
ADVANCE UNEDITED VERSION

Human Rights Committee

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Concluding observations on the fourth periodic report of Georgia

1. The Committee considered the fourth periodic report of Georgia (CCPR/C/GEO/4) at its 3074th and 3075th meetings (CCPR/C/SR.3074 and 3075), held on 10 and 11 July 2014. At its 3091st meeting (CCPR/C/SR.3091), held on 23 July 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Georgia and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's large high-level delegation on the measures taken by the State party during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/GEO/Q/4/Add.1) to the list of issues (CCPR/C/GEO/Q/4), which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) Adoption of the National Human Rights Strategy for 2014-2020 and of the National Human Rights Action Plan for 2014-2015, in April and June 2014, respectively;

(b) The amendments to the Prison Code, in April 2014;

(c) The decision of the Constitutional Court of 4 February 2014 declaring non-constitutional "homosexuality" as the indicator against donation of blood and its components;

(d) The amendments and addition to the Law on Assembly and Manifestation, in July 2011;

(e) The increase in the age of criminal responsibility from 12 to 14 years, in February 2010.

4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 3 August 2010;

(b) The 1954 Convention relating to the Status of Stateless Persons, on 23 December 2011;

(c) The Convention on the Rights of Persons with Disabilities, on 13 March 2014;

(d) The 1961 Convention on the Reduction of Statelessness, on 1 July 2014.

C. Principal matters of concern and recommendations

Implementation of the Views under the Optional Protocol to the Covenant

5. The Committee, while noting that procedures for the implementation of decisions made by international human rights courts are in place, and amendments to relevant legislative provisions aimed at ensuring the implementation of decisions and recommendations made by other international bodies, including UN treaty bodies, are currently under discussion, is concerned that a mechanism allowing for full implementation of the views of the Committee does not yet exist (art. 2).

The State party should take all necessary institutional and legislative measures to ensure the full implementation of the Views adopted by the Committee so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant.

Anti-discrimination legislation

6. The Committee welcomes the adoption of the Law on Elimination of all Forms of Discrimination on 2 May 2014 and notes that the Office of the Public Defender is responsible for monitoring the implementation of the anti-discrimination legislation. However, the Committee expresses concern about (a) the effectiveness of the enforcement mechanism in the absence of an independent body mandated to issue binding decisions and request the imposition of fines on perpetrators; (b) insufficient sanctions to discourage and prevent discrimination; (c) insufficient resources allocated to the Office of the Public Defender to carry out its new functions effectively (arts. 2 and 26).

The State party should further improve its anti-discrimination legislation to ensure adequate protection against discrimination in practice. It should, inter alia:

(a) **Continue to provide the Office of the Public Defender with increased financial and human resources that are commensurate with its expanded role and enable it to carry out its new functions effectively;**

(b) **Empower the Office of the Public Defender to issue mandatory opinions and to request initiation of legal proceedings in connection with the monitoring of the implementation of the anti-discrimination legislation or set up a separate independent monitoring body and extend such powers to it;**

- (c) Ensure that perpetrators are adequately sanctioned and victims of discrimination are provided with effective and appropriate remedies;**
- (d) Raise awareness about the Law on Elimination of all Forms of Discrimination and the penalties incurred for discrimination among the population at large.**

Non-discrimination and gender equality

7. While welcoming the steps taken by the State party to promote gender equality, including the adoption of the Law on Gender Equality (2010) and of the National Action Plan for Gender Equality for 2014-2016, the Committee remains concerned about:

- (a) the underrepresentation of women in decision-making positions in legislative and executive bodies, including in the Parliament and Government;**
- (b) the significant gender wage gap;**
- (c) the prevalence of sexual harassment, including in the workplace;**
- (d) the number of cases of early marriage;**
- (e) the practice of sex-selective abortions, with families resorting to abortion in case of a female foetus (arts. 2, 3, 23, and 26).**

The State party should step up its measures aimed at ensuring gender equality, including by:

- (a) Developing strategies to combat patriarchal attitudes and stereotypes on the roles and responsibilities of women and men in the family and society at large, including through awareness-raising campaigns sensitizing the population on the need to ensure the enjoyment by women of their rights;**
- (b) Strengthening efforts to achieve equitable representation of women in decision-making positions in legislative and executive bodies, including in Parliament and at the highest levels of the Government, within specific time frames;**
- (c) Eliminating the gender wage gap by combating vertical and horizontal segregation in employment;**
- (d) Prohibiting sexual harassment by law, providing for sanctions with deterrent effect and protection for victims, raising awareness of the population at large about the inadmissibility of harassment and encouraging reporting of such cases;**
- (e) Combating early marriage, including by pursuing community awareness-raising strategies focusing on its negative consequences;**
- (f) Combating the practice of sex-selective abortions, including by monitoring the scale of this phenomenon, addressing its root causes and long-term implications for the society, expanding and improving family planning services and carrying out awareness-raising activities on the detrimental impact of sex selection and on the equal value of girls and boys.**

Discrimination on the grounds of sexual orientation and gender identity

8. The Committee is concerned about discrimination and social stigma, hate speech and acts of violence against lesbian, gay, bisexual and transgender (LGBT) persons and violation of their rights to freedom of expression and assembly (arts. 2, 9, 19, 21 and 26).

The State party should take effective measures to combat any form of social stigmatization of homosexuality, bisexuality or transexuality, or hate speech, discrimination or violence against persons based on their sexual orientation or gender identity. It should provide effective protection to LGBT persons in practice and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity in accordance with article 53, para. 3¹, of the Criminal Code. It should also take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT persons and defenders of their rights.

Domestic violence and corporal punishment of children

9. While acknowledging the measures taken to combat domestic violence, including the criminalization of domestic violence in June 2012, the Committee is concerned that domestic violence remains underreported due to gender stereotypes and lack of due diligence of law enforcement officers in investigating such cases, insufficient protection measures for victims, including insufficient enforcement of restrictive and protective orders and limited number of State-funded shelters and support services. The Committee also notes with concern that corporal punishment, especially in the home, traditionally continues to be accepted and practised as a form of discipline by parents and guardians (arts. 2, 3, 6, 7, 24 and 26).

The State party should strengthen its efforts to prevent and combat all forms of domestic violence by ensuring the effective implementation of the existing relevant legal and policy frameworks, including by:

(a) Encouraging reporting of domestic violence cases, inter alia by informing women of their rights and existing legal avenues to receive protection against domestic violence;

(b) Ensuring effective implementation of legislation to combat domestic violence and access of victims to effective remedies and means of protection, including an adequate number of shelters and support services available in all parts of the country;

(c) Ensuring that law enforcement authorities, as well as medical and social workers, continue to receive appropriate training to deal with cases of domestic violence;

(d) Pursuing its awareness-raising efforts to widely sensitize the public at large about the adverse impact of domestic violence;

(e) Taking practical steps, including through legislative measures where appropriate, to put an end to corporal punishment in all settings, encouraging non-violent forms of discipline as alternatives to corporal punishment, and conducting public information campaigns to raise awareness about its harmful effects.

Accountability for past human rights violations

10. The Committee is concerned about the slow progress in investigating, identifying and prosecuting perpetrators of human rights violations committed during or in the immediate aftermath of the 2008 armed conflict, including cases of enforced

disappearances, indiscriminate and disproportionate attacks against civilian population and other protected persons, unlawful detention, torture and inhuman treatment, destruction and appropriation of property that may constitute war crimes and crimes against humanity (arts. 2, 6, 7, 9, 14, and 16).

The State party should ensure that all allegations of enforced disappearances, indiscriminate and disproportionate attacks against civilian population and other protected persons, unlawful detention, torture and inhuman treatment, extensive destruction and appropriation of property are effectively, independently and impartially investigated, that perpetrators under the jurisdiction of the State party, including, in particular, persons in positions of command, are prosecuted and sanctioned in a manner commensurate with the gravity of the committed acts, and that victims are provided with effective remedies, including compensation.

11. The Committee, while acknowledging the challenges faced by the State party in providing victims with remedies, is concerned about the tens of thousands of complaints lodged with the Prosecutor's Office in relation to violations committed before the 2012 elections, including unfair trial, torture and ill-treatment and illegal expropriation. At the same time the Committee, while acknowledging the need to uphold the rule of law and fight corruption, to provide victims of human rights abuses with an effective remedy and to avoid impunity for perpetrators of human rights violations and corruption, is concerned that the number of investigations and criminal charges brought against high ranking politicians belonging to previous government and to the present political opposition might create the appearance of the utilisation of the legal system for political retribution purposes (arts. 2, 7, 9, 14 and 17).

The State party should pursue the investigation into past abuses while, given that such violations were committed before the 2012 elections, avoiding the appearance of political retribution. Still, it should do everything in its power to provide victims of violations with effective remedies, in accordance with article 2, paragraph 3, of the Covenant.

12. The Committee is concerned that some investigations (a) into the excessive use of force by law enforcement and/or prison officers during the March 2006 disturbance at Tbilisi Prison No. 5; (b) into the ill-treatment of prisoners at Gldani Prison in Tbilisi, Ksani Prison No. 15, Kutaisi Prison No. 2, Rustavi Prison No. 6 and Zugdidi Prison No. 4; (c) into the violent dispersal of peaceful demonstrations on 7 November 2007, 15 June 2009 and 3 January 2011 and the incidents in Mereti (26 June 2012) and Karaleti (12 July 2012), during which journalists were physically and verbally assaulted, are still pending. It is also concerned that allegations of torture and inhuman or degrading treatment are often investigated under article 333 of the Criminal Code (exceeding official powers) instead of articles 144¹ (torture), and 144³ (inhuman or degrading treatment), of the Criminal Code (arts. 2, 6, 7, 9, 10 and 14).

The State party should pursue its plans to establish an independent and impartial body to investigate allegations of abuse, including torture and inhuman or degrading treatment, by police and other law enforcement officers, complete investigations into these cases without any undue delay, prosecute perpetrators and, if convicted, impose sanctions commensurate with the gravity of their acts, and provide victims with effective remedies. It should ensure that cases of torture and ill-treatment are prosecuted under the relevant articles of the Criminal Code and desist from qualifying such crimes under provisions that provide for lesser penalties. The State party should also train specialists in psychological rehabilitation of victims of torture.

Administrative detention

13. The Committee is concerned that the current system of administrative detention provides for imprisonment as a sanction for an administrative offense for a maximum duration of 90 days while not guaranteeing sufficient due process rights for administrative detainees, including not upholding the principle of equality of arms, and holding detainees in temporary detention facilities managed by the Ministry of Internal Affairs. The Committee notes that amendments to relevant legislative provisions aimed at correcting, inter alia, these shortcomings, have been introduced recently in Parliament (arts. 2, 7, 9, 10 and 14).

The State party should, as a matter of urgency, reform its system of administrative detention in order to ensure its full compliance with articles 9 and 14 of the Covenant.

Jury trials

14. The Committee is concerned that the current jury trial system does not afford sufficient safeguards to enable the accused and the public to understand the verdict pronounced by a jury, nor does it provide for the possibility to appeal a verdict of guilty on its merits, in violation of the Covenant (art. 14).

The State party should, as a matter of urgency, follow-up on its intention to reform the current jury trial system with a view to ensuring its compatibility with the fair trial guarantees enshrined in article 14 of the Covenant.

Plea bargaining system and the zero tolerance drug policy

15. The Committee is concerned that despite certain improvements the acquittal rate in criminal cases remains low. It also expresses concern at the insufficient legal safeguards provided to defendants under the current plea bargaining system, including against abuse and coercion to enter plea-bargaining agreements, insufficient transparency of the negotiation of a plea agreement between the defendant and the prosecutor and the limited role of the judge and the defence in this process. The Committee notes the criminalization of drug use in the context of the zero tolerance drug policy and allegations that the plea bargaining system had been used to extort money from drug offenders; it is also concerned about thousands of applications submitted by persons to the Prosecutor's Office following the October 2012 elections, claiming that they had been subject to pressure when entering plea-bargaining agreements – a practice that might be linked with the low acquittal rate. The Committee finally notes that legislative amendments aimed at reforming both the plea bargaining system and the zero tolerance drug policy have been drafted (arts. 2, 7, 9, 10, and 14).

The State party should pursue its efforts to reform the current plea bargaining system and the zero tolerance drug policy and address past cases of coercion of defendants when entering plea-bargaining agreements. It should, inter alia:

(a) Provide for adequate legal safeguards to defendants in the context of plea bargaining, including against abuse and coercion to enter plea-bargaining agreements, in line with their Covenant rights;

(b) Ensure transparency of plea-agreement negotiations, increase and strengthen the role of the judge and the defence in this process;

(c) Adopt a human rights-based approach in addressing the problem of drug use, with a focus on appropriate health care, psychological support services and rehabilitation for drug users, including drug dependence treatment such as opioid substitution therapy and harm reduction programmes.

Juvenile criminal justice system

16. While noting the progress in reforming the juvenile criminal justice system, including the launch of the Juvenile Diversion and Mediation Program in November 2010, the Committee is concerned that juvenile offenders are still not dealt with in a separate juvenile justice component in accordance with their age, specific needs and vulnerability (arts. 14 and 24).

The State party should take measures to establish juvenile chambers with trained judges to ensure that juveniles are treated in a manner commensurate with their age, specific needs and vulnerability. It should provide training to all professionals involved in the juvenile justice system in relevant international standards and run long-term rehabilitation programmes for juvenile offenders with a view to facilitating their integration into society after release.

Rights of internally displaced persons

17. While commending the State party for the measures taken to address the problems faced by internally-displaced persons (IDPs), including the provision of housing and adoption of new legislation governing the treatment of IDPs in February 2014, the Committee notes that increased attention is required to the livelihood of IDPs as a component of durable solution efforts (arts. 2, 12 and 26).

The State party should step up its efforts aimed at improving the situation of internally displaced persons and, in addition to durable housing solutions, focus on local integration and provision of sustainable income-generating opportunities and other livelihood measures at new resettlement sites. It should also ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country.

Freedom of conscience and religious belief

18. The Committee, while noting the adoption on 27 January 2014 of the resolution No. 117 of the Georgian Government “The Rule on Implementation of Certain Measures related to the Partial Reparation of Injuries to the Religious Unions Existing in Georgia, Inflicted during the Soviet Totalitarian Regime”, remains concerned about insufficient measures to address the restitution of places of worship and related properties of religious minorities confiscated during the Soviet era. It is also concerned about cases of religious intolerance, including harassment and verbal and physical assault against persons belonging to religious minorities, in particular Jehovah’s Witnesses, Muslims and members of other non-traditional religious minorities, as well as interference in their worship activities and vandalism (arts. 2, 7, 18 and 26).

The State party should guarantee in practice the freedom of religion and belief and freedom to manifest a religion or belief either individually or in community with others and in public or private, in worship, observance, practice and teaching. It should:

(a) Strongly condemn any acts of violence and hate speech against religious minorities and institute awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity;

(b) Step up efforts to ensure that such crimes are properly qualified in accordance with article 53, paragraph 3¹, of the Criminal Code and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated;

(c) Take all necessary measures to ensure the restitution of places of worship and related properties of religious minorities and provide adequate compensation when restitution is not possible.

Rights of minorities

19. While noting the State party's efforts to integrate minorities into political and public life, the Committee remains concerned that poor knowledge of Georgian language continue to be the main barrier to their integration that translate into their limited representation in political life, as well as marginalization. It also remains concerned that local authorities must provide written replies to minorities in Georgian even if minority applicants do not read this language, a requirement that may also exclude members of linguistic minorities from assuming certain official functions at the local level. It is also concerned about the lack of specific programmes aimed at the social and economic integration of Roma (arts. 25, 26 and 27).

The State party should strengthen its programmes for teaching of the Georgian language to minorities, promote their representation in political and public bodies at all levels, and consider the possibility of allowing the use of minority languages at the level of local government and administration. It should also design and implement appropriate programmes and strategies to ensure social and economic integration of Roma, including their access to employment, healthcare, education and social protection on an equal basis with others.

Dissemination of information relating to the Covenant and the Optional Protocols

20. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its fourth periodic report, the written replies to the list of issues drawn up by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public.

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 13 and 14 above.

22. The Committee requests the State party to provide in its next periodic report, due for submission on 31 July 2019, specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to broadly consult civil society and non-governmental organizations operating in the country.
