia's attacks should provide the international community an impetus for action.

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## Georgia: Civilians Killed by Russian Cluster Bomb 'Duds'

*More Attacks Confirmed; Unexploded Ordnance Threatens Many*

### [Clarification Regarding Use of Cluster Munitions in Georgia](#)

(Tbilisi, August 21, 2008) – Georgian and Russian authorities should take urgent measures to protect the civilian population in Georgian villages from unexploded ordnance left by Russian attacks, Human Rights Watch said today. Human Rights Watch researchers documented additional Russian cluster munitions attacks during the conflict in Georgia, refuting Russia's earlier denials that it used the weapon.

Human Rights Watch researchers saw and photographed unexploded submunitions from cluster munitions in and around the villages of Shindisi, in the Gori district of Georgia. Residents from Shindisi and the nearby Pkhvenisi village told Human Rights Watch researchers there are hundreds of unexploded submunitions in the area. Submunition "duds" are highly dangerous and can explode if picked up or otherwise disturbed.

"Many people have died because of Russia's use of cluster munitions in Georgia, even as Moscow denied it had used this barbaric weapon," said Marc Garlasco, senior military analyst at Human Rights Watch. "Many more people could be killed or wounded unless Russia allows professional demining organizations to enter at once to clean the affected areas."

Witnesses told Human Rights Watch that on August 8, 2008, Russian air strikes on Georgian armored units located near Shindisi and Pkhvenisi were followed by extensive cluster munition strikes that killed at least one civilian and injured another in Shindisi. At least two more civilians were killed and five wounded in the following days when they handled unexploded submunitions, including an incident 10 days after the initial strikes. As of August 20, Shindisi and Pkhvenisi areas remain under Russian control.



Zviad Geladze, 38, points to a cluster munition strike on the path to his farm field.

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Human Rights Watch called upon Russia to immediately stop using cluster munitions, weapons so dangerous to civilians that more than 100 nations have agreed to ban their use. Human Rights Watch also called on Russia to provide precise strike data on its cluster attacks in order to facilitate cleanup of areas contaminated by submunitions. Human Rights Watch called on Georgia to undertake an immediate risk education program for its population, including radio and television announcements about the dangers of submunitions.

In Shindisi, Human Rights Watch researchers saw unexploded dual purpose (anti-armor and antipersonnel) submunitions, commonly known as Dual-Purpose Improved Conventional Munition (DPICM) submunitions.

"Highly dangerous unexploded bomblets now litter farms, roads, and pathways in Shindisi and Pkhvenisi," said Garlasco. "People remaining in these areas don't realize the dangers these submunitions pose and are at serious risk of injury or death if they handle, or even approach, the bomblets."

Human Rights Watch [first reported on Russian use of cluster munitions](#) in Georgia on August 15, after it identified strikes on Gori and Ruisi on August 12 that killed at least 11 civilians and injured dozens more. Russia subsequently denied any use of cluster munitions. Colonel General Anatoly Nogovitsyn, deputy head of the Russian General Staff, stated on August 15, "We did not use cluster bombs, and what's more, there was absolutely no necessity to do so."

Zura Tatrishvili, 62, showed Human Rights Watch researchers an unexploded submunition that he had picked up without realizing that just touching it could make it explode. "We were playing with them, as were the Georgian soldiers," said Tatrishvili. "It was only when one of the bombs exploded after a soldier threw it that we understood that they were dangerous." Even now, Tatrishvili continues to keep his livestock in a pen with unexploded submunitions, demonstrating the need for clearance as well as education.



Georgia. These submunition "duds" are highly dangerous and can explode if picked up or otherwise disturbed.

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During the attack on August 8 in Shindisi, Vano Gogidze, 45, was killed and his relative, Dato Gogidze, 39, was injured. Also in Shindisi, Ramaz Arabashvili, 40, was killed and four people were wounded when

a submunition that they had gathered from a field exploded on August 10. On August 18, in Pkhvenisi, Veliko Bedianashvili, 70, died when a submunition exploded in his hand. "There are so many of these lying around. The fields are full of them," said his son, Durmiskhan Bedianashvili.

Zviad Geladze, 38, showed Human Rights Watch researchers fields contaminated with submunitions. He estimated the submunitions covered an area extending at least one kilometer through his farm. The fields are full of produce ready to harvest. Because humanitarian agencies continue to lack access to much of the Gori region, fields like Geladze's may provide residents of the region with their only food source.

Cluster munitions contain dozens or hundreds of smaller submunitions or bomblets and cause unacceptable humanitarian harm in two ways. First, their broad-area effect kills and injures

civilians indiscriminately during strikes. Second, many submunitions do not explode, becoming de facto landmines that cause civilian casualties for months or years to come.

Under international humanitarian law, indiscriminate attacks including attacks in populated areas with weapons that cannot be targeted solely at military targets are prohibited. Russia has an obligation not only to cease any such attacks, but also to take all necessary measures now to ensure the safety of the civilian population in areas over which it exercises effective control.

Human Rights Watch called on Georgia, which is known to have cluster munitions in its stockpiles, to join the international move to ban the use of cluster munitions and to publicly undertake not to use such weapons in this conflict. Human Rights Watch has also called on Russia to join the convention. Neither Russia nor Georgia was part of the Oslo Process launched in February 2007 to develop a new international treaty banning cluster munitions. In May 2008, [107 nations adopted the Convention on Cluster Munitions](#), which comprehensively bans the use, production, trade and stockpiling of the weapon. It will be open for signature in Oslo on December 3.

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# Law on Occupation and Effective Control

- [1. When does the law on occupation apply to the Russian presence in Georgia?](#)
- [2. Does applying occupation law to Russia affect the status of the territory that Russia occupies?](#)
- [3. Is Russia an occupying force in buffer zones and in places where it maintains roadblocks and checkpoints?](#)
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## **1. When does the law on occupation apply to the Russian presence in Georgia?**

Territory is considered "occupied" when it comes under the control or authority of foreign armed forces, whether partially or entirely, without the consent of the domestic government. This is a factual determination, and the reasons or motives that lead to the occupation or are the basis for continued occupation are irrelevant. Even if the foreign armed forces meet no armed resistance and there is no fighting, once territory comes under the effective control of the foreign armed forces the laws on occupation are applicable. Therefore wherever Russian forces exercise effective control of an area in Georgian territory, including in South Ossetia or Abkhazia, without the consent or agreement of the Georgian government, for the purposes of international humanitarian law it is an occupying power and must adhere to its obligations as such.

## **2. Does applying occupation law to Russia affect the status of the territory that Russia occupies?**

Applying the law of occupation, or deeming Russia an occupying power for the purposes of international humanitarian law, does not in any way affect the sovereignty of the territory. Sovereignty is not transferred to the occupying power.

## **3. Is Russia an occupying force in buffer zones and in places where it maintains roadblocks and checkpoints?**

Russia is bound by the law of occupation wherever it exercises effective control within the territory of Georgia without the consent of the Georgian state. Anywhere Georgian authorities are prevented from their full and free exercise of sovereignty – such as denying access for Georgian authorities including law enforcement and military forces – because of Russian presence, Russia is assuming the role of an occupying power for the purposes of international humanitarian law, and all its obligations towards the civilian population remain.

If Russia exercises effective control of access to an area, such as a so-called buffer zone, even if it grants access to some authorities, for example, Georgian police, it is still bound by its obligations to the civilian population to ensure public safety and welfare and permit humanitarian access.

#### **4. What law relating to occupation is binding on Russia?**

While much of occupation law is also a matter of customary humanitarian law, the primary treaty sources of the modern law of occupation are the Hague Regulations of 1907, the Fourth Geneva Convention of 1949 and certain provisions of the First Protocol of 1977 Additional to the Geneva Conventions of 1949, to which Russia is a party.

The International Committee of the Red Cross (ICRC) Commentary to the Fourth Geneva Convention notes that the obligations of the Convention begin as soon as there is contact between the civilian population of a territory and troops advancing into that territory, i.e. at the soonest possible moment. Under the Fourth Geneva Convention, protected persons are all those who find themselves in the hands of a party to the conflict or an occupying power of which they are not nationals. While all of the duties imposed on an occupying power may not become applicable immediately (some presuppose the presence of the occupation authorities for a fairly long period), the entirety of the provisions relating to the rights enjoyed by protected persons and their treatment become applicable immediately.

In addition to the rules found in international humanitarian law, the occupying power must respect human rights law and national law, subject to certain exceptions. With respect to human rights law, limitations on certain rights are permitted if they are strictly required by the exigencies of the situation, but any limitations must still respect the standards in international humanitarian law.

#### **5. What are the basic principles of international humanitarian law underlying military occupation?**

International humanitarian law provides that once an occupying power has assumed authority over a territory, it is obliged to restore and maintain, as far as possible, public order and safety (Hague, art. 43). Under the Fourth Geneva Convention, the occupying power must also respect the fundamental human rights of the territory's inhabitants, including noncitizens (Geneva IV, arts. 29, 47) and ensure sufficient hygiene and public health standards, as well as the provision of food and medical care to the population under occupation (G IV, arts. 55,56). Collective punishment and reprisals are prohibited (Protocol I, 75). Personnel of the International Red Cross/Red Crescent Movement must be allowed to carry out their humanitarian activities (G IV, art. 63).

#### **6. What are the protection obligations of an occupying power towards the local population?**

An occupying power is responsible for respecting the fundamental human rights of the

population under its authority. All persons shall be treated humanely and without discrimination based on ethnicity, religion or other basis. This includes respecting family honor and rights, the lives of persons, and private property, as well as religious and customary convictions and practice.

Women shall be especially protected against any attack, in particular against rape, enforced prostitution, or any form of indecent assault. Everyone shall be treated with the same consideration by the occupying power without any adverse distinction based, in particular, on race, religion or political opinion. Private property may not be confiscated. (Hague, art. 46, G IV, art. 27). However, an occupying power may take such measures of control and security as may be necessary as a result of the war (G IV, art. 27).

An occupying power is specifically prohibited from carrying out reprisals and collective penalties against persons or their property (G IV, art. 33) and from taking hostages (G IV, art. 34). In general, no one can be punished for acts for which he or she has not personally committed. All parties to a conflict are required to provide information on prisoners of war (G III, art. 122) and "protected persons" (civilian nationals) in their custody (G IV, art. 136).

The occupying power is prohibited from forcibly transferring or deporting protected persons outside of the occupied territory irrespective of motive (G IV, art. 49).

## **7. What are the obligations of an occupying power to provide for well-being of the population?**

Generally, an occupying power is responsible for ensuring that food and medical care is available to the population under its control, and to facilitate assistance by relief agencies.

An occupying force has a duty to ensure the food and medical supplies of the population, as well as maintain hospitals and other medical services, "to the fullest extent of the means available to it" (G IV, arts. 55, 56). This includes protecting civilian hospitals, medical personnel, and the wounded and sick. Medical personnel, including recognized Red Cross/Red Crescent societies, shall be allowed to carry out their duties (G IV, arts. 56, 63). The occupying power shall make special efforts for children orphaned or separated from their families (G IV, art. 24) and facilitate the exchange of family news (G IV, arts. 25, 26).

If any part of the population of an occupied territory is inadequately supplied, the occupying power shall facilitate relief by other states and impartial humanitarian agencies (G IV, art. 59). However, the provision of assistance by others does not relieve the occupying force of its responsibilities to meet the needs of the population (G IV, art. 60). The occupying power shall ensure that relief workers are respected and protected.

## **8. When can civilians be detained or taken prisoner by an occupying power?**

The Fourth Geneva Convention permits the internment or assigned residence of protected persons for "imperative reasons of security." This must be carried out in accordance with a

regular procedure permissible under international humanitarian law and allow for the right of appeal and for review by a competent body at least every six months (G IV, art. 78). The Fourth Geneva Convention provides detailed regulations for the humane treatment of internees. The ICRC must be given access to all protected persons, wherever they are, whether or not they are deprived of their liberty.

### **9. When can civilians be required to work by an occupying power?**

Adults (individuals 18 years or older) may be required to work as is necessary to maintain public utilities, and to meet needs of the Russian army and humanitarian needs, such as activities related to feeding, sheltering, clothing, health care of the civilian population. People must be appropriately compensated for their work, and there can be no obligation to work based on any form of discrimination. People must not be transported to other places to carry out work, but perform it in the area of occupation. People should as far as possible be kept in the jobs they already hold and fair wages and conditions of employment as set out in legislation, must be met. (G IV, art. 51) Unpaid or abusive forced labor, or work that amounts to partaking in military operations, is strictly prohibited.

### **10. What obligations exist concerning the property and resources of the occupied territory?**

In general, the destruction of private or public property is prohibited unless military operations make it absolutely necessary (G IV, art 53). Cultural property is entitled to special protection; the occupying power must take measures to preserve cultural property (Cultural Property Convention, art.5). As a rule, private property cannot be confiscated. Religious, charitable and educational institutions are to be treated as private property. The occupying power may requisition food and medical supplies for occupation forces and administrative personnel so long as the needs of the civilian population have been taken into account and fair payment is made (G IV, art. 55). Taxes and tariffs may also be imposed to defray the administrative costs of the occupation, including the cost of occupying forces (Hague, art. 49).

Public properties are treated as either movable or immovable property. Movable government properties that may be used for military purposes (transport, weapons) are considered "spoils of war" and may be seized without compensation (Hague, art. 53). Immovable government properties (public buildings, real estate) may not be appropriated; however they can be used and administered by the occupying power so long as their assets are maintained (Hague, art. 55). Any loss of value from their use must be compensated.

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# Letter to President Nicolas Sarkozy in Advance of the September 1 Emergency Summit

President Nicolas Sarkozy  
Monsieur le Président de la République  
Palais de l'Elysée  
55, rue du faubourg Saint-Honoré 75008 Paris  
Brussels, August 26, 2008

Dear Mr. President,

We are writing in advance of the emergency Summit of EU Heads of State and Government to be held on September 1st, to urge you to take very concrete steps to: enhance the protection of civilians in areas affected by the armed conflict between Russia and Georgia; facilitate the safe and voluntary return of the thousands of displaced; and, to advance accountability for serious human rights abuses and violations of international humanitarian law committed by all parties to the conflict.

The armed conflict between Russian, Georgian, and Ossetian forces was deadly for civilians. Hundreds of civilians were killed and injured by the indiscriminate and disproportionate force used by Georgian and Russian forces. In some cases, convoys of civilians fleeing conflict zones appear to have been targeted directly. Russian forces have violated international humanitarian law by using cluster munitions in areas populated by civilians. After Georgian forces were pushed back by Russian forces, ethnic Ossetian militias looted and torched the homes of many ethnic Georgians in both South Ossetia and in the Gori district of Georgia, beating and killing ethnic Georgian residents in some cases.

In your meeting on September 1st, we call on you to take up the following recommendations: 1) Dispatch an EU ESDP Mission to Georgia to protect civilians, ensure access for humanitarian efforts, and facilitate the safe return of the displaced; 2) Issue a strong reminder concerning the belligerent parties' obligations under international humanitarian law; 3) Insist on accountability for serious human rights and international humanitarian law violations; 4) Encourage the OSCE Chairman-in-office to appoint a special representative to monitor and report on compliance with international humanitarian law by all parties to the conflict.

## **1) Dispatch an EU ESDP Mission to Georgia to protect civilians, ensure access for humanitarian efforts, and facilitate the safe return of the displaced**

As Russian forces withdraw from areas in Georgia, there is an urgent need for the deployment of an international security mission to help protect civilians and create a safe environment in which the displaced can return home in safety and dignity, and in which humanitarian assistance can reach those in need.

An international mission to protect civilians in Georgia is a job well-suited for the European Union. An EU ESDP mission could contribute significantly to the protection of civilians in areas from which Russian forces have formally withdrawn, including those areas that still have Russian checkpoints. Our researchers on the ground have found that in these areas, civilians live in constant fear that the Ossetian militias that looted and torched their homes will return. Their fears are accentuated by the palpable lack of law and order, due in part to the refusal by Russian forces to allow Georgian police to enter these areas.

An ESDP mission can be deployed relatively quickly, which is essential given the perilous security situation. In helping to provide security, an ESDP mission would boost the confidence of the civilian population and make it possible for people displaced from Gori and Znauri districts to return swiftly and safely to their homes.

Georgian government officials have already publicly stated that Georgia would welcome the urgent deployment of an EU ESDP mission. Speaking recently at a meeting with members of the European Parliament's Foreign Affairs Committee, the Security and Defence Subcommittee and the Delegation for Relations with the South Caucasus, Georgia's Foreign Minister, Ms. Eka Tkeshelashvili, urged the EU to dispatch an ESDP mission.

We urge the EU to engage at the highest political and diplomatic levels to convey the message that such a mission is in Russia's interests, as it contributes to security in all respects in areas close to Russia's forces.

## **2) Issue a strong reminder concerning the conflicting parties' obligations under IHL**

Russia is obligated under international humanitarian law to protect civilians and their property in areas under effective Russian military control. While Russian forces took some measures to stop looting in several villages in South Ossetia, they failed to do so in the Gori district of Georgia. As a result, as noted above, looting, arson attacks, and abductions by militias terrorized the civilian population and forced them to flee their homes.

Human Rights Watch has interviewed civilians from the city of Gori and surrounding villages who described how armed Ossetian militias attacked their cars and kidnapped civilians as people tried to flee militia attacks on their homes following the Russian advance into the area. Kidnapping and enforced disappearances are prohibited under international law and may amount to crimes against humanity or war crimes, depending on the circumstances in which they occur. Human Rights Watch researchers in South Ossetia also saw homes belonging to ethnic Georgians still burning from fires set by Ossetian militias, and witnessed armed Ossetian militia members in camouflage fatigues looting household items from the village of Nizhnie Achaveti. International humanitarian law strictly prohibits looting or pillaging as war crimes. Russian forces have also denied access to some humanitarian missions seeking to assist citizens.

Human Rights Watch has documented Georgian forces' use of indiscriminate and disproportionate force, including the indiscriminate use of Grad multiple launchers and tank fire,

during their assault on Tskhinvali and neighboring villages on August 7/8, which caused numerous civilian casualties and extensive destruction. In Tskhinvali, Human Rights Watch saw numerous severely damaged civilian objects, including a hospital, apartment buildings, houses, schools, kindergartens, shops, administrative buildings, and the university.

Human Rights Watch research has also revealed that Russian forces have violated international humanitarian law by using cluster munitions in civilian populated areas. Cluster munitions are large weapons that contain dozens or hundreds of smaller submunitions or bomblets. They cause unacceptable humanitarian harm in two ways. First, their broad effect kills and injures civilians indiscriminately during strikes. Second, many submunitions do not explode, becoming de facto landmines that cause civilian casualties for months or even years to come. Human Rights Watch has uncovered evidence that:

- On August 12, 2008, Russian aircraft dropped RBK-250 cluster bombs, each containing 30 PAB 2.5M submunitions, on the town of Ruisi in the Kareli district of Georgia. Three civilians were killed and five wounded in the attack.
- On August 12, 2008, a cluster strike in the center of the town of Gori killed at least 8 civilians and injured dozens.
- In one village of Gori district Human Rights Watch researchers saw unexploded dual purpose (anti-armor and antipersonnel) submunitions, commonly known as Dual-Purpose Improved Conventional Munition (DPICM) submunitions.
- Villagers from two villages of Gori district told Human Rights Watch that there are hundreds of unexploded submunitions in the area. Civilians are handling "duds" without realizing that they can explode at the slightest touch.

We call on the European Union to take concrete steps to enhance compliance with international humanitarian law by publicly and privately urging:

- Russian authorities to immediately allow professional demining organizations to enter and clean cluster munitions affected areas. The user of the weapons is responsible under Protocol V of the Convention on Conventional Weapons to assist with clearance.
- Georgia and Russia to conduct risk reduction education to ensure awareness among civilians living in or around cluster munitions contaminated areas of the risks posed by such remnants and by other unexploded ordnance. In particular, urge Georgia to broadcast radio and television announcements about the dangers of submunitions.
- Russia to provide precise strike data on its cluster attacks in order to facilitate clean up of the inevitable lingering contamination from cluster bomb submunitions that failed to explode on contact but remain deadly.
- Russia to ensure that South Ossetian forces and volunteer militia respect international humanitarian law including the prohibitions on pillaging, destruction of civilian property, and attacks on civilians. Reminding Russia that in the territory over which it exercises effective control, it is obligated to ensure the safety and well being of the civilian population and it may be held liable for the actions of South Ossetian forces and volunteer militia operating in that territory.
- Russian and Georgian authorities to provide full cooperation to and access for humanitarian relief operations to civilians who choose to remain in conflict areas. Russian

and Georgian authorities must allow for the recovery of the dead and the return of corpses to loved ones.

- Immediately release of all hostages and unlawfully detained persons.

### **3) Insist on accountability for serious human rights and international humanitarian law violations**

In September of 2003, Georgia ratified the Rome Statute of the International Criminal Court (ICC) and thus the Court has jurisdiction over war crimes and crimes against humanity committed in Georgia by any party to the conflict. On August 20, the ICC Prosecutor “confirmed that the situation in Georgia is under analysis by his office.”

Combating impunity and accountability for war crimes are stated EU priorities. The EU must insist on justice, whether crimes are committed on other continents or in its own neighborhood. Each time the EU supports ICC engagement in situations under its jurisdiction, the EU raises the bar for accountability, strengthens its own commitment to the Court, and enables the Court to be a powerful deterrent against war crimes, crimes against humanity and genocide. Emphasizing the potential role of the ICC as a deterrent for grave abuses also serves to fulfill the prevention aspect of the EU’s responsibility to protect.

The EU should call on parties to the conflict to undertake credible and transparent investigations into human rights and international humanitarian law violations and to hold those responsible accountable. It should also remind all parties to the conflict that, where there is no ability or will to prosecute the crimes in a domestic court, the ICC has jurisdiction over war crimes and crimes against humanity during this conflict, no matter the nationality of the perpetrator or victim.

### **4) Encourage the appointment by the OSCE Chairman-in-office of a special representative to monitor and report on compliance with international humanitarian law**

Finally, there is an acute need for effective international monitoring and reporting of compliance with international humanitarian law by all parties to the conflict in Georgia. Such a fact-finding mechanism would be an important tool to deter further abuses, to clarify and dismiss rumors, to assist accountability efforts, and, it would help provide a solid foundation for future confidence building measures and political negotiations.

There are several options with regard to international monitoring and reporting mechanisms. One which has proven effective and quick in the past has been the appointment by the OSCE Chairman-in-Office of a special representative, supported by a team of seconded experts. We understand that the Finnish OSCE Chairman-in-Office has been offered very concrete support in terms of a Special Representative supported by international humanitarian law experts who could be dispatched immediately to Georgia

to monitor and report on compliance with international humanitarian law. Human Rights Watch strongly encourages the Finnish OSCE chairman-in-Office to accept such an offer and calls on the EU to support the efforts of the special representative should he/she be appointed.

We believe that such an effective OSCE CiO monitoring and reporting mechanism would compliment other human right efforts undertaken by e.g. the Council of Europe's Commissioner for Human Rights and possibly by UN mechanisms.

We thank you for your attention to this important matter.

Yours sincerely,

Lotte Leicht  
EU Director  
Human Right Watch

Holly Cartner  
Director  
Europe and Central Asia Division  
Human Rights Watch

CC:

EU High Representative, Mr. Javier Solana  
President of the European Parliament, Mr. Hans-Gert Poettering  
EU Special Representative for the Caucasus, Mr. Peter Semneby  
President of the European Commission, Mr. Manuel Barosso  
Foreign Policy and Security Advisors  
Ambassadors to the Political and Security Committee

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## **EU: Protect Civilians in Gori District**

### ***Security of Civilians Should Be Central to Summit Discussions on Russia***

(Tbilisi, August 28, 2008) – The European Union should act to protect Georgian civilians from continued attacks by Ossetian militias and opportunistic violence, Human Rights Watch said today. Human Rights Watch called on the European Union to use its unprecedented summit on Russia on September 1 to make a plan for ensuring protection for civilians in Georgia.

Russian forces started withdrawing from the Gori district around August 22, but they continue to have checkpoints in the area. Human Rights Watch researchers documented a disturbing pattern of violence against civilians, including abductions, looting, and beatings taking place beyond these checkpoints, particularly in areas bordering South Ossetia.

“Georgian villages in the border areas have become a no man’s land, with civilians at the mercy of Ossetian militias and armed criminals,” said Rachel Denber, Europe and Central Asia deputy director at Human Rights Watch. “Europe’s relationship with Russia has seldom been more difficult than today, but this issue cannot wait for a political solution to the conflict. Addressing this situation should be a top priority for the EU at next week’s summit.”

Human Rights Watch reiterated its call on the EU to deploy a robust European Security and Defense Policy (ESDP) [mission](#) consisting of police and security forces to ensure protection of civilians and the return of displaced persons to their homes. Human Rights Watch also called on the EU to initiate discussion of an international peacekeeping mission to Georgia.

Russia’s recognition on August 26 of the territories of South Ossetia and Abkhazia has caused a crisis in EU-Russian relations.

After Russian military forces moved out of the Gori district, Georgian police were allowed to move in, but not beyond Russian forces’ checkpoint at the village of Variani, about eight kilometers north of Gori. As the Georgian police are not allowed in, and Russian forces do not go on patrols beyond the checkpoint, there is no one providing security in the northern Gori district.

“Russia is obligated to ensure the safety and well-being of civilians in the areas under its de-facto control, but civilians are clearly not being protected,” said Denber. “This is why the European Union should urgently agree on an international presence to ensure security.”

Between August 22 and 27, Human Rights Watch spoke with people from five villages in areas under effective Russian control, all of whom were victims of or witnesses to violence by Ossetian militias. For example, on August 24, at around 5 p.m., Ossetian militias abducted five men from the village of Tirdznisi. The wife of one of the five, 52-year-old Jumber Tetunashvili, told Human Rights Watch that her husband had managed to call her and said he was in detention in Tskhinvali.

On August 24, four armed Ossetians came to the village of Koshki, where they looted houses and severely beat at least four civilians. One of the victims, "Vano," told Human Rights Watch:

"I stood in the street with three neighbors. They approached us, shooting in the air, and said 'You weren't happy with a peaceful life – now we're going to show you!' They asked for money, but what kind of money do we have?! Then they started beating us with the butts of their guns. One neighbor had his collar bone broken as a result of the beating. He was taken to the hospital. They hit me and another neighbor in the face, on the ribs and in the kidney area. Then they went to the next door house and looted it. I saw them take away a fridge, clothes and other things. They loaded the loot on to a cart and forced me at gunpoint to push it."

When Human Rights Watch interviewed "Vano" and his neighbor, the two men were visibly in pain, and were transported to the hospital shortly thereafter.

On August 26 and 27, numerous residents fled the villages of Meghvrekisi and Nikozi. People who fled Meghvrekisi told Human Rights Watch that on the morning of August 26, three armed Ossetians in camouflage fatigues came to the village, searching for young men. When they realized that young males had fled the village, they physically assaulted three villagers – two women and a man.

Villagers fleeing Meghvrekisi and Nikozi also said that over the past couple of days, Ossetian militias had been looting and burning houses, forcing most civilians to leave.

On August 26, when Human Rights Watch researchers visited the village of Pkhvenisi, three kilometers south of Nikozi and Meghvrekisi, local residents complained that nobody had been providing security in the village, and said they were afraid that the looters would move on to their village.

Just 30 minutes later, the villagers called Human Rights Watch and reported that four armed Ossetians held them at gunpoint and stole their tractor.

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## Georgia: Satellite Images Show Destruction, Ethnic Attacks

### *Russia Should Investigate, Prosecute Crimes*

(New York, August 29, 2008) – Recent satellite images released by the UN program UNOSAT confirm the widespread torching of ethnic Georgian villages inside South Ossetia, Human Rights Watch said today. Detailed analysis of the damage depicted in five ethnic Georgian villages shows the destruction of these villages around the South Ossetian capital, Tskhinvali, was caused by intentional burning and not armed combat.

“Human Rights Watch researchers personally witnessed Ossetian militias looting and burning down ethnic Georgian villages during their research in the area,” said Rachel Denber, deputy director of the Europe and Central Asia division of Human Rights Watch. “These satellite images indicate just how widespread the torching of these villages has been in the last two weeks.”

The new satellite images, taken by a commercial satellite on August 19, were analyzed by experts of the Geneva-based UNOSAT program, which is part of the UN Institute for Training and Research and produces satellite-derived mapping in support of UN agencies and the international humanitarian community. UNOSAT experts identified visible structures on the images that were likely to have been either destroyed or severely damaged. The expert analysis indicates clear patterns of destruction that are consistent with the evidence gathered by Human Rights Watch researchers working in the region.



Click on image to see destruction of houses

Among the images publicly available from the UNOSAT website (<http://unosat.web.cern.ch/unosat/>) is a map marking satellite-detected active fire locations in the ethnic Georgian villages around Tskhinvali. The map shows active fires in the ethnic Georgian villages on August 10, 12, 13, 17, 19 and 22, well after active hostilities ended in the area on August 10. On these dates the lack of cloud cover allowed the satellites to view those locations.

- [Fires by date](#) (high resolution, 3.3MB)
- [Fires by date](#) (low resolution, 1.6MB)

UNOSAT has also released a set of six high-resolution satellite images of the enclave of ethnic Georgian villages stretching nine kilometers north from Tskhinvali, showing that the majority of them have been destroyed.

- [Destroyed ethnic Georgian villages](#) (high resolution, 26.7MB)
- [Destroyed ethnic Georgian villages](#) (low resolution, 8.5MB)

The images strongly indicate that the majority of the destruction in five of the villages – Tamarasheni, Kekhvi, Kvemo Achabeti (Nizhnie Achaveti in Russian), Zemo Achabeti (Verkhnie Achaveti in Russian), and Kurta – was caused by intentional burning. The high-resolution images of these villages show no impact craters from incoming shelling or rocket fire, or aerial bombardment. The exterior and interior masonry walls of most of the destroyed homes are still standing, but the wood-framed roofs are collapsed, indicating that the buildings were burned. Only along the main road through Tamarasheni are a number of homes visible with collapsed

exterior walls, which may have been caused by tank fire. Ethnic Georgian witnesses from Tamarasheni told Human Rights Watch that they had witnessed Russian tanks systematically firing into the homes on August 10.

- [Detailed satellite images of destroyed ethnic Georgian villages](#) (10.2MB)

On August 12, Human Rights Watch researchers witnessed massive looting by Ossetian militias in Tamarasheni, as well as in the neighboring ethnic Georgian villages. Human Rights Watch researchers saw and photographed the still-smoldering and the recently torched houses in Tamarasheni. Witnesses from local villagers in Tamarasheni, Kvemo Achabeti, and Kekhvi told Human Rights Watch that Ossetian militias were systematically [looting and burning](#) ethnic Georgian homes. In the village of Kekhvi, many homes had been set alight by Ossetian militias just before the arrival of Human Rights Watch researchers, who photographed the burning homes.

- Human Rights Watch photo essay, "[Burning and Looting of Ethnic Georgian Villages in South Ossetia](#)"

Human Rights Watch researchers spoke with several members of the Ossetian militias who openly admitted that the houses were being burned by their associates, explaining that the objective was to ensure that ethnic Georgians would not have the houses to return to.

"All of this adds up to compelling evidence of war crimes and grave human rights abuses," said Denber. "This should persuade the Russian government it needs to prosecute those responsible for these crimes."

The damage shown in the ethnic Georgian villages is massive and concentrated. In Tamarasheni, UNOSAT's experts counted a total of 177 buildings destroyed or severely damaged, accounting for almost all of the buildings in the town. In Kvemo Achabeti, there are 87 destroyed and 28 severely damaged buildings (115 total); in Zemo Achabeti, 56 destroyed and 21 severely damaged buildings (77 total); in Kurta, 123 destroyed and 21 severely damaged buildings (144 total); in Kekhvi, 109 destroyed and 44 severely damaged buildings (153 total); in Kemerti, 58 destroyed and 20 severely damaged buildings (78 total); and in Dzartsemi, 29 destroyed and 10 severely damaged buildings (39 total).

#### Selected Accounts from Ethnic Georgian Residents

"[The Ossetians] had cars outside and first looted everything they liked. Then they brought hay, put it in the house and ignited it. The house was burned in front of my eyes."

– Zhuzhuna Chulukhidze, 76, resident of Zemo Achabeti

"I was beaten and my house was looted by Ossetian militias three times during a single day. After they took everything and there was nothing more to loot, they brought petrol, poured it everywhere in the rooms and outside the house, and then put it on fire. They made me watch as my house was fully burned."

– Ila Chulukhadze, 84, resident of Kvemo Achabeti

"They [Ossetians] came several times to my house and took everything they liked. Once there

was nothing else to take, they poured petrol and put it on fire. I watched how they burned my house as well as my neighbors' houses.”

– Rezo Babutsidze, 80, resident of Kvemo Achabeti

“Ossetians first took out everything they could from my house. Then they brought hay, put it in the house and put it on fire. They did not allow us to take even our documents. I saw how my house was completely burnt.”

– Tamar Khutsinashvili, 69, resident of Tamarasheni

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## Georgia: Join Treaty Banning Cluster Munitions

### *Government Acknowledges Using Weapon Against Russian Forces*

(New York, September 1, 2008) – The Georgian government said it used cluster munitions during the August 2008 armed conflict with Russia, Human Rights Watch said today. In a letter to Human Rights Watch, the Georgian Defense Ministry stated that cluster rockets were “used against Russian military equipment and armament marching from Roki tunnel to Dzara road [sic],” but that they “were never used against civilians, civilian targets and civilian populated or nearby areas.” Human Rights Watch has not independently confirmed this information, but has reported Russia’s use of cluster munitions during the fighting.

“Using any type of cluster munitions in any location is unacceptable because of the harm they can cause to civilians during and after conflict,” said Marc Garlasco, senior military analyst at Human Rights Watch. “That’s why 107 nations recently adopted a [new international treaty](#) banning the weapon. Georgia and Russia should also sign on to the ban.”

Human Rights Watch said it welcomed Georgia’s willingness to acknowledge its use of cluster munitions and expressed hope that this was a first step toward adopting the treaty.

The Georgian Ministry of Defense identified the type of cluster munitions used as the GRADLAR 160 multiple launch rocket system with MK4 rockets with M85 submunitions. First Deputy Minister of Defense Batu Kutelia also told Human Rights Watch that these are the only cluster munitions Georgia possesses.

In August, Human Rights Watch documented [Russia’s use](#) of several types of cluster munitions, both air- and ground-launched, in a number of locations in Georgia’s Gori district, causing 11 civilian deaths and wounding dozens more. Russia continues to deny using cluster munitions.

“[Russia](#) has yet to own up to using cluster munitions and the resulting civilian casualties,” said Garlasco.

This is the first time that Georgia has acknowledged using cluster munitions. Human Rights Watch to date has no information on any civilian casualties caused by Georgia’s use of the weapon. Human Rights Watch is continuing to investigate use of cluster munitions by both Georgia and Russia.

Human Rights Watch called on Georgia and Russia to immediately renounce any future use of cluster munitions, and to commit to joining the new [Convention on Cluster Munitions](#) when it opens for signature in Oslo on December 3, 2008.

Neither Georgia nor Russia was part of the Oslo Process launched in February 2007 to develop a new international treaty banning cluster munitions. In May 2008, 107 nations meeting in Dublin adopted the convention, which comprehensively bans the use, production, trade, and

stockpiling of the weapon.

Cluster munitions are large weapons that contain dozens or hundreds of smaller submunitions. They cause unacceptable humanitarian harm in two ways. First, their broad-area effect kills and injures civilians indiscriminately during strikes. Second, many submunitions do not explode, becoming de facto landmines that cause civilian casualties for months or years to come.

The Georgian government told Human Rights Watch that it used the M85 submunitions, which have a “self-destruction mechanism ... designed to ensure that no armed duds will be left on the battlefield.” However, field research has shown that M85 submunitions used by Israel in south Lebanon in 2006 had a failure rate of greater than 10 percent, leaving large numbers of dangerous “duds” on the ground.

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## Clarification Regarding Use of Cluster Munitions in Georgia

(New York, September 3, 2008) – On August 21, 2008, Human Rights Watch [reported](#) a series of attacks with cluster munitions around four towns and villages in Georgia's Gori district. Human Rights Watch attributed all the strikes to Russian forces, but upon further investigation has concluded that the origin of the cluster munitions found on August 20 in two of the villages – Shindisi and Pkhvenisi – cannot yet be determined.

Human Rights Watch's finding that Shindisi and Pkhvenisi were struck by Russian attacks on August 8 was based on the accounts of nearly a dozen witnesses, interviewed separately, who said that air strikes on Georgian armored units in the area were followed by extensive cluster munition strikes. There were no Russian ground forces reported in the area at that stage of the conflict.

Human Rights Watch researchers in Shindisi on August 20 found unexploded cluster submunitions, commonly known as Dual-Purpose Improved Conventional Munitions (DPICMs), and initially identified them as Russian. However, those submunitions were later identified by the Norwegian Defense Research Establishment (NDRE), based on Human Rights Watch's photographs, as M85 DPICMs, which have not been reported to be part of Russia's arsenal. NDRE is a government-sponsored institution that does research and development for the Norwegian Armed Forces and is recognized for its expertise in cluster munitions.

On August 31, the government of Georgia informed Human Rights Watch that it had a stockpile of ground rocket-launched cluster munitions that have M85 submunitions. The Georgian government described them as being a different type of M85 submunition than those found by Human Rights Watch and stated that these were the only cluster munitions in the Georgian arsenal.

Neither Georgia nor Russia has claimed use of the M85s found in Shindisi. Russia denies any use of cluster munitions in Georgia. Georgia states that it used cluster munitions in the August 2008 conflict only during an attack on Russian military forces near the Roki tunnel.

This clarification does not affect Human Rights Watch's findings on August 15 that Russia used aerial cluster bombs to attack the village of Ruisi and the town of Gori on August 12. Eleven civilians were killed and dozens more injured in these two locations. In Ruisi, Human Rights Watch researchers found submunitions that they identified as PTAB 2.5M, which are known to be in Russia's arsenal. Human Rights Watch based its findings on visual identification of the submunitions and the cluster bomb carrier in Ruisi, craters typical of submunition impact, and accounts from Georgian victims in both towns, as well as doctors and military personnel. The Russian government has yet to adequately respond to these findings.

Human Rights Watch will continue its investigation into the use of cluster munitions in Shindisi and elsewhere by all sides during the armed conflict.

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## Georgia: EU Mission Needs to Protect Civilians

### *In Security Vacuum, Frequent Attacks and Pervasive Fear*

(Tbilisi, September 16, 2008) – The European Union observer mission scheduled to move into areas near South Ossetia must be given both a mandate and adequate resources to protect civilians, Human Rights Watch said today. Human Rights Watch researchers in Georgia in recent days have documented numerous attacks by Ossetians against civilians in villages in this area, which is effectively under Russian control.

“The so-called ‘security zone’ is anything but safe – it is a no-man’s land, and people there desperately need protection,” said Giorgi Gogia, Human Rights Watch’s researcher on Georgia. “Monitoring is welcome, but what is urgently needed is a robust ESDP mission authorized to do policing to protect people from militia and other attacks and allow the displaced to return safely to their homes.”

The Russian military has not been allowing Georgian police into many of the villages in Georgia’s Gori district, which borders South Ossetia. Nor has the Russian military been policing the villages itself.

Under an agreement reached September 8, 2008, with the Russian and Georgian governments, the EU will send 200 civilian experts and police observers under the European Security and Defense Policy (ESDP) to Georgia. The observers, who will be unarmed, will have a mandate to monitor but not to protect civilians in the Gori area.

Three weeks after Russian forces withdrew from most parts of Gori district, tens of thousands of Georgians remain displaced, both because security is deteriorating and because many homes have been destroyed by bombing or [deliberately burned](#). The security situation remains particularly unstable in areas close to the administrative border with South Ossetia. Displaced Gori district residents who spoke to Human Rights Watch uniformly said they feel unable to return to their homes to stay because they fear attacks by Ossetian militias and others seeking to exploit the utter lack of law enforcement in the area.

“The EU says return of the displaced is a priority, but it hasn’t acknowledged the lawless situation and ongoing human rights abuses,” said Gogia. “Many who have fled are afraid to return, and those who do, face a real risk of violence. ESDP missions in other parts of the world have had policing and protection responsibilities, and there is no good reason why they can’t have them here.”

Human Rights Watch researchers found that most people remaining in the villages of Gori district are elderly men and women who hope to protect their homes and property or who physically cannot leave. Some younger people from these villages venture from displaced person shelters in the town of Gori to their home villages for a few daylight hours. They look after their houses and harvest their crops, then return to the shelters. Villagers spending the night in villages either

gather in one place to seek safety in numbers or hide in fields or woods near their homes.

"Their fear of violence isn't abstract," said Gogia. "Attacks on civilians continue, and people have nowhere to turn for protection."

Human Rights Watch documented numerous attacks and threats against civilians by Ossetian militias and armed criminals in the last 10 days. For example, "Dato", a 22-year-old villager from Abanoskoda, in the Kareli district on the administrative border with South Ossetia, described the killing of his 75-year-old grandmother on September 6. He told Human Rights Watch that on September 5 he was in the village to check on her and help with the harvest. "My father and I were harvesting crops in my grandmother's field," he said. "As I approached the house, two Ossetians in camouflage, armed with machine guns, stopped me and asked me who I was. One of them cocked his gun and demanded that I give him my cell phone, and I did so."

"The next evening, after going into the village, I returned to my grandmother's house and found that my father was being held by four armed men in masks, wearing camouflage uniforms," said "Dato. "They tried to take me and my father away. My grandmother was protesting and pulling on my father to keep him from being taken. One of them grabbed her to pull her away, and we all began to struggle. The assailants shot me twice in the right leg. They shot my father in the back, and he immediately fell down. I don't know how my grandmother was shot, but when I was able to look at her I saw that she was dead."

"Dato" and his father survived. "Dato" remains in the hospital with a knee fracture. His father was treated for a wound to the abdomen.

On September 6, a 40-year-old man, "Lado," was driving in another Gori district village, Kvemo Artsevi, when he was stopped by two men in black ski masks and camouflage uniforms armed with machine guns and standing near a car along the side of the road. "Lado" told Human Rights Watch: "They spoke to me in broken Georgian with an Ossetian accent. One of them asked for my documents, took them, and then asked me to come with them to verify my identity. The other one started swearing at me. I was scared and so I sped away. They followed me in their car for about 2 kilometers and shot at me. The right rear window of the car was shot out. My wife and I left the village that day. I won't go back until there are police to protect us. Those who are there made us leave."

Human Rights Watch also found new evidence of the torching of homes in South Ossetia. Multiple witnesses who recently fled Disevi, a village on the South Ossetian border, told Human Rights Watch that, as of September 13, the vast majority of houses in the village had been burned. Much of the village had been burned when Ossetian militias entered the village on August 11, but the remaining houses have been steadily targeted in recent days. One witness who arrived in Gori on September 15 stated that she saw 15 or 16 houses being burned by militias in the period between September 12 and September 15. This witness told Human Rights Watch that although she had stayed in her house throughout the conflict and through the looting and burning by Ossetian militias immediately following the active fighting, the recent systematic

burning had caused her to give up hope that her home would be spared.

Disevi residents and residents of other villages also described a series of thefts and said they have heard frequent shooting in the past 10 days, they said they believe that the recent attacks and criminal activity have been carried out not only by Ossetian militia members, but also by civilian residents from neighboring villages taking advantage of the security vacuum.

“Over the past weeks the EU has focused on the status of South Ossetia and the withdrawal of Russian forces from Georgia proper,” said Gogia. “But it’s high time for the EU to pay equal attention to the rights and safety of the people in these areas. Ensuring that the EU’s ESDP mission can actually protect civilians and itself in the so-called buffer-zones would be a good start.”

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## **Russia/Georgia: Investigate Abuse of Detainees**

### ***Allegations of Execution, Torture in South Ossetia***

(Moscow September 21, 2008) – Russia should immediately investigate allegations of extrajudicial execution, torture, and other abuse of Georgian military and civilian detainees by Ossetian forces during the recent conflict in Georgia, Human Rights Watch said today. Georgia should investigate alleged ill-treatment of Ossetian detainees during their detention and transfer to Tbilisi and improve conditions of detention, Human Rights Watch said.

“The torture and ill-treatment of Georgian detainees is abhorrent and can’t be justified, even during armed conflict,” said Rachel Denber, Europe and Central Asia director at Human Rights Watch. “Russia had effective control in South Ossetia while these abuses took place and it has the duty to hold the perpetrators to account for these horrific crimes.”

In interviews with former Georgian military detainees, Human Rights Watch has documented at least one extrajudicial execution of a Georgian soldier in detention, as well as severe torture of at least four Georgian soldiers by Ossetian militia and other Ossetian forces.

Human Rights Watch also found that Russian and Ossetian forces unlawfully detained at least 160 civilians, mainly elderly, in South Ossetia and Gori district; approximately 40 were women. At least one man was executed while in Ossetian custody. Most civilians were held in the basement of the Ossetian Ministry of Interior building in Tskhinvali for approximately two weeks in conditions that amounted to degrading treatment. Some were subjected to beatings and were forced to work cleaning the streets of Tskhinvali of decomposing bodies of Georgian soldiers and building debris. At least four Georgian civilians were held by Russian military forces in a dirt pit and beaten at what appeared to be a Russian field base before being handed over to the Ossetian Ministry of Internal Affairs. Ossetian forces had no legal authority to detain military service personnel or civilians.

The Georgian military detained Ossetians during the active fighting in South Ossetia. The Georgian ministry of defense claims that it detained only militia fighters or others posing security risks. Human Rights Watch spoke to two of the detainees, one traffic policeman and another male who claimed that he had not taken any part in hostilities. Both men reported that they were ill-treated as they were being transferred from South Ossetia to Tbilisi and complained of poor food during detention.

“Georgia has an obligation to investigate allegations that Ossetian detainees were beaten during their transfer to custody,” Denber said. “Poor detention conditions in Georgia are a long-standing problem that the government has taken insufficient steps to address.”

Of 13 Georgian military servicemen known to have been detained by Ossetian and Russian forces, Human Rights Watch conducted individual, in-depth interviews with four. Human Rights Watch also interviewed more than 20 civilians detained by Ossetian and Russian forces as well as two Ossetians and two Russian soldiers detained by the Georgian military.

## **Execution and torture of Georgian military servicemen**

The Georgian military servicemen interviewed by Human Rights Watch were detained by Ossetian militias on August 8, 2008, during the active fighting in Tskhinvali. They were held in informal places of detention, including apartment buildings and schools, for several days, and were then transferred to Ossetian forces, who detained the soldiers for six days. Russian forces were aware of the detentions.

The four Georgian soldiers interviewed by Human Rights Watch, together with nine other Georgian soldiers and two people the Georgian authorities claim were civilians, were exchanged by the Russian authorities for five Russian prisoners of war on August 21. Because the Georgian soldiers were detained in Tskhinvali in South Ossetia, an area over which Russia exercised effective control since August 9, they should be treated as having fallen into Russia's power. Russia was therefore obligated to afford them prisoner-of-war (POW) status and to treat them in conformity with the protections of the Third Geneva Convention, which include absolute prohibitions on ill-treatment and require POWs to be treated humanely and kept in good health.

Georgian soldiers reported that they had been subjected to severe torture and ill-treatment throughout their detention by Ossetian militia and Ossetian forces. The Ossetian militia and other forces frequently beat the soldiers, not only by punching and kicking them, but also by using implements such as hammers, butts of machine guns, and metal rods. They also burned their skin with lighters, starved them and threatened them with execution. The men were held in degrading conditions, given very little water and little to no food after the initial days of their detention. The torture and ill-treatment caused severe head trauma, broken bones, burns, severe bruising, and serious dehydration and loss of weight among the prisoners. After several days in detention by Ossetian forces, one Georgian soldier who had been wounded during active fighting in Tskhinvali was taken into custody by Russian federal forces proper and treated in hospitals in South Ossetia and Russia.

The Georgian soldiers also reported that one of the soldiers detained with them was executed. Shortly after the soldiers were detained in a school, one soldier was taken from the group into a small room and shot in the back of the head with automatic weapon fire. Other soldiers were made to carry the body outside and later bury it. The man was apparently singled out because he was a tank driver. Georgian soldiers also stated that another Georgian military serviceman detained among them, who was ethnic Ossetian, was taken away during their detention. They never saw this soldier again. One Georgian soldier reported that he had been told the man was killed "as a traitor."

For information on the extrajudicial execution by Ossetian forces of an armed Georgian man in a separate incident, see <http://hrw.org/english/docs/2008/08/13/russia19620.htm>.

## **Execution, arbitrary detention, and ill-treatment of Georgian civilians**

As Russian forces began to occupy South Ossetia on August 8-9, South Ossetian forces followed them into ethnic Georgian villages. Russian and Ossetian forces detained many of the remaining residents, most of whom were elderly and had stayed behind to protect their homes and property; younger family members had fled in the initial days of fighting. On subsequent days, Ossetian forces also detained people trying to flee looting and burning by Ossetian forces in the Gori district. Human Rights Watch has also documented how Ossetian forces looted and burned houses in Georgian villages (<http://hrw.org/english/docs/2008/08/28/georgi19712.htm> ). There is no evidence that the civilians detained by Russian and Ossetian forces posed any security threat that would necessitate their detention.

During the detention of approximately 10 men, who were taken from cars while attempting to flee from villages in the Gori district, one detainee was executed by Ossetian forces. The group of detainees had been made to lie face down in the back of a minivan, were kicked and hit with gun butts, and told not to raise their heads, despite the beatings. One detainee told Human Rights Watch that the young man lying next to him, who was approximately 25 years old, raised his head several times and the Ossetian captors eventually shot him in the head three times. They threw his body out of the van and threatened the other detainees, "We will kill you all eventually." These men were subsequently taken to the Ossetian Ministry of Interior building in Tskhinvali.

At least 160 Georgian civilians, including many elderly and approximately 40 women, were held together in the basement of the Ossetian Ministry of Interior building in Tskhinvali. Detainees described appalling conditions of detention. They stated that the dark, hot, poorly ventilated basement had five detention cells designed for short-term detentions. The cells quickly became overcrowded, and detainees were forced to sleep in the hallway or in the small, fenced-in, outdoor exercise yard accessible from the basement. There were only a handful of beds, and most detainees slept sitting or lying on the floor.

There was one toilet for all detainees and it frequently did not have water. Detainees described being given water that was dirty as well as insufficient food. During the initial days of detention, guards would throw four to five loaves of bread into the cells, saying "Eat, pigs!" Detainees stated that following a visit by the International Committee of the Red Cross (ICRC), in mid-August, they were given slightly more and better food, including buckwheat cereal, more servings of bread, and tea. Most detainees reported losing significant weight during the detention. Material conditions in Tskhinvali at the time of these detentions were dire; the city had no electricity, very little food, and very little water.

Several men reported being beaten at the moment of detention, during transfer, and upon their arrival at the detention facility. Several men were also forced to work, which included recovering decomposing bodies from the streets of Tskhinvali, digging graves, and burying bodies, as well as cleaning the streets from building debris accumulated as a result of fighting. They did not receive any compensation for this work. Under international humanitarian law, civilians may be required to work if it is necessary, for example, to maintain public utilities or to meet humanitarian needs, but they should be appropriately compensated for their work.

Unpaid or abusive forced labor, or work that amounts to partaking in military operations, is strictly prohibited.

One group of 61 detainees, including most of the elderly and all of the women, were released on August 21, and were officially exchanged for eight detainees whom the Georgian military describes as militia fighters. Other civilians were released on subsequent days, including a large group of 81 civilians on August 27, who, according to the Georgian Ministry of Defense, were exchanged for four people detained during fighting and described as militants, as well as nine Ossetians previously convicted for crimes and serving sentences in Georgian prisons.

### **Detention and ill-treatment of Ossetians by Georgian military**

Human Rights Watch interviewed two Ossetians detained by the Georgian military in Khetagurovo, a village in South Ossetia, on August 9. Both detainees reported being beaten by Georgian soldiers at the moment of their detention. One detainee stated that his jaw was dislocated as a result of the beatings. The other detainee told Human Rights Watch that Georgian soldiers punched and kicked him during his transfer by car to Tbilisi. Both detainees complained about poor and inadequate food during their detention in the Vaziani military base in Tbilisi. Neither detainee complained of ill-treatment while in detention. Human Rights Watch [has documented poor conditions](#) in Georgian prisons and places of detention and has called on the government to ensure conditions meet international standards.

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