



International Covenant on Civil and Political Rights

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Summary record of the first part (public)* of the 1988th meeting

Held at Headquarters, New York, on Tuesday, 19 March 2002, at 3 p.m.

Chairperson: Mr. Bhagwati

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* The summary record of the second part (closed) of the meeting appears in document CCPR/C/SR.1988/Add.1.

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The public part of the meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

*Second periodic report of Georgia (continued)
(CCPR/C/GEO/2000/2 and CCPR/C/74/L/GEO)*

1. *At the invitation of the Chairperson, the members of the delegation of Georgia took places at the Committee table.*

2. **Ms. Beridze** (Georgia), continuing with her responses to Committee members' questions, acknowledged that there had been numerous incidents of religious intolerance and said that the law enforcement institutions were strongly committed to solving the problem. However, a change in the mentality of Georgian society and an atmosphere of tolerance were far more crucial than the punishment of isolated incidents. As preliminary steps, the Government had adopted an act on religions and religious organizations, was prosecuting those guilty of perpetrating violence, and was promoting tolerance in the mass media.

3. In response to the question concerning alternative service, she said that the duration of military service in Georgia was 18 months and that of alternative service, 36 months. Under amendments to the laws on military service, now pending in Parliament, the term of alternative service would be 24 months for young people and 18 months for those with a higher education. Alternative service candidates were recruited by local enlistment commissions and their files were reviewed. Those applications and the commissions' initial conclusions were forwarded to the State Commission on Non-military Service for a final decision, which could, if necessary, be appealed before the court within a 10-day period.

4. Under a Presidential Decree issued in June 1997, the teaching of human rights instruments was incorporated in the curriculum of training academies for the personnel of the Ministry of Internal Affairs, the Ministry of State Security and the Ministry of Defence. Primary schoolchildren studied the Universal Declaration of Human Rights; children in secondary school studied the Georgian Constitution and international human rights instruments.

5. Under the Constitution, elections were held on the basis of universal, equal and direct suffrage by secret ballot. Despite some violations, international observers had characterized the elections held the previous year as fair. It was a misconception that internally displaced persons lost their right to social support services if they exercised the right to vote. Indeed, they retained the right to receive social assistance and all rights under the property laws. The Committee's Concluding Observations would be reviewed by the National Security Council, which was the President's main consultative body, and disseminated by the mass media.

6. As for women in positions of authority in the executive branch of Government, she noted that the Minister of Ecology and the Minister of Culture were women. In addition, there were nine female Deputy Ministers; two Ambassadors, assigned to Italy and the Council of Europe, respectively; and numerous female department heads of government offices. Indeed, the President of Georgia accorded high priority to ensuring female representation in the executive branch. Women did not fare so well in Parliament. Of 235 members of Parliament, only 17 were women, and non-governmental organizations had submitted proposals for increasing women's representation in the legislature. Of 10,000 persons elected in the first local elections in 1998, 1,300, or 13 per cent, had been women. The new Election Code establishing a majority system was expected to increase the number of female representatives at the local level. Appointments to the judiciary were made on the basis of a qualifying examination; women accounted for 45 per cent of those who had passed and were now serving as judges.

7. In the death row case referred to by Sir Nigel Rodley, the complaint submitted to the Supreme Court had been referred to the Procuracy, and an investigation was now under way in order to determine whether the sentence had been based on a confession extracted by torture. In reply to the question concerning street children, she said that the problem persisted but that their numbers were decreasing, largely because new institutions had been established for them, including the House of the Future, which provided schooling and vocational training, and shelters run by non-governmental organizations.

8. Abortion was allowed by Georgian legislation but its frequency was diminishing pursuant to a 1997 presidential decree. The Ministry of Labour, the

Ministry of Health and the Ministry of Social Affairs had launched reproductive health programmes which made contraceptives available to the population, and contraceptive use was being promoted in the media. As a result, the use of contraceptives had increased in 2001.

9. **Mr. Tskialashvili** (Georgia) said that human rights issues and international instruments were a key element of the training provided by the Ministry of Justice in preparation for examinations for the newly formed Georgian Bar Association. The examinations were scheduled to be administered in May. The Ministry was also developing a special training course for some 3,500 personnel in the correction system, which was now under its authority. With assistance from the European Union, it was hoping to bring about a sweeping change in mentality.

10. Despite several amendments, the basic 1991 law on the press and mass media was still in force, although it stood in direct contradiction to the provisions of the Constitution adopted in 1995. In practice, the contradictory situation did not discriminate against non-citizens, since the norms of the Constitution prevailed. The Government was elaborating a new law on the press and mass media, which would be separate from the new draft law on electronic mass media, in order to comply with the standards of the Council of Europe. As for the question concerning the political character of the television and press, he said that, in 1999, some 243 newspapers had been published in Georgia and had been circulated to 350,000 readers throughout the national territory. Only a small number of foreign language newspapers — in Russian, Armenian and the Azerbaijani language — were financed by the State; most were privately owned.

11. There were also a number of periodicals in other languages, including Russian, Armenian and Greek. Indeed, the two main television stations were State-financed and broadcast news provided by government agencies; however, they also broadcast other opinions reflecting a wide spectrum of society. Public opinion was also broadly reflected on numerous private television channels and a large number of regional stations. Under the Constitution, restrictions could be imposed on the media in a state of emergency or under martial law. As yet, however, there were no concrete guidelines for doing so. The licensing of broadcasting companies had been transferred from the Minister of Communications to an independent regulatory body in

order to ensure impartiality. In reply to another question, he said that he had no information on the closing down of any newspapers or television stations.

12. The draft law on “city lawyers” had not been adopted, as it had not been approved by the Parliamentary Committee on Legal and Constitutional Affairs. For one thing, its continuity could not be assured, as it did not have a permanent source of funding (international donor organizations and the municipality of Tbilisi). There was also the practical problem of who would benefit from the proposed alternative form of 24-hour free legal assistance and how many persons could actually fit in local police stations where “city lawyers” were available. That and other initiatives, such as the amendments to the Code of Criminal Procedure, had been delayed for political reasons. In November 2001, the Minister of the Interior, the Minister of National Security and the Prosecutor-General had been forced to resign, under intense public pressure, after law enforcement agents had attempted to take control of one of the independent television stations. The new generation of ministers appointed — the Minister of the Interior was 33 years old and the Minister of State Security was 37 years old — would be infinitely more supportive of radical reform.

13. As for the 300 amendments to the Code of Criminal Procedure, a large commission had been formed, representing the broadest possible range of views, to initiate radical reforms. The group working on the Code of Criminal Procedure had been established under the auspices of that commission. The Government was considering new legislation on forensic services. He believed that some Committee members were confusing the provisions of the Criminal Code, which defined an “expert” as any person who had specific knowledge, worked in a forensic institution or had a licence, with the Presidential Ordinance establishing conditions for issuing licences to experts and regulating the procedure for doing so. The Code of Criminal Procedure provided for two options: the person either had a licence or worked for a forensic institution (which did not have to be wholly State-owned). Under the new legislation, licences would be granted to independent experts as well. In the meantime, the Code of Criminal Procedure prevailed over the Presidential Ordinance in the legal hierarchy.

14. As for Mr. Lallah’s question concerning sufficient guarantees of the judiciary’s independence, he said that

Georgia had undertaken very progressive judiciary reforms which had been highly successful, and that independence was the least of the problems in the judiciary where, as in other sectors, corruption was rampant. As for the 10-year term of judges, he said that, following extensive public debate, there was latitude in the Constitution for extending the fixed term of judges. Lastly, the Code of Administrative Offences, which was a very traditional Soviet-style piece of legislation, provided for administrative detention, which could be imposed only by a judge — not an administrative authority — and was seldom, if ever, invoked. In the meantime, efforts were under way to draft a new code of administrative procedure.

15. **Mr. Nalbaudov** (Georgia) said that he wished to offer some additional clarifications. Over the previous year and a half, the Office of the People's Advocate had held a number of seminars and training sessions for various groups, including law enforcement officials and non-governmental organizations. It had recently organized a two-week course for local prosecutors in the principles of human rights, which dealt with the rights, responsibilities and proper conduct of police, and emphasized the provisions of the Covenant. In the view of Georgia, the activities of the Office were fruitful and worthwhile. The specific information that Mr. Yalden had requested would be sent later by electronic mail. The Office of the People's Advocate had also been providing practical assistance to victims of human rights abuses, and had begun to win the confidence of the public. He would provide reports from the Office, demonstrating that fact. The prosecutor did not have the authority to prolong terms of detention; that fell within the competence solely of the judge.

16. As a member of the Armenian minority of Georgia, he could attest that minorities were well treated. Georgian law established the principle of non-discrimination and equality. Equality under the law must, however, be followed by equality in practice. In his view, measures should be taken to ensure the full participation of ethnic minorities in all spheres of Georgian society. Georgians shared a common Soviet past and under the Soviet regime had all spoken Russian. They did not, however, all speak Georgian, and that was proving to be a problem in contemporary Georgian society. Its solution would facilitate the solution of many other problems. A programme should be established to teach the Georgian language to all

members of society; unfortunately, however, there were economic constraints. Under the Framework Convention for the Protection of National Minorities, which Georgia had signed but not ratified, States parties were expected to adopt special laws on national minorities. A draft law on minorities was currently under consideration by Parliament.

17. **Mr. Solari Yrigoyen** said that two points remained unclear. Firstly, he had understood that conscientious objectors were expected to carry out alternative service for twice the time served by military conscripts. He would like to know, however, what were the conditions of such service, in particular, whether a simple declaration was sufficient, or if the basis for the objection had to be established.

18. Secondly, he would like to know whether administrative detention could be challenged, before the courts, and whether such detention could be cancelled or reduced. Details on recent cases would be welcome; if none existed, it would be useful to know what the law prescribed.

19. **Sir Nigel Rodley** said that he would like to know the rationale for the current law providing that conscientious objectors should serve twice as long as military conscripts. Clarifications would also be welcome on the proposed amendments to that law, which would give six extra months to persons without higher education. He understood that there were no laws prohibiting incitement to religious hatred, and would like to know whether there were laws prohibiting incitement to murder. The written reply to question No. 16 of the list of issues indicated that a criminal trial would be held on 15 April 2002 to try persons involved in mob violence against religious minorities. He wondered whether measures were being taken to prevent intimidation of persons involved in the trial.

20. **Ms. Beridze** (Georgia) said that the longer periods of service for conscientious objectors had been established because alternate service was considered to be easier than military service. However, some were now of the view that 36 months were too long, and amendments to the law had been drafted. The proposal to extend service for an additional six months for some persons and not others was based on the same argument. It had yet to be debated by Parliament, where, she was sure, objections would arise. Georgians generally believed that all citizens should serve in the

military, and feared that if alternate service was the same length as military service, young people would attempt to shirk their military duties by claiming that they were conscientious objectors. The concept of conscientious objection was a new one for most Georgians. If a person wished to refuse alternate service, he could apply to the court, which would permit him to serve in the military instead. The Parliament might subsequently decide that 18 months was also a sufficient length of time for alternate service; such questions were new and open to debate.

21. **Mr. Tskialashvili** (Georgia) said that persons subject to administrative detention could appeal to the courts, and their sentences could be reduced. The Criminal Code prohibited incitement to murder, and established penalties in that regard.

22. **Ms. Beridze** (Georgia) said that a meeting had been held in the Office of the People's Advocate about the trial involving mob violence, and representatives of all law enforcement institutions had attended, along with members of non-governmental organizations. The chief of the police department had vigorously promised to ensure order during the trial, and she hoped that he would be able to keep his promise. In the view of the Government, the provision prohibiting incitement to hatred should be restored to the Criminal Code. Relevant new legislation had been drafted which was likely to be adopted.

23. **The Chairperson** said that the Committee appreciated the thorough, detailed report, as well as its timely submission. It was pleased that the State party had sent such a competent delegation, and welcomed the frank and constructive dialogue. No country was free, however, from human rights violations, and complacency must be avoided. Georgia had demonstrated its commitment to human rights during the difficult transition from a totalitarian to a democratic regime.

24. The Committee welcomed the presidential decree on the abolition of torture, the elimination of the death penalty and the ratification of the Second Optional Protocol to the Covenant. While it also commended the State party for the establishment of the Constitutional Court, it wondered why Georgians were not turning to the Court for the protection of their rights. The fact that only six cases had been heard in 12 years must mean that persons either were unaware of their rights or had no confidence in its ability, or that there were other hindrances to its use. That matter called for urgent attention. The Committee also applauded the

establishment of the Office of the People's Advocate, but was concerned that the Ombudsman lacked the power to enforce his recommendations.

25. Concerns had also arisen with respect to the status of the Covenant in the legal hierarchy, and in particular, whether provisions of international agreements would prevail over constitutional provisions before the courts. The continuing practice of torture was, however, the subject of greatest concern. The President had declared Georgia a torture-free zone, but it was clear that torture was still carried out by law enforcement authorities. Disciplinary action against police had begun to be taken, but it was important that such measures should be entrusted to authorities that were independent both from law enforcement authorities and from the Government. Deaths during detention attributable to deplorable conditions and inadequate medical services were also a matter of concern. The high incidence of tuberculosis in prisons was equally disturbing.

26. In addition, the judicial system required improvement. Judges were underpaid, which tended to foster judicial corruption and to discourage talented members of the legal profession from seeking judgeships. The grounds for the dismissal of judges were overly vague. Although the delegation had disagreed with the claim that 50 per cent of all Georgian families suffered from domestic violence, it was clear that the phenomenon was widespread. It was important to raise awareness about the rights of women and to engage the participation of non-governmental organizations in protecting them from abuse.

27. The Committee was also deeply concerned that the State party had failed to give effect to its Views with regard, in particular, to Communications 623-624 and 626-627/1995. On ratifying the Optional Protocol, Georgia had undertaken to abide by the Committee's decisions and could not simply state that it disagreed. Finally, the Committee hoped that steps would be taken to revive the "City Lawyer" project. Such concerns notwithstanding, Georgia had made notable strides in advancing the cause of human rights; its sincerity and dedication were evident.

28. **Ms. Beridze** (Georgia) thanked the members of the Committee for their attention and concern and expressed the hope that the Committee's Concluding Observations would serve to improve the human rights situation in Georgia.

The public part of the meeting rose at 4.30 p.m.