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Human Rights Committee
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

Unedited version

Georgia

1. The Committee considered the third periodic report submitted by Georgia (CCPR/C/GEO/3) at its 2483rd and 2484th meetings (CCPR/C/SR.2483 and 2484), held on 15 and 16 October 2007, and adopted the following concluding observations at its 2500 meeting (CCPR/C/SR.2500), held on 26 October 2007.

Introduction

2. The Committee welcomes the timely submission of the State Party's third periodic report, which contains useful and detailed information on developments since the consideration of the second periodic report, in light of certain previous concluding observations. The Committee appreciates the attendance of a delegation composed of experts competent in various fields relevant to the Covenant, as well as its oral and written replies to the questions raised and concerns expressed by the Committee during the examination of the State Party's report.

B. Positive aspects

3. The Committee welcomes the significant and wide-ranging legislative and institutional changes that have been introduced in the State party during the years covered by the report, with

a view to consolidating the rule of law, and in light of certain recommendations made by the Committee in 2002.

4. The Committee welcomes the accession by Georgia, in 2006, to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which should ensure better observance of Article 7 of the Covenant.

5. The Committee welcomes the adoption of the Law on Restitution of Property adopted on 29 December 2006, and encourages the State party to take all necessary measures to promptly implement it.

Principal subjects of concern and recommendations

6. While taking note of the difficulties expressed by the State Party in implementing the Covenant in the Abkhazia and Tskhinvali Region/South Ossetia, and acknowledging positive steps taken to ensure protection of the rights under the Covenant of persons living in territories presently not under its control, including encouraging United Nations Special Procedures mechanisms invited to Georgia to visit such territories and engage in dialogue with de facto authorities, the Committee is concerned that the populations concerned do not fully enjoy the Covenant provisions. (Articles 1 and 2).

The State party should continue to take all possible measures, without discrimination, to enhance protection under the Covenant for the population of these regions by the Abkhazia and Tskhinvali Region/South Ossetia de facto authorities. The State Party should ensure that international agencies are able to operate without obstacles.

7. The Committee acknowledges: a) the April 2007 amendments to *Law on Refugees Issues*, which grant the refugees registered in Georgia temporary residence; and b) the new procedure to appeal against deportation decisions of the Prosecutor General. However, the Committee remains concerned that the current legislation does not fully ensure respect for the principle of *non-refoulement*. (Articles 2, 6 and 7)

The State Party should:

- a) **adopt effective legislative and procedural safeguards to ensure that nobody is returned to a country where there are substantial grounds to believe that they are at risk of being arbitrarily deprived of their life or being tortured or subjected to other cruel, inhuman or degrading treatment or punishment;**
- b) **provide training to border guards on the rights of asylum seekers, and institute a mechanism to speed up referral of asylum seekers from the border guards to the asylum authority.**

8. While acknowledging the *Law on Combating Domestic Violence, Prevention of and Support to its Victims*, adopted in May 2006, the Committee remains concerned by the still substantial number of women in Georgia who are subject to violence, in particular to domestic violence, as well as at the insufficient measures and services to protect victims. The Committee

notes with regret that the State Party considers that Non-governmental organisations are mainly responsible for setting out and managing shelters for victims of domestic violence, without assuring to them appropriate financing. (Articles 3, 23 and 26)

The State Party should take prompt measures to implement the 2006 Law, including:

- a) **institute a mechanism to compile disaggregated data on incidents of domestic violence, including sex, age and family relationship of victims and perpetrators, as well as investigations and prosecutions carried out. This information should be made public;**
- b) **promptly investigate complaints related to domestic violence and other acts of violence against women, as bride-kidnapping and rape; and institute criminal proceedings against perpetrators; and**
- c) **take all the necessary measures to protect victims of domestic violence, including by establishing a sufficient number of appropriate shelters across the country.**

9. The Committee is concerned about allegations of deaths caused by use of excessive force by police and prison officials. The Committee is particularly concerned at the Tbilisi prison No. 5 disturbance, in March 2006, in which at least seven inmates allegedly died. (Article 6)

The State Party should take firm measures to eradicate all forms of excessive use of force by the law enforcement officials. It should in particular:

- a) **ensure prompt and impartial investigation of complaints concerning actions of law enforcement officials, and make public the results of such investigations, including with respect to the 2006 disturbance at Tbilisi prison No.5;**
- b) **initiate criminal proceedings against alleged perpetrators;**
- c) **provide training to law enforcement officers with regard to the criminal nature of the excessive use of force, as well as on the principle of proportionality when using force. In this regard, the Committee draws to the attention of the State Party the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**
- d) **provide compensation to the victims and/or their families.**

10. While acknowledging the positive legislative, judicial and monitoring measures taken by the State Party to strengthen safeguards against torture and other ill-treatment, as well as significant reduction in allegations of such treatment of persons in custody, the Committee regrets the persistence of reports of acts of ill-treatment by the police, especially during the arrest of suspects. (art. 2, 7 and 9)

The State party should:

- a) **ensure prompt and impartial investigation of complaints concerning allegations of torture or other ill-treatment, and initiate criminal proceedings against alleged perpetrators;**
- b) **ensure proper reparation for victims;**

- c) **establish independent and competent national mechanisms for the prevention of torture, in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, such as the present Office of the Public Defender.**
- d) **continue to have a comprehensive action plan against torture and other ill-treatment for the future years, taking into consideration the recommendations made by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment following his visit to Georgia in 2005.**

11. While noting the measures taken by the State Party to improve the treatment of prisoners, such as the construction of the new prison in Gldani District (Tbilisi), the Committee remains concerned about the persistence of adverse conditions in a number of prisons in the State Party, namely gross overcrowding, poor rations and quality of food, inadequate access to natural light and fresh air, insufficient personal hygiene conditions, and about the large number of deaths of prisoners allegedly due to the prison conditions that amount to ill-treatment in some detentions facilities. (Article 10)

The State Party should take immediate, firm, positive and coordinated measures to improve the conditions of all persons deprived of their liberty before trial and after conviction, fulfilling all requirements outlined in the UN Standard Minimum Rules for the Treatment of Prisoners. In particular, the gross overcrowding should be ended at once. In addition, the State Party should implement alternatives to imprisonment.

12. While acknowledging the adoption of the State Party's strategy aimed at allowing internally displaced persons (IDPs) to lead a normal life while, at the same time, retaining their right to return,, its efforts to prepare a plan of action in this regard, as well as measures taken to create conditions for their voluntary return to their permanent places of residence, the Committee regrets the reported cases of forced eviction from collective centres in Tbilisi, Kutaisi and Adjara regions, without a court decision or agreement of the persons concerned, and without proper compensation and support by governmental agencies. (Article 12 and 26)

The State Party should ensure that the privatization of collective centres is properly regulated and take all the necessary measures to prevent cases of forced evictions of IDP in the future. The State party should also ensure that the plan of action for IDPs is fully in line with the Covenant, in particular with principles of voluntariness of return and non-discrimination.

13. While taking note of recent efforts undertaken by the State Party to reform the judiciary and increase its efficiency, the Committee remains concerned at interference with the independence of the judiciary and the problem of judicial corruption. (Article 14)

The State Party should take steps to ensure the independence of the judiciary. It should in particular take measures to eradicate all forms of interference with the Judiciary, and ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including

by way of corruption; and prosecute and punish perpetrators, including judges who may be complicit.

14. The Committee regrets the absence of adequate education of judges, and the fact that they are not generally trained in international human rights law, with the result that in practice there is very little direct enforcement of the rights recognized under the Covenant.

The State party should intensify its efforts to educate judges in order to ensure adequate administration of justice. The State party should in particular provide training on the Covenant and its implications for interpretation of the Constitution and domestic legislation, so as to ensure that all actions of the judiciary will be in accordance with its obligations under the Covenant.

15. The Committee notes that, as explained by the State Party, the status of legal public entity was granted exclusively to the Georgian Orthodox Church on the grounds of historical and social factors. The Committee, however, is concerned by the fact that the different status of other religious groups could lead to discrimination. The Committee regrets that problems related to the restitution of places of worship and related properties of religious minorities, confiscated during the Communist era, have not been solved (Article 18).

The State party should take steps to ensure equal enjoyment of the right of freedom of religion or belief and ensure that its legislation and practices conform fully with article 18 of the Covenant. The State Party should address the problems related to the confiscation of places of worship and related properties of religious minorities.

16. The Committee expresses concern that acts of harassment against journalists in Georgia have not been properly investigated by the State Party. (Article 19)

The State Party should guarantee freedom of speech and of the press and other media, ensure that complaints in this regard are promptly investigated, and perpetrators are prosecuted and punished.

17. The Committee remains concerned at the obstacles faced by minorities in the enjoyment of their cultural rights, as well as at the low level of political representation of minorities. While acknowledging that there is no prohibition of the use of minority languages in the private sphere, and minority languages are taught in schools, the Committee is concerned that lack of knowledge of the Georgian language could lead to marginalization and underrepresentation of minorities in different public and private spheres (Articles 25 and 26).

The State party should:

- a) Consider the possibility of allowing minorities to use their own language at the level of local government and administration;**
- b) Take all appropriate measures to ensure adequate political representation and participation of minorities, in particular Armenian and Azeri communities, as well**

as to improve their knowledge of the Georgian language. The State Party should take steps to eliminate language-based discriminatory practices;

- c) promote the integration of minorities in the Georgian society. To this purpose, the State Party should engage in a dialogue with the concerned groups and civil society working with minorities issues;**
- d) adopt indicators and benchmarks to determine whether relevant anti-discrimination goals have been reached.**

18. The Committee sets 1 November 2011 as the date for the submission of the fourth periodic report of Georgia. It requests that the State Party's third periodic report and the present concluding observations be disseminated to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. It also requests that the fourth periodic report and these concluding observations be distributed to civil society and to non-governmental organizations operating in the country. It would be desirable to distribute a summary of the report and the Concluding Observations to minorities in their own languages.

19. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State Party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 8, 9 and 11 above. The Committee requests the State Party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
