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The Universal Protection of Human Rights and Eastern Europe: Georgia

■ **ABSTRACT:** *This paper explores the development of human rights in Georgia based on the country's historical context, legal developments, and its interaction with international bodies, particularly the United Nations. It also discusses the influence of Georgia's Soviet past on human rights problems, the reforms following the Rose Revolution, and existing challenges related to implementing standards of international human rights at home. The article then provides a deeper analysis of individual cases before the UN human rights committees, marking areas where Georgia has progressed and areas in need of improvement. These findings represent the nuanced interplay of the national and international mechanisms that define human rights in Georgia.*

■ **KEYWORDS:** *Georgia, Human Rights, United Nations, legal reforms*

1. Introduction

Human rights form the foundation of an equitable society and have individual dignity, freedom, and equality at their base. These belong to each individual based on the Universal Declaration of Human Rights (UDHR). In other words, this is what dignity builds upon, it constitutes the foundation for justice in human society, and it is the imperishable cornerstone on which freedom is (re)built.¹ In Georgia – a country with a rich and complicated history – an impressive process of human rights evolution is observed. This article provides an overview of the historical development, legal framework, and present state of human rights in Georgia; part

1 United Nations (1948) Universal Declaration of Human Rights.

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of this has been formed by the interaction between Georgia and the international bodies on human rights, such as the United Nations (UN).

The human rights within the context of Georgia is ever more significant. Having emerged from totalitarianism by gaining independence from the Soviet Union in 1991, Georgia had to face one of the most difficult and responsible tasks: construct a democratic state governed by the rule of law and respecting human rights.² This process was characterised by significant political and social upheaval, which in turn affected the protection and promotion of human rights.³ Central to this has been the process of bringing domestic legislation in line with the international standards of human rights upon the enactment of the 1995 Constitution, which stipulates that the international treaty of Georgia shall take precedence over domestic normative acts unless it comes into conflict with the Constitution. Moreover, Georgia was among the earliest former Eastern Bloc nations to formally acknowledge the supremacy of international law within its national legal framework.⁴ Fundamental law secures a wide range of civil, political, economic, social, and cultural rights according to the UN definition of human rights.

This article has the following aims. First, it provides an in-depth history of the development of human rights in Georgia, starting from the pre-independence period to the very significant legal and political reforms characteristic of the years following independence, which persisted for an extended period until Georgia fell under Russian rule in the early 19th century.⁵ Second, it takes a closer look at Georgia's engagement with the United Nations and its compliance with international human rights conventions and covenants. It also provides a further analysis of the human rights treaties Georgia is part of and how it implemented them at the national level.⁶

This article also reviews how international obligations in the sphere of human rights were reflected in the Constitution of Georgia and its major legislative acts. Specifically, it considers the influence of such international obligations on domestic law-making processes and outlines the key legislations reforming human rights protection in the country. It also reflects on the significant cases examined by international human rights supervisory bodies and debates the challenges Georgia has had in the fulfilment of its human rights obligations.

Women in Georgia often experience discrimination and face additional economic, social, and political challenges. Although the country has made great strides forward, the persisting human rights challenges include gender equality, minority rights, detainee treatment, and those civil society organisations, which have now begun to face new challenges due to the adoption of the controversial

2 Wheatley, 2005, p. 45.

3 Nodia, 2005, p. 60.

4 Kurdadze and Kevlishvili, 2024, p. 228.

5 Jones, 2013, p. 78.

6 United Nations Human Rights Council, 2021.

law on Transparency of Foreign Influence⁷ and increased political polarisation, especially with regard to breakaway territories.⁸ This article attempts to shed light on these challenges and make improvement recommendations.

This article thus contributes to better understanding the complex interplay between national and international human rights mechanisms by exploring the historical development and current state of human rights in Georgia. Using in-depth analysis, it informs policymakers, scholars, and human rights advocates of the critical issues and potential pathways for advancing human rights in Georgia.

2. Historical development of Human Rights in Georgia

Georgia is a country with a rich ancient heritage and yet with a relatively recent establishment as a modern state. The concept of being an ancient nation is deeply inscribed in Georgia's national identity. Georgian children learn from their young days about the historical ties of their country with ancient Greece and Rome, and that their country was one of the first countries to adopt Christianity as state religion. This Golden Age dates back to the 11th and 12th centuries of Georgia's history. Subsequently, Georgia became fragmented. The first significant political unification of the territories that now make up modern Georgia took place during the Russian Empire. Georgia and Russia share a complex historical relationship dating back centuries. Originally grounded in mutual political and economic interests, Georgia saw Russia as a strategic partner capable of safeguarding its territory against external threats. Meanwhile, Russia considered Georgia crucial for expanding and solidifying its influence across the Caucasus region and into the Middle East. Over time, these interactions shifted significantly, eventually resulting in Russia's imperial annexation of Georgia in 1801. This domination was further solidified under the Soviet regime established in 1921, which formally acknowledged Georgian sovereignty only in name.⁹ However, before 1921, there was the first period of independence for The Democratic Republic of Georgia from 1918 to 1921. Although this represents an early attempt at democratic state-building in the Caucasus, aligning itself with Western European models rather than Bolshevik socialism,¹⁰ no genuine political and institutional traditions were established on the new state's territories.¹¹

When one studies the historical development of human rights in Georgia, it is important to outline the following periods. The Soviet period deserves priority

7 European Commission for Democracy through Law (Venice Commission), 2024.

8 Amnesty International, 2020b.

9 Metreveli and Papaskiri, 2017, pp. 7–16.

10 Matsaberidze, 2014, pp. 318–324.

11 Nodia and Scholtbach, 2006, p. 7.

because it is a baseline for analysing the nature of human rights protection in an authoritarian regime; the period after independence is to be divided into pre- and post-‘Rose Revolution’. This period shows the transformational effect that this turning point had on the trajectory of human rights in the country.

■ 2.1. *Pre-independence era*

2.1.1. *Human Rights under Soviet rule*

The Soviet rule in Georgia from 1921 to 1991 was an epoch of powerful oppression and tight control over political, social, and cultural life. This era has seriously undermined the national identity and suppressed the freedom of expression, accompanied massively by violations of human rights. For understanding the evolution of human Rights in Georgia, this era has to be analysed. The centrally planned economy and ideological domination of the communist regime created a structure of its own for understanding and implementation of human rights within the country. Compared to the contemporary understanding of these laws, in the USSR, they mostly referred to social-economic rights, such as the right to work, education, or medical care; meanwhile, the level of civil-political rights such as freedom of speech, assembly, or religion was highly limited.¹²

2.1.1.1. Political repression and control

Under the Soviet rule, far-reaching political repressions took place in Georgia. The Soviet regime did not allow any political activity to go on without close supervision, except through the Communist Party itself. No dissent had place and opposition to the regime was bluntly suppressed by imprisonment, hard labour, and death.¹³ Joseph Stalin’s Great Purge of the 1930s had to do with events in Georgia. Many among the intellectuals, political leaders, and ordinary citizens were accused of anti-Soviet activities, following which they were arrested, tortured, or executed. In sum, this was a period of terror that served to suppress any form of political opposition and create a climate of fear, stifling free expression and political dissent.¹⁴

2.1.1.2. Suppression of national identity

The Soviet Union aimed to mould its many different peoples into a single nation, often ignoring or even crushing unique local cultures and traditions. This was particular in a place like Georgia, with its rich mix of cultures.¹⁵ Specifically, in Georgia, this policy was aimed at the suppression of the Georgian language and culture. Russian was promoted as the primary language of administration

¹² Sakharov, 1975, p. 123.

¹³ Jawad, 2005, p. 12.

¹⁴ Hammarberg, 2013, p. 18.

¹⁵ Suny, 1994, p. 78.

and higher education especially during the 1930s–1950s (e.g. the Soviet central government exerted increasing control over higher education, removing local professors and placing universities under the All-Union People's Commissariat of Education by 1932¹⁶), causing a gradual erosion of the Georgian linguistic and cultural heritage.¹⁷ The push to make everything Russian touched every part of life, including what children were taught in school, substituting Georgian history and stories with Russian points of view. The goal was to make Georgia completely part of the Soviet Union and stop any talk of independence.¹⁸

2.1.1.3. Restrictions on freedom of expression

Freedom of speech and expression was severely curtailed in the Soviet era. The Communist Party was in control of every newspaper, radio show, or TV program. There was no tolerance towards dissent.¹⁹ Independent journalism was non-existent, and all content published was rigorously censored. The dissemination of material judged as counter-revolutionary or critical to the Soviet government was strictly forbidden, and violators were severely punished.²⁰

This carried to the arts and literature, as creative works were often obliged to embody Socialist Realism, a principle centred on the extolment of the Soviet state and all its many accomplishments. Writers, artists, and intellectuals who strayed far enough from that prescribed form became subject to persecution, imprisonment, or exile.²¹

2.1.1.4. Human Rights abuses

Gross human rights violations have been committed in Georgia during the Soviet era. The KGB used to follow up and squash any dissent. Arbitrary arrests, rape, extraction of confessions under torture etc., were all freely carried out aims to maintain regimentation and suppress any murmur of dissent.²²

One of the most significant examples of human rights violations was the treatment of political prisoners. Many Georgians, especially in the 1930s, were imprisoned in the notorious Gulag labour camps, where they faced harsh conditions, forced labour, and severe mistreatment. These camps were part of a larger system designed to eliminate political opposition and enforce Soviet ideology through fear and repression.²³

¹⁶ Ibid., p. 258.

¹⁷ Jawad, 2005, p. 15.

¹⁸ Hammarberg, 2013, p. 20.

¹⁹ Shcharansky, 1978, p. 45.

²⁰ Jawad, 2005, p. 22.

²¹ Hammarberg, 2013, p. 23.

²² Ibid., p. 19.

²³ Jawad, 2005, p. 31.

2.1.1.5. Resistance and dissidence

Despite the oppressive environment resistance and dissidence continued to break out in all forms. However, in the 1970s and 1980s, a dissident movement arose, with the goal to contest Soviet hegemony as well as demand greater freedoms. This was an intellectual movement, involving students and nationalists; all had to risk their lives in asking for political as well as cultural rights.²⁴ In addition, the state maintained close surveillance of the population and employed security forces to intimidate political prisoners and dissidents.²⁵

One of the most significant events during this period was 9 April 1989, peaceful protest in Tbilisi, where demonstrators demanded Georgia's independence and the protection of Georgian culture. The Soviet military's violent crackdown on the protest resulted in the deaths of 21 civilians and galvanised the Georgian independence movement, highlighting the brutal nature of Soviet repression.²⁶

As seen from the above arguments, the human rights abuses during Soviet rule in Georgia were extensive: political repression, indirect erosion of national identity, and severe restrictions on freedom of expression. However, the oppression of Georgian national sentiment became deadlocked and continued its own position of insisting on identity rather than rights and prepared an underground base for the subsequent independence movement. It is in this historical context that any challenges and progress for Georgia's post-independence human rights development must be understood.

■ 2.2. *Post-independence era*

2.2.1. *Processes of State building*

The collapse of the Soviet Union in 1991 can be regarded as the starting point of the great transformation of Georgia. Being one of the member republics, a complex way to statehood and nation-building lay ahead for the country. Definitely, Georgia's way to sovereignty was problematic, especially given the fact that the road was full of internal conflicts that would go on to characterise most of the post-independence period.²⁷ The early 1990s were marked by exceedingly severe conflicts in Abkhazia and the Tskhinvali region/South Ossetia (hereafter, Abkhazia and South Ossetia). Abkhazia declared independence in August 1992, followed by a conflict that violently expelled approximately 250,000 people, mostly ethnic Georgians, until a ceasefire was agreed to in May 1994. South Ossetia declared independence in September 1990, followed by an intense conflict between 1991 and 1992 and the loss of Tbilisi's jurisdiction over the region by the end of 1992.²⁸

24 Hammarberg, 2013, p. 25.

25 Amnesty International, 1977, p. 56.

26 Jawad, 2005, p. 35.

27 Jawad, 2005, p. 8.

28 Ibid., p. 9.

Regarding the status of these two occupied territories, Prof. Levan Aleksidze has written extensively on the related conflicts, emphasising the danger they present to the territorial integrity of Georgia. Aleksidze is of the opinion that the declaration of Abkhazia and South Ossetia as independent states is not legally valid in international law, asserting that such an action violates the sovereignty and territorial integrity of Georgia.²⁹ Aleksidze also opines that foreign aid for these separatist groups exacerbates the situation, contravening the provisions of international law that guarantee existing state frontiers.³⁰

Other areas, such as the northern valleys of Svaneti, Pankisi, and southern areas hosting Armenian and Azeri minorities have either stayed outside the central government's full control or simply rejected being part of Georgia. The Southwestern autonomous Republic of Ajara was another hurdle. Its authoritarian head, Aslan Abashidze, had developed close relations with Russia; following economic and military pressure from the central government, the Republic removed Abashidze's parallel power structure and restored full control to the central government in May 2004.³¹ Moreover, control of external borders has been a problem as well, in particularly regions such as the Pankisi gorge and the Kodori valley, which turned into shelter for international terrorists and Chechen rebels. Therefore, the loss of control was undermining Georgia's sovereignty and had severe economic losses from illegal trade and smuggling.³²

In its early years of independence, Georgia's state structures were strongly captivated by criminalised groups. The militia and partisan formations were strong and held significant power. The illegal overthrow of President Zviad Gamsakhurdia in January 1992 left national security structures in a state of anarchy, and they had to be gradually stabilised under Shevardnadze, who formed the Citizens Union of Georgia in 1993. This was achieved by a new constitution passed in August 1995, after which the country has since further stabilised itself except for the issues in the breakaway regions.³³

2.2.2. *Protection of Human Rights*

Reports of police brutality, death threats by state authorities against journalists, and the use of torture undermined the protection of human rights and freedoms outlined in the 1995 Constitution. International observers repeatedly reported cases of police assault and the use of electric shocks among convicts. Despite the efforts to align with European standards in preparation for accession to the

29 Aleksidze, 2008, pp. 75–92.

30 Alexidze, 2012, pp. 75–101.

31 Bielawski and Halbach, 2004, p. 3.

32 Ratiani, 2004.

33 King, 2001, p. 96.

Council of Europe in 1999, many of these reforms were subsequently watered down or reversed.³⁴

National security structures have also undergone reform with the disbandment of paramilitary groups and modernisation of the military, but many of these efforts have been derailed by widespread corruption and infiltration of informal networks. As much as there were efforts to bring the military in line with NATO standards, the national security forces were in a sorry state of affairs.³⁵ This was evident from the 2003 military expenditures which stood at a mere 1.1% of the GDP, far much less than the approximate of 2% recommended by NATO.³⁶ A high incidence of crimes and widespread corruption marked Georgia; in addition, much revenue was lost owing to smuggling and illegal trade. In Tbilisi, 23.6% of the population had been victims of crimes and 16.6% had been involved in acts of bribery in 1999.³⁷ These figures illustrate the broader sense of social distrust and inclination towards violence in Georgian society.

2.2.3. *Post-rose revolution era*

The Rose Revolution of November 2003 was a turning point for Georgia. The peaceful protests forced Shevardnadze to resign and power was transferred to Mikheil Saakashvili. What befell human rights in Georgia after this change is discussed below. We will delve into the new laws and government structures, also the arising social attitudes, and how these affected peoples' lives.

2.2.3.1. Political and legal reforms and their impact on Human Rights

The Rose Revolution set records for optimism in Georgian political life and popular hopes of reform that had been burning for years. There was hope on the streets of Tbilisi after President Saakashvili came to power and launched an expansive program of modernisation. This program sought to clean up the government, strengthen governance, and bring Georgia into the Western fold through institutions such as the European Union and NATO. Over time, it was clear that many of these reforms were tainted with strategic gamesmanship to solidify authoritarianism under the guise of democracy.³⁸

Prominent among those were the broad judicial reforms aimed to improve independence, efficiency, and transparency in the judiciary. New legislation was enacted, the court system thoroughly overhauled, and judges were to be appointed on meritocracy grounds. The expectation among legal experts was that such changes would bring in a new dawn to law and justice for an elite class of high net-worth individuals and their white-collar counterparts, as well as stringent

³⁴ Ibid., pp. 97–98.

³⁵ Bielawski and Halbach, 2004, pp. 105–121.

³⁶ United Nations Development Program, 2005, p. 285.

³⁷ Ibid., p. 297.

³⁸ Dobbins, 2014, pp. 759–774.

anti-corruption controls. High-profile prosecutions and the purging of corrupt officials generated much media coverage, but efforts such as the establishment of the Anti-Corruption Council, as well as passing a set of three bills on anti-corruption, were particularly noteworthy during this period.³⁹

Following the Rose Revolution, a series of reforms have followed to strengthen Georgia's democratic framework and safeguards for human rights through constitutional amendments. The most significant years were 2004 and 2010. It was undoubtedly an era of intense debate and raw nerves among the state's elected officials as they redefined power, wrestling control into a more balanced, three equal branches system. Yet, despite these elevated hopes, the post-revolutionary era was also a time of worsening political polarisation.⁴⁰

2.2.3.2. Civil and political rights

The Rose Revolution was, at first, a relief for Georgia's media. However, the growing media influence and control by the state turned into the harassment of journalists.⁴¹ This period also saw the introduction of electoral reforms to ensure free and fair elections, such as setting up the Central Election Commission and amending the electoral process for credibility. These efforts were marred by allegations of electoral irregularities, especially during the 2008 and 2012 elections.⁴² Significant economic reforms were implemented to liberalise the economy, attract foreign investment, and reduce poverty. These reforms contributed to economic growth but also increased social inequality.⁴³ In healthcare and education, reforms were meant to enhance access and quality. The Universal Health Care Program implemented in 2013 introduced many positive changes to guarantee health among all residents. The educational reforms emphasised changing the curricula to make it more relevant, creating modern infrastructure, and enhancing teacher training.⁴⁴

2.2.3.3. Human Rights institutions and international engagement

The Public Defender of Georgia, created in the 1990s played a crucial role in critically evaluating human rights protection in the country. After the Rose Revolution, the office was strengthened by gaining more authority and financial resources. International organisations were actively supporting the office, thereby guaranteeing better monitoring of human rights in the country. Additionally, the adoption of the Law on the Elimination of All Forms of Discrimination in 2014 was a huge step forward for combating discrimination and promoting equality

³⁹ Nodia, 2005, p. 87.

⁴⁰ Human Rights Watch, 2018, p. 58.

⁴¹ Ibid., p. 45.

⁴² Popjanevski, 2006, p. 23.

⁴³ Wheatley, 2009, p. 56.

⁴⁴ Jones, 2013, p. 134.

across various grounds including race, gender, disability, and sexual orientation.⁴⁵ This period also saw a surge in civil society activism. Numerous human rights NGOs emerged, playing a crucial role in monitoring human rights, advocating for reforms, and providing legal aid to victims.

Georgia's engagement with international human rights mechanisms increased significantly. Specifically, the country ratified several international human rights treaties and actively participated in UN human rights mechanisms, including the Universal Periodic Review (UPR). The goal of EU membership became a primary target for Georgian external policy. The EU accession criteria, known as the conditionality principle, tied membership to democratisation and progress in human rights. Seeking a closer association with the EU, Georgia signed an Association Agreement with it in 2014, which includes commitments to human rights and democratic principles.⁴⁶ Georgia's interactions with the European Court of Human Rights (ECtHR) have been notable. The court has adjudicated numerous cases involving Georgia, addressing issues such as right to life, property rights, rights to a fair trial, freedom of expression, and conditions of detention. On many occasions, legislative amendments were due to rulings of the ECtHR.

2.2.3.4. Challenges and criticisms

The years following the Rose Revolution have been characterised by both advancements and ongoing challenges in the protection of human rights. While the initial optimism in public surrounding President Mikheil Saakashvili's administration was high, it soon faced significant political turmoil and criticism, particularly in relation to handling political dissent and safeguarding civil liberties, especially since 2008.

In April 2009, thousands of opposition supporters mobilised in Tbilisi, demanding Saakashvili's resignation and the announcement of early presidential elections. These protests, which persisted for two months, exposed deep-seated public frustrations and raised serious concerns about the state's commitment to human rights. As a result, human rights organisations documented numerous instances where the police used excessive force against protestors, and there were suspicious attacks on opposition activists by unidentified assailants. These incidents not only indicated the failure to uphold the right to peaceful assembly but also suggested a disturbing trend of state-sanctioned or tolerated violence against political dissenters.⁴⁷

The government's response to these protests included legislative changes that further restricted civil liberties. In July 2009, amendments to the Administrative Code increased the period of administrative detention for minor offenses,

⁴⁵ United Nations Human Rights Council, 2021, p. 7.

⁴⁶ Amnesty International, 2020.

⁴⁷ Human Rights Watch, 2010.

a move widely criticised as excessive and likely intended to deter future demonstrations. Additionally, laws were enacted to restrict blocking roads during protests, further constraining citizens' rights to express their dissent.⁴⁸ The lack of accountability for the use of force against protestors reflected broader issues within Georgia's criminal justice system.

Judicial independence remained a critical issue, reports indicating that the judiciary often aligned with the executive, thus undermining the fairness of trials and the rule of law. This lack of independence was particularly evident in the handling of administrative detentions, where detainees were often denied due process, and in the broader criminal justice system, where allegations of torture and ill-treatment of prisoners remain rampant. For instance, in 2012, the Georgian Young Lawyers' Association released a report indicating that, over a six-month period between 2011 and 2012, it observed 520 cases at the Tbilisi City Court where judges approved every motion made by the prosecution regarding evidence admissibility, while rejecting all defence motions not backed by the prosecution. The court granted every request for pre-trial detention, and among the 113 rulings issued during this time, there was not a single acquittal.⁴⁹ This trend was visible throughout the entire period that Saakashvili's government was in power, when zero tolerance policy served as the foundation of criminal justice system.

Besides the judiciary, the state of human rights in prisons has been notably affected by the conditions within the prison system and the degree of media freedom, both of which have been significant concerns for international observers. As mentioned above, the policy of zero tolerance towards crime and the high conviction rates have led to a substantial increase in the prison population, exacerbating already poor conditions. The ombudsman's 2012 report highlighted persistent overcrowding, noting that in several prisons, inmates did not even have their own personal beds.⁵⁰ The lack of adequate space, combined with poor sanitation and insufficient access to medical care, created an environment where basic human dignity was often compromised. It is noteworthy that the abuse of human rights in Georgian prisons that gained international attention in September 2012, when graphic video footage depicting the beating and sexual abuse of prisoners was broadcast by local media, was common practice.⁵¹ Horrific videos, which showed prison guards violently assaulting inmates, underscored the broader issues of accountability and transparency within Georgia's criminal justice system. The ECtHR has consistently ruled against Georgia in cases related to inhuman or degrading treatment, further highlighting the systemic failures in ensuring the humane treatment of prisoners. For instance, in the case of *Ghavidze v. Georgia*, the ECtHR found that the Georgian government had failed to provide adequate

⁴⁸ Amnesty International, 2009.

⁴⁹ Human Rights Watch, 2013.

⁵⁰ Ibid.

⁵¹ Human Rights Watch, 2013.

conditions or medical care in its prisons, violating the prohibition on torture and inhuman or degrading treatment.⁵²

Another problematic direction was the freedom of media in Georgia, which presented a complex picture. While the country's print media was diverse and often critical of the government, the television broadcasting landscape was much more constrained. The nationwide television, the primary source of news for most Georgians at that time, had been dominated by the state-owned public broadcaster and pro-government station Rustavi 2. This concentration of media ownership and influence has led to significant concerns about the impartiality and independence of television news coverage.⁵³ Incidents of violence and intimidation against journalists have further marred the media environment. The closure of Imedi television and the suspension of its broadcasting license was a clear example of this and a violation of freedom of expression guaranteed both by Article 24 of the Georgian constitution and under international law.⁵⁴ Additionally, during the June 2009 protests in Tbilisi, several journalists were assaulted by the police, who confiscated their equipment and allegedly deleted footage that documented police brutality. Although the authorities later returned the equipment, the incidents raised serious concerns about the protection of press freedom and the ability of journalists to operate without fear of retribution.⁵⁵

Overall, the post-Rose Revolution era in Georgia has seen significant progress in human rights, driven by legal reforms, international engagement, and the establishment of robust human rights institutions. However, the country has faced numerous complexities and setbacks, revealing just how delicate and challenging the balance is between strengthening state institutions and preserving democratic freedoms.

2.2.4. Current political landscape

In October 2012, Georgia reached a crucial turning point in its political history. For the first time since gaining independence from the Soviet Union, it successfully changed its leadership through a peaceful, democratic election. The opposition coalition, Georgian Dream (GD), led by Bidzina Ivanishvili, won the election, ending the years-long dominance of the then President Saakashvili's United National Movement. This victory was a major achievement, but the election period had its difficulties. For instance, there were troubling reports of opposition supporters being harassed and intimidated, and concerns were raised about the misuse of administrative charges to detain activists.⁵⁶

⁵² Ghavtadze v. Georgia, App. No. 32147/05, Eur. Ct. H.R. (2007).

⁵³ Reporters Without Borders, 2009.

⁵⁴ Human Rights Watch, 2007.

⁵⁵ Human Rights Watch, 2010.

⁵⁶ Human Rights Watch, 2013.

With the peaceful transfer of power, a new era in Georgian history began. In its progress report, the European Neighborhood Policy (ENP) recognised Georgia's efforts towards modernisation and its pursuit of a deeper integration with the EU, particularly in areas such as anti-corruption. However, the report also pointed out ongoing challenges, including the need for more reforms to secure an independent judiciary, an effective criminal justice system, a fair electoral process, and better protection of minority rights.⁵⁷

2.2.4.1. Legislative and institutional reforms

Since GD came into power, the country has made important progress in amending its laws and institutions to better protect human rights. These changes reflect the country's commitment to honouring international human rights agreements and the principles set forth in its Constitution, which prioritises international treaties unless they conflict with constitutional laws. Significant among these reforms were the 2017–2018 constitutional amendments, which enhanced the protections of social rights, the rights of people with disabilities, children's rights, and gender equality.⁵⁸

National Human Rights Strategy (2014–2020) has been driving these changes, supported by detailed action plans. The Human Rights Inter-Agency Council, led by the Prime Minister, played a key role in ensuring that these plans are carried out, with various state agencies working in coordination. A noteworthy development in Georgia's human rights framework was the creation of the State Inspector's Service in 2019, an independent body tasked with investigating specific offenses by law enforcement and civil servants. Another important advance was the introduction of the first comprehensive strategy and action plan for the judiciary (2017–2021), aimed at fostering a more independent and transparent judicial system.

2.2.4.2. International relations and EU integration

Georgia's foreign policy has been characterised by its strong pro-Western orientation, with aspirations to join both the European Union and NATO enshrined in the Constitution, which at least on paper is a clear indication of the country's commitment to aligning with Western norms and standards. However, Georgia's path towards EU and NATO membership poses challenges stemming from territorial conflicts and Russia's strong presence in the region.⁵⁹

Despite these challenges, Georgia has made considerable efforts in aligning its domestic policies with EU standards, particularly through the 2014 Association

⁵⁷ The European Neighborhood Policy (ENP) Progress Report, 2012.

⁵⁸ Georgia, 2021, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*. United Nations, Working Group on the Universal Periodic Review, Thirty-seventh session, 18–29 January 2021.

⁵⁹ Russell, 2021, pp. 3–5.

Agreement, which has been instrumental in enhancing economic ties with the EU and has spurred many of the political and economic reforms in the country.⁶⁰ Additionally, in July 2016, the Association Agreement and Deep and Comprehensive Free Trade Area (DCFTA) between Georgia and the EU came into force, establishing a framework for closer economic and political alignment.

This led to the European Commission's Opinion in June 2022, which recommended granting candidate status to Georgia, provided that 12 key priorities were addressed. The European Council acknowledged Georgia's aspirations towards European integration and expressed its willingness to grant it candidate status, contingent on further progress. By November 2023, the European Commission recommended that Georgia be granted candidate status, recognising the country's advancements, while stressing the need for continued reforms. Finally, in December 2023, the European Council granted Georgia candidate status, marking a pivotal moment in its path toward EU membership, with the expectation that the country would continue to implement the necessary reforms.⁶¹

2.2.4.3. Protection of Human Rights and challenges

Notable human rights concerns encompass credible allegations of torture or cruel, inhuman, or degrading treatment; arbitrary arrests and detentions; significant issues regarding the independence of the judiciary, accompanied by investigations and prosecutions widely perceived as politically motivated; arbitrary or unlawful intrusions into privacy; severe restrictions on freedom of expression and press freedom, including instances of violence and threats directed at journalists; considerable interference with the rights to peaceful assembly and association; pervasive government corruption; and violent crimes or threats of violence specifically targeting lesbian, gay, bisexual, transgender, queer, and intersex individuals and activists.⁶²

The reintroduction and eventually adoption of the Law on Transparency of Foreign Influence by the Georgian parliament in May 2024, requiring certain non-governmental organisations (NGOs) and media outlets to register as 'organisations serving the interests of a foreign power', poses a serious threat to the fundamental rights in Georgia. The Venice Commission, in its urgent opinion, expressed serious concerns about a new law in Georgia, stating that it imposes undue restrictions on freedom of expression, association, and privacy. According to the Commission, these restrictions fail to meet the standards of legality, legitimacy, necessity, and proportionality outlined in the ECHR and the International Covenant on Civil and Political Rights (ICCPR). The Commission warned that this law could stigmatise and silence organisations and media outlets critical of the government, posing

⁶⁰ Ibid.

⁶¹ European Union, 2024.

⁶² U.S. Department of State, 2023.

a threat to pluralism and democracy in the country; it thereby strongly recommended that the Georgian authorities abandon the special regime imposed by the law and, if necessary, amend existing laws in line with European standards.⁶³

Domestically, the constitutionality of the law was challenged by multiple actors. The President of Georgia refused to promulgate it and referred it to the Constitutional Court, joined by a coalition of 122 NGOs and opposition lawmakers filing separate suits. In these pending cases, the Public Defender (Ombudsman) submitted an *amicus curiae* brief to the Court, arguing that the law violates core constitutional rights.⁶⁴ The Public Defender's opinion highlighted that singling out organisations based on foreign funding and assigning them an onerous new status would stigmatise and interfere with their activities. It also raised alarm over the law's broad monitoring mechanisms – including the requirements that such NGOs hand over detailed personal data of staff and donors – which could breach the right to privacy and create an excessive administrative burden.⁶⁵ These burdens, the *amicus* noted, would 'significantly impair [organizations'] ability to effectively carry out basic activities', thus undermining the very essence of freedom of association. Georgian constitutional scholars have pointed out that the law likely conflicts with Article 24 of the Georgian Constitution (freedom of association) and possibly Article 78, which commits Georgia to European integration (the law was seen as veering away from EU norms). Moreover, the process of adoption – without broad consultations and amid strong public opposition – contradicted the principles of democratic lawmaking. Despite these warnings, the law came into effect in early August 2024 and, as of September, NGOs are required to register in a new complex registry created under this law.

As a result of this, Georgia's EU accession process has been stopped, the EU has frozen 30 million euros of assistance to Georgia, and further measures are being considered in case the situation in the country deteriorates further.⁶⁶

2.2.4.4. Summary

Since the government change in 2012, Georgia's political landscape has evolved considerably, marking the first peaceful transfer of power to the Georgian Dream coalition. While the country has made steps towards modernisation and aligning with EU standards, concerns persist about democratic practices, particularly in judicial independence and human rights. Recent reforms have aimed at enhancing human rights, but significant challenges remain, including allegations of torture, arbitrary arrests, and government corruption. The 2024 Law on Transparency of Foreign Influence has been heavily criticised for threatening the freedom of

63 European Commission for Democracy through Law (Venice Commission), 2024.

64 Pirtskhalashvili, 2024.

65 Public Defender of Georgia (Ombudsman), n.d.

66 EU Accession Process Halted Aid to MoD Frozen Relations at a Low Point Ambassador Herczyński Regrets, 2024.

expression and democracy, with the Venice Commission recommending its repeal due to its potential to silence dissent and harm democratic processes. Halting Georgia's EU accession due to the changed direction of the current government could negatively affect the country's EU and NATO accession plans, a direction that is also enshrined in the Constitution.

3. Analysing the relationship between Georgia and the United Nations: A Human Rights perspective

Since gaining independence, Georgia has faced numerous challenges, including political instability, civil war, and human rights abuses. Overcoming these issues without external help seemed impossible. As such, the UN has been instrumental in aiding Georgia's transition by offering guidance, resources, and monitoring mechanisms to improve human rights protection within the country. This section analysed the relationship between Georgia and the UN from a human rights standpoint, examining key areas of cooperation, the obstacles encountered, and the impact of UN interventions on Georgia's human rights situation.

■ 3.1. Historical context and Georgia's engagement with the UN

The relationship between Georgia and the UN commenced in 1992, just immediately after the country declared independence.⁶⁷ In the early 1990, Georgia had to contend with significant problems due to the conflicts that emanated from Abkhazia and South Ossetia. The clashes led to gross human rights violations in the forms of ethnic cleansing, forced displacement of people, and civilian maltreatment. Namely, around 250,000 people, primarily ethnic Georgians, fled Abkhazia for other parts of the country. The Abkhaz received a limited amount of support from mercenaries and volunteers, largely from the North Caucasus, and some equipment and supplies from Russian troops stationed in the area, although the Russian involvement in the fighting has been as ambivalent as it has been since the war.⁶⁸ Following the end of the war, several different phases of the peace process can be distinguished. It is useful to draw on a slightly modified version of the pattern suggested by Natalie Sabanadze, who expresses the opinion that international involvement in South Caucasian Conflict falls into three fairly distinct phases.⁶⁹ The first is essentially one of Russian dominance, while in the second the leading role of international organisations is increasingly being developed, and the third involves mounting US influence. This pattern can be loosely applied to the case of Abkhazia. Doubtless, the Russian intervention was dominant during

⁶⁷ About the UN in Georgia, no date.

⁶⁸ Stewart, 2003, pp. 1–31.

⁶⁹ Sabanadze, 2002.

the war and in the years immediately after that. In response, the UN executed its duty by providing humanitarian relief and introducing peacekeeping forces into this territory with the sole purpose of ensuring stability and defending the affected people. However, it is important to use accurate legal terminology when discussing Abkhazia and South Ossetia. Under Georgian law and international documents, they are referred to as 'occupied territories' – specifically occupied by the Russian Federation – rather than independent states. This terminology is backed by international resolutions; namely, UN General Assembly resolutions explicitly mention 'Georgian regions occupied by Russia'.⁷⁰ Georgia also regularly raises the issue in the UN Human Rights Council (HRC) and General Assembly, emphasising the duties of an occupying power under international law. Occupation framing asserts that Russia has effective control and international humanitarian and human rights obligations thereby fall to Russia. Third states and organisations (EU, OSCE etc.) consistently call for Russian withdrawal and international human rights presence in these regions. Describing Abkhazia and South Ossetia as occupied does not constitute politicised language but reflects the factual and legal reality in 2008. It brings clarity that sovereignty in Georgia is recognised even when temporarily violated and adheres to UN terminology and to Georgian legislation (e.g. Georgia's Law on Occupied Territories in 2008).

Along with UN resolutions, Georgia sought to pursue accountability against Russia through international legal avenues. Such a case would be the International Court of Justice case *Georgia v. Russian Federation*, which was filed in 2008 under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). In this case, Georgia alleged Russia was responsible for ethnic cleansing and serious racial discrimination against ethnic Georgians in Abkhazia and South Ossetia, breaching CERD. The ICJ initially indicated provisional measures in October 2008 (ordering both parties not to aggravate the conflict and to protect civilians), demonstrating the urgency and gravity of the claims. However, in its April 2011 judgment on preliminary objections, the ICJ declined jurisdiction on a technical ground: it found that Georgia had not satisfied the prerequisite of attempting negotiations with Russia before filing the case, as required by Article 22 of CERD. The ICJ observed that Georgia only notified Russia of the dispute a few days before going to The Hague, which did not constitute a 'genuine attempt' at negotiation and, thus, the case was dismissed without examining its merits.⁷¹ This outcome was disappointing for Georgia, as it highlighted a gap in accountability for human rights violations in the occupied regions. Nonetheless, the *Georgia v. Russia* ICJ proceedings (along with cases before the European Court of Human Rights) drew international attention to the human rights abuses during and after

⁷⁰ Ministry of Foreign Affairs of Georgia, 2024.

⁷¹ International Court of Justice (2008) '*Georgia v. Russian Federation*, Application of the International Convention on the Elimination of All Forms of Racial Discrimination'.

the 2008 conflict. They also underscored the importance of following procedural rules in international litigation. Georgia continues to leverage the UN frameworks – rather than the judicial ones – to keep the spotlight on the human rights situation in Abkhazia and South Ossetia via periodic resolutions and reports by the Secretary-General mandated by the General Assembly.

One of the prominent actions taken by the UN is the introduction of the United Nations Observer Mission in Georgia (UNOMIG). While this mission was primarily tasked with observing ceasefire agreements between the Georgian government and separatist forces, it also played an important role in addressing human rights concerns. Its mandate included monitoring and reporting human rights abuses in the conflict zones, which prepared the ground for more general efforts of the UN in promoting human rights and accountability in Georgia.⁷² Moreover, at the outset of 1994, the UN began to play an increasingly larger role, although the Russian influence remained strong.

■ 3.2. *UN Human Rights mechanisms and Georgia*

Over time, Georgia has been involved with various UN bodies such as the Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR). It also participated in important treaty-based committees, including those on the elimination of discrimination against women (CEDAW) and the elimination of racial discrimination (CERD).⁷³ These measures are seen as opportunities through which Georgia can harmonise its national policies with international human rights standards, an area that will be examined in this paper. For instance, according to *Gabrichidze*, the tendency of placing human rights clauses into the international treaties of Georgia was a manifestation of the adherence to fundamental international structures among which is the UN Charter. Because no serious mechanism for their execution was present, the real function of those clauses often remained weak and the majority of tools were also politically legal rather than practical in nature. This emphasises a broader problem within Georgia's cooperation with mechanisms for the protection of human rights, where adherence to standards is encouraged rather than built upon by enforceable measures through cooperation.⁷⁴

Some other important aspects of the cooperation between Georgian and the UN are, for example, the fact that Georgia is participating in the Universal Periodic Review process as a member of the peer review mechanism of the Human Rights Council. Having been part of the process for the third time already has assisted in identifying areas of concern including judicial independence, rule of law, issues dealing with treatment of IDPs, and rights of minorities.⁷⁵

⁷² United Nations Observer Mission in Georgia (UNOMIG), 2009, p. 9.

⁷³ Office of the United Nations High Commissioner for Refugees (UNHCR), 2021, p. 7.

⁷⁴ Gabrichidze, 2017, p. 87.

⁷⁵ United Nations Human Rights Office of the High Commissioner (OHCHR), 2021.

The second important aspect of Georgia's cooperation with the UN is its attachment to achieving the actuality of the Sustainable Development Goals, especially Goals 4, 5, and 16, which emphasise gender equality, quality education, peace justice, and strong institutions, respectively. Furthermore, the UN supports this through its Development Programme (UNDP) with instrumental technical aid and awareness-raising activities that have been of considerable help to better applying human rights in Georgia.

■ 3.3. *The impact of UN interventions*

The UN has had a huge impact on the human rights policy in Georgia, but this did not come free of limitations. Its activities have paved the way to further elaborate legal and institutional basis for the protection of human rights in Georgia. The legislative changes promoted, with the support of the UN, mechanisms to prevent discrimination, promote women's and minority rights, and set up systems for redressing violations of human rights.⁷⁶ In addition, human rights monitoring and reporting have been effective in pinpointing the issues that the country has been going through and ensuring that the government is strictly adhering to the protection of human rights. Therefore, it can be said that Georgia is able to align its policy with international standards to a large extent by continuously interacting with UN human rights instruments; however, the transposition of these policies at the domestic level remains an important problem. Despite good anti-discrimination laws on paper, ethnic minorities and LGBTQ+ individuals continue to experience systemic discrimination and serious barriers in accessing legal protection. Structural inequality, social stigmatisation, and institutional bias consistently deny them access to and receipt of justice from the legal system. However, the UN support for the work of civil society organisations in Georgia has dramatically enhanced human rights work at the grassroots level.⁷⁷

■ 3.4. *Summary*

The relationship between Georgia and the United Nations has been instrumental in shaping the human rights landscape of the country. While significant progress has been made, challenges remain, particularly in the national implementation of laws and policies. UN's continued and further engagement with Georgia is essential in addressing these challenges and supporting the country's ongoing efforts to protect and promote human rights.

⁷⁶ Ibid.

⁷⁷ Ibid.

4. Georgia's legal framework: The role of UN Human Rights Conventions

In the previous section, while discussing relationship of Georgia and the UN, we mentioned that, since gaining the independence in 1991, Georgia actively engaged in international human rights by first becoming a member of the UN in 1992 and then gradually ratifying key treaties and working towards aligning domestic legislation to UN standards. This section explores the main developments on this path and how Georgia's status as a state party to the UN conventions has driven important legislative developments, challenges faced during the implementation of these obligations, and impact on the country's legal and human rights environment. This section first analyses the list of UN Conventions that Georgia is part of and then separately deals with only those UN Human Rights Conventions and Covenants that falls under the scope of this paper.

■ 4.1. Georgia's participation in UN Conventions and Covenants

Since 1991, Georgia has been seeking membership in the international community through its accession to a wide array of UN conventions and covenants on human rights, trade, environmental protection, and legal cooperation. By ratifying these conventions and acceding to them, it demonstrated its commitment to the process of harmonisation of the national legislation with the international standards for stability, development, and cooperation on both the national and international levels.

This subsection provides a broad overview of the major UN conventions and covenants that Georgia is a Party to. It brings out the involvement of the country in various international laws and policies and the extent of its undertaking of legal instruments to which its adherence has been documented. All these agreements are listed below.

Crime, Justice, and Security

Convention	Status (Ratified/Acceded)	Date
United Nations Convention Against Transnational Organized Crime (UNTOC)	Ratified	5 September 2006
United Nations Convention Against Corruption (UNCAC)	Ratified	4 October 2008
Single Convention on Narcotic Drugs (1961)	Acceded	29 March 1994
Convention on Psychotropic Substances (1971)	Acceded	29 March 1994
United Nations Convention on the Law of the Sea (UNCLOS)	Acceded	21 March 1996

Environmental Protection and Climate Change

Convention	Status (Ratified/Acceded)	Date
United Nations Framework Convention on Climate Change (UNFCCC)	Ratified	29 July 1994
Kyoto Protocol	Ratified	16 June 1999
Paris Agreement	Ratified	2 May 2017
Convention on Biological Diversity (CBD)	Ratified	2 June 1994
Convention to Combat Desertification (UNCCD)	Ratified	23 June 1999
Vienna Convention for the Protection of the Ozone Layer	Ratified	10 June 1996
Montreal Protocol on Substances that Deplete the Ozone Layer	Ratified	10 June 1996

Trade, Economic, and Development Conventions

Convention	Status (Ratified/Acceded)	Date
United Nations Convention on Contracts for the International Sale of Goods (CISG)	Acceded	1 March 2018
United Nations Convention on the Law of the Sea (UNCLOS)	Acceded	21 February 1996
General Agreement on Tariffs and Trade (GATT/WTO membership)	Acceded	14 June 2000
Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)	Ratified	2 June 1994

Labor and Social Standards

Convention	Status (Ratified/Acceded)	Date
ILO Forced Labour Convention (No. 29)	Ratified	9 December 1993
ILO Freedom of Association and Protection of the Right to Organise Convention (No. 87)	Ratified	3 November 1999
ILO Right to Organise and Collective Bargaining Convention (No. 98)	Ratified	23 May 1993
ILO Worst Forms of Child Labour Convention (No. 182)	Ratified	5 July 2002
Maritime Labour Convention (MLC 2024)	Ratified	14 February 2024

Health, Science, and Technology

Convention	Status (Ratified/Acceded)	Date
Framework Convention on Tobacco Control (WHO FCTC)	Ratified	15 November 2005
International Health Regulations (IHR)	Adopted	2005
Chemical Weapons Convention	Ratified	27 March 1996

Cultural and Heritage Protection

Convention	Status (Ratified/Acceded)	Date
UNESCO World Heritage Convention	Ratified	4 March 1992
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions	Ratified	4 October 2008
Hague Convention for the Protection of Cultural Property	Acceded	23 June 1995

■ 4.2. Georgia's participation in UN Human Rights Conventions and Covenants

After becoming the member of the UN, Georgia also ratified numerous core international human rights treaties, which was a clear indication of integrating the standards enshrined in these documents into its national legal framework. As a state party, the Georgian Constitution adopted in 1995 reaffirms the universally recognised human rights and freedoms and recognises supremacy of international treaties over domestic laws. Moreover, Georgia regularly submits periodic reports to the human rights treaty monitoring bodies and pays utmost attention to the implementation of their recommendations.⁷⁸

Georgia is a member of all major international treaties. The treaties that Georgia ratified/acceded to are listed below:

1. 1951 Refugee Convention: Georgia acceded to the 1951 Refugee Convention and its 1967 Protocol on 9 August 1999.
2. 1966 International Covenant on Civil and Political Rights (ICCPR): Georgia ratified the ICCPR on 3 May 1994.
3. 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR): Georgia ratified the ICESCR on 3 May 1994.
4. 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): Georgia acceded to the ICERD on 2 June 1999.
5. 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Georgia acceded to CEDAW on 26 May 1994.

⁷⁸ United Nations Human Rights Office of the High Commissioner (OHCHR), 2015.

6. 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): Georgia ratified the CAT on 22 September 1994.
7. 1989 Convention on the Rights of the Child (CRC): Georgia ratified the CRC on 2 June 1994.
8. 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW): Georgia has not ratified the ICMW.
9. 2006 Convention on the Rights of Persons with Disabilities (CRPD): Georgia ratified the CRPD on 13 December 2013.⁷⁹

Georgia is thus bound by eight treaties from the list above. Only treaty that Georgia is not part of at the moment of writing this paper is the ICMW. Ratification of these treaties obliged Georgia to respect, protect, and fulfil the rights that are outlined in them. Therefore, a significant legislative reform path was required for Georgia to align its domestic laws with international obligations.

■ 4.3. *National implementation of key UN Human Rights instruments*

The Constitution of Georgia represents the cornerstone of the Georgian legislation. Chapter II of the Constitution covers basic principles of the universally recognised human rights and freedoms, such as freedom of speech, thought, conscience, belief and expression, inviolability of human honour and dignity, protection of property rights and prohibition of punishment without law and prohibition of torture, capital punishment (abolished in 1997) etc.⁸⁰ The constitutional amendments introduced in 2017–2018 consolidated the standards of human rights protection. The amendments have specifically focus on social rights, rights of persons with disabilities (PwDs), child rights, and gender equality.⁸¹

One of the most important developments in the legislation of Georgia was the adoption of the comprehensive anti-discrimination law on 2 May 2014, by the Parliament, reflecting Georgia's commitments under CERD and CEDAW. Georgia's national human rights institution – the Office of the Public Defender – is authorised to monitor the implementation of the law. As a result of the enactment of the law, the scope of the Ombudsman's authority, aimed at responding to the cases of discrimination, has been relatively broadened. The Ombudsman can address the recommendations to not only the state institutions, but also to the discriminating private persons.⁸² The law enabled citizens, in case of discriminative activity, to request material and non-pecuniary damage restitution from the discriminating

⁷⁹ United Nations Human Rights Treaty Bodies, no date.

⁸⁰ Constitution of Georgia (1995) Ch II. [Online]. Available at: <https://matsne.gov.ge/ka/document/view/30346?publication=36> (Accessed: 10 August 2024).

⁸¹ United Nations Human Rights Office of the High Commissioner (OHCHR), 2015.

⁸² Georgian Young Lawyers' Association (GYLA), 2014, p. 2.

person, by addressing the court to stop discriminative action and to eliminate its results.

Influenced by CEDAW, in 2006, the Law on the Elimination of Domestic Violence was adopted, making substantial commitments to address violence against women and domestic violence (DV).⁸³ Additionally, under the Sustainable Development Goals (SDGs), Georgia has also pledged to eliminate all forms of discrimination and violence against women and girls, aligning its national targets with global objectives (SDG Targets 5.1 and 5.2). In 2017, Georgia also ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention)⁸⁴ and adopted a milestone legal framework aimed at harmonising the domestic legislation (including the DV Law of 2006) based on the requirements under the Istanbul Convention.⁸⁵ Consequently, Georgia has expanded its definition and protection against gender-based violence, criminalising offenses such as female genital mutilation, forced sterilisation, stalking. The expanded legal framework covers not only criminal mechanisms but also administrative measures, with restraining/protective orders issued to ensure the safety and protection of victims. Additionally, civil mechanisms are employed to seek compensation for the damages resulting from instances of violence against women and/or domestic violence, as stipulated by procedures outlined in civil legislation.⁸⁶

As a response to obligations under the CRC Law on the Rights of the Child, the Georgian Parliament has adopted the Code of Rights of the Child in 2019. The Code is founded on the core principle that all legislative and administrative actions should be designed and carried out with the child's best interests as the top priority.⁸⁷ The Code is based on the best interest of the child and recognised all rights enshrined in the Convention on the Rights of the Child, created state systems for protection and support of children, introduced state responsibility to develop and offer to children educational, healthcare and social security programmes.⁸⁸ In terms of rights of juveniles, in 2015, the Juvenile Code of Georgia was adopted. One of the major purposes of this Code is to protect the best interests of minors in decision-making and give priority to the use of an alternative mechanism of criminal prosecution, such as diversion and mediation.⁸⁹

83 United Nations Human Rights Office of the High Commissioner (OHCHR), 2021, p. 6.

84 Council of Europe (2014) *The Council of Europe Convention on preventing and combating violence against women and domestic violence*. Istanbul.

85 United Nations Entity for Gender Equality and the Empowerment of Women (hereinafter: UN Women Country Office in Georgia). UN Women, 2020, p. 43.

86 UN Women, 2024, p. 2.

87 UNICEF (2019) *Code on the Rights of the Child – a significant landmark for every child in Georgia*. [Online]. Available at: <https://www.unicef.org/georgia/stories/code-rights-child-significant-landmark-every-child-georgia> (Accessed: 12 August 2024).

88 United Nations Human Rights Office of the High Commissioner (OHCHR), 2021, p. 6.

89 Ibid.

Finally, driven by the CAT, ICCPR, and CEDAW, Georgia has amended the Criminal Code to strengthen its capacity of protecting human rights. Worth mentioning are the amendments that have specifically criminalised acts of torture and hate crimes. In 2005, Georgia explicitly defined and criminalised torture. The definition of torture under the Criminal Code of Georgia is consistent with Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Current Georgian legislation criminalises the crimes of torture, threat of torture, and inhuman or degrading treatment.⁹⁰

As for hate crimes, there is no separate article in the criminal code on hate crimes, rather hate motives are considered as an aggravating circumstance for the relevant crime committed. Accordingly, the amendments to the Criminal Code in 2012 introduced harsher penalties for crimes motivated by hatred (based on characteristics such as race, religion, or ethnicity), ensuring that the perpetrators of such crimes face appropriate legal consequences.⁹¹ In line with CEDAW requirements, another aggravating circumstance was added the criminal code in 2012, and any crime committed based on gender identity results in harsher penalties. Furthermore, in June 2012, domestic violence was criminalised as a separate crime and two new norms were introduced to the Criminal code – Article 126(1), which specifically defined the scope of domestic violence, and Article 11(1), which established categories of domestic violence.⁹²

Regarding refugees, Georgia has been a signatory to the Refugee Convention in 1951 and Protocol in 1967 since 1999, and adheres to international standards such as non-refoulement.⁹³ To give effect to these commitments, Georgia enacted the Law on International Protection in 2016, which has been in force since 2017, establishing criteria and processes for refugee status and humanitarian protection, and guaranteeing rights such as legal aid and protection against arbitrary expulsion. While legislative progress has been made, there are practical challenges remaining. As of February 2024, Georgia hosted 31,044 refugees, asylum seekers, stateless persons, and humanitarian status holders. Of these, there are currently 27,330 Ukrainian refugees and asylum seekers living in Georgia, as well as 1,330 refugees from other countries of origin, 896 asylum seekers, 526 stateless persons, and 962 humanitarian status holders.⁹⁴ While a Refugee Integration Centre was established in 2017 and offers language and employment support, these centres do not exist with rising asylum applications.⁹⁵ However, another problem is transparency in rejection, especially security-based rejection. Security-based rejections are secretive and thus hard to appeal; as such, they give rise to concerns about

90 United Nations Human Rights Office of the High Commissioner (OHCHR), 2010, p. 8.

91 United Nations Human Rights Office of the High Commissioner (OHCHR), 2015, p. 3.

92 Ibid., p. 14.

93 United Nations High Commissioner for Refugees (UNHCR), 2021.

94 Estonian Refugee Council, 2024.

95 ECRE, 2020.

due process. In 2017, there were 300 such rejections without disclosed evidence.⁹⁶ The UNHCR and human rights organisations have also documented expulsions that could be in contravention with non-refoulement obligations. On the positive side, sustained collaboration with UNHCR, the EU, and participation in initiatives like the Global Compact for Refugees and the #IBelong campaign reflect Georgia's commitment to global action regarding the refugee situation.⁹⁷

The only convention related to human rights that Georgia has not ratified so far is the ICMW. It is unknown whether or when the country is planning to ratify or join this convention. While talking about the national implementation of human rights treaty obligations, particular attention need to be paid to the COVID-19 period, as extraordinary situations are one of the most solid tests of how certain rights are protected. In this regard, early in 2020, during the pandemic, Georgia, similar to other countries, introduced a state of emergency (March–May 2020) and general measures to secure public health. The restrictions included curfews, lockdowns, bans on gatherings, travel restrictions, and remote hearing in courts, among others. Professor Konstantine Korkelia, a distinguished international law expert in Georgia, conducted a comprehensive study of the restrictions to human rights in Georgia during COVID-19 and whether they met international standards.⁹⁸ His study focused on two principal treaties – the ICCPR and ECHR – that make provisions for derogations or limitations during a period of emergency.

Georgia's COVID-19 restrictions affected fundamental rights such as liberty, security, freedom to move around, assembly, and education. Some were in accordance with principles such as legality, necessity, and proportionality, while others lacked a basis in law or continued beyond the emergency without a reasonable explanation.⁹⁹ Derogations to the ICCPR Article 4 and ECHR Article 15 were notified to the UN and Council of Europe by the government to ensure procedural compliance. However, Georgia's Constitution does not have clear proportionality guarantees in Article 71 and legal uncertainty surrounds emergency powers.¹⁰⁰ Restrictions on gathering and movement, such as curfew and travel restrictions, had no specific time limitations and had insufficient safeguards against abuses.¹⁰¹ Moreover, education rights were particularly affected. Remote learning exposed loopholes in the law, with Article 27 of the Constitution of Georgia not allowing restrictions during a state of emergency.¹⁰² Instead, Article 26 (labour rights) was invoked by the government to shut down schools, which was a constitutional issue. Inequitable access to digital means further limited students' rights, particularly

96 Institute for Development of Freedom of Information (IDFI), 2017.

97 European Commission, 2020.

98 Korkelia, 2021.

99 Ibid., p. 6.

100 Ibid., p. 8.

101 Korkelia, 2021, p. 12.

102 Ibid., p. 11.

in rural areas.¹⁰³ Additionally, judicial oversight was in question. Remote court hearings lacked clear procedural safeguards and due process objections to fair trial rights and legal representation access were raised.¹⁰⁴ Korkelia thus recommended making proportionality explicit in Article 71, limiting emergency powers to time frames, and ensuring parliamentary oversight. Stronger legal foundations for schooling, open decision-making processes, and assurances against indefinite restrictions had to be ensured. Overall, while Georgia followed procedure, loopholes in emergency legislation led to uncertainties and human rights issues.

In addition, the situation regarding human rights in Abkhazia and South Ossetia needs to be mentioned. It might not come as a surprise that Georgia struggles to implement human rights treaties in Abkhazia and South Ossetia, regions it has not held power in since the early 1990s conflicts. It then, after the war in 2008, declared them ‘Russian-occupied territories’, a term accepted in international circles. Due to Russian-supported *de facto* governments, international observers and Georgian authorities have no access and it is impossible to exercise human rights monitoring. In international organisations, such as in UN forums, Georgia always maintains it has no jurisdiction in these regions until territorial integrity can be regained, with U.S. and UN reports confirming them to be Russian-occupied territories.¹⁰⁵

Nevertheless, under international law, Abkhazia and South Ossetia belong to Georgia and its obligations under treaties, such as those in ICCPR and ICESCR, extend to them. They must be ensured by local *de facto* authorities, according to Human Rights Watch (HRW), who posit that these guarantees apply.¹⁰⁶ However, there is a gap in protection in that local authorities do not apply rights and international monitoring does not take place. The UN General Assembly’s resolutions attesting to such a reality condemn population movements, reaffirm displaced persons’ right to return, and call for improved security and human rights.¹⁰⁷ Georgia has an issue in being able to apply protections, while international actors call upon Russia and local authorities to provide humanitarian access and ensure basic rights.

Overall, Georgia has made significant progress in enshrining human rights guarantees in constitutional reform and legislative developments. The passage of anti-discrimination acts, criminalisation of gender and violence against women, and expanded juvenile protections indicate a commitment to international human rights standards. Nevertheless, there remain difficulties, particularly in Abkhazia and South Ossetia, to which Georgia has no access to implement international obligations due to Russian-sponsored *de facto* regimes. Despite this, Georgia

¹⁰³ Ibid.

¹⁰⁴ Ibid., p. 14.

¹⁰⁵ United Nations General Assembly, 2021.

¹⁰⁶ Human Rights Watch, 2011.

¹⁰⁷ United Nations General Assembly, 2021.

continues to advance towards a convergence with international human rights standards, strengthening its commitment to justice and accountability.

■ 4.4. *Institutional mechanisms*

The above-mentioned legislative changes were made possible by the robust institutional mechanisms in Georgia, which played a significant role in ensuring that international commitments are translated into effective legal protections and that the country's human rights agenda is implemented across various sectors. The next section explores the key institutional developments in Georgia that have shaped its human rights landscape.

One of the important institutions in terms of protecting of human rights is the Office of the Public Defender of Georgia (PDO), established in 1996 in line with the Paris Principles.¹⁰⁸ The PDO is an independent national human rights institution with the mandate to monitor the implementation of human rights by the local authorities.¹⁰⁹ As part of its mandate, the PDO presents annual reports to the Parliament of Georgia on all human rights issues. Additionally, it serves as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and as an Independent Anti-Discrimination Mechanism that has headquarters in Tbilisi and nine regional offices.¹¹⁰

The functions and scope of the PDO has been expanding year by year. One example is the creation of the Center for Children's Rights in 2001, focusing on the protection and promotion of children's rights in Georgia. Another is the establishment of the tolerance centre in 2005, which acts as platforms for ongoing dialogue and consultation between national minorities, religious organisations, and government institutions. Additionally, in 2014, the PDO was designated as the national institution to ensure the implementation, promotion and protection of the CRPD. The monitoring mechanism of the Public Defender, together with the PDO Department of the Rights of Persons with Disabilities, includes the Consultative Council for the Promotion, Protection and Implementation of the Convention on the Rights of Persons with Disabilities, and a monitoring group.¹¹¹

Another important institution, the Personal Data Protection Inspector, was created in 2013 and, besides overseeing the data protection practices in the country, it initially also had the functions to conduct special investigations against officials. On 1 March 2020, the independent body – the Special Investigation Service – was created. The Special Investigation Service is an independent State Investigation Authority and its main mission is an effective, timely, and

108 United Nations Human Rights Office of the High Commissioner (OHCHR), 2010, p. 4.

109 Article 3.1 of the Organic Law of Georgia on the Public Defender.

110 Congress of Local and Regional Authorities of the Council of Europe, 2021, p. 22.

111 Ibid.

independent investigation of the facts of violent crimes and ill-treatment committed by officials.¹¹²

In 2014, with the involvement of civil society and international actors, Georgia adopted an overarching and long-term Human Rights Strategy (2014–2020). Following the adoption of the strategy Human Rights Inter-Agency Secretariat was created with the aim to ensure effective implementation and monitoring of this document.¹¹³ In 2022, Georgia adopted a new comprehensive cross-sectoral Human Rights Strategy (2022–2024) aimed at embedding human rights principles into all branches of government.

Institutional measures also cover posts created within the parliament and elsewhere. For instance, along with the Gender Equality Council chaired by a Vice-Speaker of the Parliament, special posts were appointed, such as the Human Rights Advisor of the President, the Assistant to Prime Minister on Human Rights and Gender Equality Issues, and an Ambassador at Large on Human Rights within the Ministry of Foreign Affairs, who is tasked to systematically follow up on the implementation of HRC resolutions, recommendations by Special Rapporteurs and Independent Experts, and outcomes of the UPR process. The Committee on Human Rights and Civil Integration, as one of the standing committees of the Parliament of Georgia, has broad powers to monitor and evaluate the human rights situation in the country, as well as to examine individual petitions from individuals.¹¹⁴

■ 4.5. Summary

This section summarised Georgia's participation in UN treaties and, based on this participation, the legislative changes and institutional mechanisms it created. It can be inferred that Georgia has made significant efforts in aligning its laws and government with international human rights standards since becoming independent. By working closely with the United Nations and adopting new laws that protect people from discrimination, children, and women, Georgia has shown its commitment to human rights. To ensure these laws are followed, Georgia has created organisations like the PDO and other institutional mechanisms to demonstrate Georgia's dedication to upholding human rights for everyone.

112 Special Investigative Service, no date.

113 Government of Georgia, 2024.

114 United Nations Human Rights Office of the High Commissioner (OHCHR), 2015.

5. Georgia's cases before UN Human Rights Committees: An in-depth analysis

In the remaining part of this paper, attention is drawn to the Georgia's individual cases brought before UN Human Rights Committees with the aim to analyse them in a detailed manner and show the contextual challenges or shortcomings that Georgia faced on its way to build a state that takes human rights seriously. This section also demonstrates the areas where the country faced most challenges, as well as the nature and extent of human rights abuses that have occurred. Through this in-depth analysis, this paper aims to better understand the complexities of Georgia's human rights landscape and identify the key issues that need to be addressed for further progress. It is worth noting that, in total, there were 13 cases brought in front of the UN Human Rights Committees as an individual case. Only those cases that came out to be of high significance will be analysed herein, excluding those which were discontinued (three cases)¹¹⁵ or inadmissible (two cases).

■ 5.1. Individual complaints under the CAT

Case Reference: CAT/C/60/D/573/2013

Date of Decision: 12 May 2017

Complainants: D.C. and D.E., nationals of Georgia

Respondent State: Georgia

Overview

The issues concern a communication brought forth by Georgian nationals D.C., a medical doctor, and his son D.E., a diabetic, who claimed that they were subjected to brutal treatment during and after their arrest. These included physical mistreatment, threats, and acts of psychological coercion, all designed to coerce the applicants into confessing to offenses from which they assertedly absolved themselves, namely, kidnapping and the unlawful possession of ammunition and drugs. The applicants submitted that although they had lodged an extensive number of complaints with the authorities at all levels in Georgia, the State had not carried out an effective and prompt investigation into their complaints.

Admissibility

The first question was whether the communication was admissible or not. In addition, Georgia, the State party, submitted that the communication should be declared inadmissible on the grounds that the complainants had not exhausted the

¹¹⁵ In fact, there were four cases that were discontinued; however, one case under the CRC is still analysed below, as it is the most recent and significant.

domestic remedies, as the investigation of their allegations was still supposedly underway. Nevertheless, the Committee noted that the investigations had suffered from unreasonable delay, with no substantive actions taken since March 2012, considered it a delay rendering domestic remedies ineffective; it was thus able to take the communication into account under Article 22(5)(b) of the Convention.

Analysis and merits of the case

The complainants submitted that the treatment that they were subject to at the hands of the Georgian police is to be considered as torture under Article 1 of CAT and as cruel, inhuman, or degrading treatment under Article 16 of CAT. They gave detailed descriptions of the physical assaults, including beatings, throttling, and threats of being thrown out of a window. This was corroborated by the medical documentation from the temporary detention facility, which recorded injuries of the kind they complained of. The Committee took these allegations as credible and concluded that the treatment described in the complaints did amount to severe pain and suffering, reaching the threshold of torture under Article 1 of the Convention. The Committee further noted D.E. being denied insulin while in detention, a factor which contributed to the deteriorating condition of his diabetes, which amounted to cruel and inhuman treatment under Article 16.

In this case, the Committee found that the State's investigation was not prompt or impartial. The investigation had been dragging on for more than six years, without any substantive investigative actions taken after March 2012. The Committee considered this delay unacceptable and a violation of Article 12. Moreover, the Committee considered the failure by the State party to ensure the right of the complainants to bring a complaint in accordance with Article 13 of the Convention. The complainants alleged that they had been threatened and intimidated by State officials with a view to dissuading them from further complaints. These allegations were not rebutted by the State party, and the Committee concluded that Article 13 had indeed been violated in respect of Georgia's failure to provide a response to those complaints and the failure to protect the complainants from reprisals.

Committee's conclusion

The Committee found that the State of Georgia had violated numerous provisions of the Convention Against Torture. Specifically, it deemed that the treatment that the claimants were subjected to was considered torture under Article 1, and under Article 16, the State had submitted the victims to cruel and inhuman treatment. In addition, the State had failed to make a prompt and impartial investigation into those complaints in violation of Article 12 and the threats and intimidation practiced against the complainants violated their right to submit a complaint under Article 13.

■ 5.2. *Individual complaints under the CCPR*

Case: Shota Ratiani v. Georgia

Communication No.: 975/2001

Date of Views Adopted: 21 July 2005

Committee: Human Rights Committee

Overview

Shota Ratiani, a Georgian citizen and a supporter of the former President of Georgia, Zviad Gamsakhurdia, was arrested on 30 August 1995, following an alleged assassination attempt on President Eduard Shevardnadze. Ratiani was charged with high treason, attempted terrorism, and involvement in an anti-state organisation. He alleged that his arrest and subsequent trial were politically motivated due to his support for the former president. Ratiani claimed various violations of his rights under the ICCPR, including unfair trial, arbitrary detention, mistreatment, and lack of the right to appeal his conviction.

Admissibility

The Human Rights Committee examined the admissibility of the claims under the Optional Protocol to the ICCPR. The Committee declared several of Ratiani's claims inadmissible due to insufficient substantiation. These included allegations of mistreatment under Articles 7 and 10, arbitrary detention under Article 9, and violations of his fair trial rights under Article 14. Specifically, the Committee noted that Ratiani's claims were general in nature and lacked detailed information to support the allegations.

The Committee also noted that the process available to Ratiani for reviewing his conviction, a 'supervisory complaint' before the Presidium of the Supreme Court, did not meet the standards required under Article 14(5) of the Covenant, which guarantees the right to a review of conviction and sentence by a higher tribunal. The Committee emphasised that a discretionary or extraordinary remedy, such as a supervisory review, does not constitute an effective appeal mechanism as required by the Covenant.

Merits of the case

The core issue on the merits was whether Ratiani had been denied the right to appeal his conviction and sentence in violation of Article 14(5) of the ICCPR. The Committee found that the procedures available to Ratiani did not provide the requisite full review of his conviction and sentence by a higher tribunal. The Committee observed that the so-called 'supervisory complaint' process did not constitute an appeal because it was discretionary and did not involve a full review of the case as required under Article 14(5). The Committee also noted that the possibility of seeking a retrial based on new evidence or applying for 'rehabilitation' did not substitute for the right to appeal the original conviction.

Committee's conclusion

The Committee concluded that Georgia violated Shota Ratiani's right to have his conviction and sentence reviewed by a higher tribunal according to law, as required under Article 14(5) of the ICCPR. The Committee determined that the State party was obligated to provide Ratiani with an appropriate remedy, including compensation and measures to prevent similar violations in the future.

■ 5.3. Individual complaints under the CEDAW

Case: H.H., I.H., and Y.H. v. Georgia

Communication No.: 140/2019

Date of Views Adopted: 25 October 2021

Committee: Committee on the Elimination of Discrimination against Women (CEDAW)

Overview

This case was brought before the Committee on the Elimination of Discrimination against Women (CEDAW) by H.H., I.H., and Y.H., the husband and children of the deceased, Khanum Jeiranova, a Georgian national of Azerbaijani descent. They claimed that Ms. Jeiranova had been a victim of multiple violations of her rights under the Convention on the Elimination of All Forms of Discrimination against Women, particularly under Articles 1, 2(b)–(f), and 5(a), due to the State party's failure to protect her from gender-based violence and to properly investigate her death, which they allege was the result of an 'honour' crime.

Facts of the case

On 16 September 2014, Ms. Jeiranova was forcibly taken and beaten by relatives of her husband, H.H., who suspected her of infidelity. Despite her visible injuries and pleas for help, the local authorities, including police and the village governor, failed to provide her with adequate protection or investigate the beatings. The next day, Ms. Jeiranova was found dead, hanging by a rope in a shed at her parents' home. The investigation was initially closed, concluding that she had committed suicide due to 'shameful behaviour' without properly considering the beatings or the possibility of a forced suicide or murder.

Admissibility

The State party, Georgia, challenged the admissibility of the communication, arguing that the applicants had not exhausted all domestic remedies and that the communication was inadmissible due to lack of consent from H.H. for his legal representation. The State party also questioned the applicants' victim status, particularly H.H., who had initially denied any complaints against those involved in his wife's death.

The Committee found the communication admissible, at least insofar as it was brought by the children of the deceased, I.H. and Y.H. The Committee dismissed the State party's objections, noting that the domestic criminal investigation had been unreasonably prolonged for more than six years and that the applicants had sufficiently raised issues of gender and ethnicity based discrimination before national authorities. The Committee also determined that H.H.'s children had a legitimate interest in pursuing the communication, even if H.H.'s own involvement was questionable.

Merits of the case

The Committee evaluated the merits of the case under the Convention and found several violations:

1. Failure to Protect (Articles 2(c) and (e) read with Article 3): The Committee found that the State party failed to provide effective protection to Ms. Jeiranova, despite clear indications that she was in imminent danger from the relatives who had previously beaten her and encouraged her to commit suicide. The authorities' decision to return her to the relatives who were implicated in her abuse was deemed a violation of her right to life and protection from gender-based violence.
2. Failure to Investigate and Prosecute (Articles 2(b), (c), and (e) read with Article 3): The Committee determined that the State party failed to conduct an effective investigation into Ms. Jeiranova's death. The investigation was marked by significant delays and lacked a comprehensive forensic examination. The Committee noted that this failure was compounded by the authorities' reliance on patriarchal and 'honour'-based justifications, which impeded an impartial investigation and accountability for her death.
3. Intersectional Discrimination (Articles 2(f) and 5(a) read with Articles 1 and 3): The Committee concluded that Ms. Jeiranova was subjected to intersecting forms of discrimination based on her gender and ethnicity. The authorities' handling of her case reflected deep-seated stereotypes and 'honour'-based norms that failed to respect her rights as a woman and member of an ethnic minority.

Committee's conclusion

The Committee found that the State party, Georgia, violated Ms. Jeiranova's rights under Articles 2(b)–(f) and 5(a) read in conjunction with Articles 1 and 3 of the Convention. The Committee recommended that Georgia conduct a prompt, thorough, and independent investigation into Ms. Jeiranova's death and prosecute and sanction those responsible.

■ 5.4. *Individual complaints under the CRC*

Case Reference: CRC/C/96/D/144/2021

Date of Decision: 24 May 2024

Complainants: Anna Arganashvili, on behalf of 57 children residing in a church-run orphanage

Respondent State: Georgia

Overview

This case involves a complaint filed by Anna Arganashvili to the UN Committee on the Rights of the Child, representing 57 children from Ninotsminda St. Nino Children's Boarding School, Georgia. The complaint alleges multiple rights violations under the CRC, including exposure to physical and psychological abuse, lack of education, and discrimination, especially against children with disabilities. The school was described as a closed facility with heavy restrictions on children's freedom and the State was accused of failing to protect their rights.

Legal issues

Admissibility: Georgia argued that the complaint was inadmissible because it was filed without the explicit consent of the children or their parents and the applicant lacked standing to represent all 57 children. However, the Committee accepted the complaint for 21 children, citing valid reasons due to their isolation and the State's refusal to grant access to the applicant.

Merits of the case

The Committee examined the State's obligations under the CRC, particularly regarding protection from violence under Articles 19 and 37(a). The complaint detailed instances of abuse, including physical punishment and neglect, particularly affecting the children with disabilities. The Committee supported these claims with reports from Georgia's PDO, which had documented ongoing violence and neglect in the institution.

The Committee concluded that the State failed to meet its obligations, inadequate investigations and delays preventing most children from accessing justice. Additionally, there were insufficient procedural safeguards, as children were not provided with legal assistance during the investigations and their voices were not sufficiently considered.

Rights of children with disabilities: The treatment of children with disabilities was a key focus, highlighting their vulnerability to abuse and neglect in the institution. The State was criticised for failing to provide appropriate care and educational opportunities, violating their rights under Article 23 of the CRC.

Procedural issues: The Committee found that the State did not conduct prompt or effective investigations into the reported abuses. Despite numerous complaints and evidence of systematic abuse, investigations were delayed, causing

many alleged offenses to become time-barred. This was deemed a violation of the State's obligations to protect children from cruel, inhuman, or degrading treatment under the CRC.

Committee's conclusion

The Committee determined that Georgia violated several provisions of the CRC, including Articles 19, 37(a), 3, 12, 20, 23, and 25.

■ **5.5. Individual complaints before the ICCPR**

Case References: CCPR/C/62/D/623/1995, CCPR/C/62/D/624/1995, CCPR/C/62/D/626/1995, CCPR/C/62/D/627/1995

Date of Decision: 6 April 1998

Complainants: Victor P. Domukovsky, Zaza Tsiklauri, Petre Gelbakhiani, and Irakli Dokvadze

Respondent State: Georgia

Overview

Various complaints were filed by Georgian and one Russian national, respectively, against alleged violations under the ICCPR. The complainants were all involved in politically sensitive situations in Georgia and argued that all of them had been subjected to illegal detention, torture, and unfair hearings. Each of the complainants had different issues to raise, and there were some who accused the authorities of denying legal representation, arbitrary arrest, and physical and psychological torture.

On these grounds, the applicants submitted that the procedure of domestic legal remedies was either unavailable or ineffective and filed complaints before the Human Rights Committee.

Admissibility

The first issue was the admissibility of the communications, particularly with regard to the exhaustion of domestic remedies. The Committee noted that the State party had not shown sufficient cooperation by leaving critical details unaddressed and failing to provide relevant documentation regarding the complainants' allegations. In light of this lack of cooperation, combined with credible evidence presented by the complainants, the Committee ruled that the communications were admissible in accordance with the Optional Protocol.

Analysis and merits of the case

Illegal detention and arrest: The complainants, particularly Domukovsky and Gelbakhiani, declared that their detention in Azerbaijan was arbitrary. The Committee considered that the State party had failed to prove the legality of such detentions. Indeed, no specific information or proof was provided to support the

claims under Georgia's declaration. The Committee considered that their detention violated Article 9(1) of the ICCPR.

Claims of torture: Each of the complainants showed evidence of torture in the form of physical beatings, psychological duress, and threats to family members. The State party, while denying the allegations, did not advance any convincing evidence to the contrary or even procedural records showing that an effective investigation of these claims had been conducted. The Committee found that the accounts by the complainant were credible; there were acts of violation under Articles 7 and 10 in the form of torture, cruel, inhuman treatment.

Right to fair trial: The complainants had also claimed that the following were violated under Article 14: denial of proper legal representation, the right to attend during trial, and being coerced to accept ex-officio counsel against their will. The Committee stressed that the right to defence is inviolable, especially in those cases where the death penalty may be imposed. Because the State failed to show that it had exercised all reasonable diligence to protect complainants' rights, the Committee found a flagrant violation of Articles 14(3)(d) and 14(5).

Violation of freedom of expression and freedom of assembly: The Committee also considered the allegations that the complainants had become victims because of their political opinion and related activities. Although the Committee did not find sufficient proof for all allegations under Articles 19 and 21, it accepted that the political environment might have contributed to the aggravation in treatment of the complainants.

Committee's conclusion

The Human Rights Committee was of the view that the State of Georgia had violated several provisions of the ICCPR, specifically:

Violation of Articles 7 and 10 for torturing and subjecting the complainants to inhuman treatment.

Violations of Article 9 (i.e. arbitrary and illegal detention) of Domukovsky and Gelbakhiani.

Violations of Article 14: Right to a fair trial, sufficient legal representation, and opportunity for defence.

The imposition of the death penalty, especially under flawed trial conditions, constituted a further contravention of Article 6 as a denial of the right to life following due process. The Committee ordered effective remedies, including the release of the complainants, underlining the need for such non-repetition measures to avoid violations in the future. This decision highlighted that states have a strict duty to comply fully with international human rights commitments on fair trial and prohibition of torture. Essentially, this case brought forth serious systemic problems regarding the legal and judicial framework of Georgia, reflecting serious violations of rights widely recognised under international law. The

decision by the Committee further supported the principle that there should be adherence to due process and individual rights under the ICCPR.

■ 5.6. *Individual complaints under the CEDAW*

Reference Case: CEDAW/C/61/D/24/2009

Date of Decision: 13 July 2015

Complainants: X and Y, nationals of Georgia

Respondent: State of Georgia

Overview

The application concerns a communication submitted by X, a Georgian woman, and her daughter, Y, for violations of their rights under the Convention on the Elimination of All Forms of Discrimination against Women. The complaint was based on domestic violence; physical, emotional, and sexual abuse by X's husband; and inaction on the part of the Georgian authorities to either investigate or provide relief concerning such abuse. The communication made them stand out in a systemic pattern of acting inactive and ineffective legal frameworks that exist in Georgia, especially concerning domestic violence and the protection of women and children.

Admissibility

The first issue was the admissibility of the case, considering that the complainants had applied to the ECtHR, which had declared that their application inadmissible. The Committee observed that, although the facts in the case before the Third Chamber of the ECtHR were similar, the grounds on which the complaints were made were different. While the ECtHR application had focused on individual impacts and did not address the issue as one of gender-based discrimination, the communication to the CEDAW Committee underlined that the failure of the state to act effectively was connected to structural gender-based discrimination. The Committee found the case admissible, distinguishing it from the previous ECtHR application.

Overview and merits of the case systemic failure to deal with domestic violence

The applicants, inter alia, provided a history of abuse from X's forced marriage after a rape, through regular physical and psychological maltreatment in the course of the marriage. The authorities' response was restricted to non-legally binding written undertakings by the husband not to use further violence. In turn, the Committee viewed such responses not resulting in criminal prosecutions as systemic failures to deal with domestic violence under Georgian Penal Code at the material time.

Gender-based discrimination

The Committee concluded that such a lack of action by the state represented gender-based discrimination. The complainants pointed out that the Georgian authorities did not take serious measures against the domestic violence committed by X's husband.

Even after repeated incidents and complaints, the authorities acted superficially to protect the perpetrator instead of the victims. This systemic inaction and lenient handling amount to discrimination under CEDAW.

Legal and institutional deficiencies

The Committee found that Georgia, at the time of the events, had an extremely weak legal framework regarding violence within the family.

Legislation that clearly criminalised domestic violence and which provided for protective measures was brought in only as late as 2006, long after most incidents took place. It showed the failure of the state to establish machinery for efficiently investigating and prosecuting domestic violence, offering protection to the victims, and handling the situation with sensitivity from a gender perspective.

It was held that this failure to protect the women against such violence, investigate the abuse appropriately, and prosecute the offender was a breach of Articles 1, 2(b)–2 (f), and 5(a) of the Convention.

Psychological and physical impact

X and Y described high levels of psychological distress, both from the abuse itself, and from the failure of state authorities to provide an effective recourse. The Committee underlined that the due diligence required from the state to prevent and combat the acts of violence added to the suffering of the victims and was a violation of the victims' rights under the Convention.

Committee's conclusion

The Committee found that the following articles of CEDAW were violated by the State of Georgia:

Articles 2(b)–2(f): The state party has failed to effectively guarantee the necessary legal protection to adopt appropriate measures to prevent or prohibit discrimination and to protect women against violence.

Article 5(a): '[F]ailing to modify social and cultural patterns of conduct to eliminate violence, including those that create the climate which contributes to, allows, and exacerbates violence against women.' The Committee recommended that the State of Georgia should:

1. Give fair compensation to the applicants for all damage suffered.
2. Strengthen the legal frameworks and mechanisms for enforcement to protect victims against domestic violence.

3. Increase training in the area of domestic violence cases for law enforcement and judicial authorities through a gender-sensitive approach.

These activities should be amplified to raise awareness to prevent gender stereotypes and raise the level of zero tolerance towards domestic violence. It finally underlined that robust and effective legislative frameworks, comprehensive protection of victims of gender-based violence, and an institutional change is urgently needed to address entrenched biases in the system.

■ 5.7. *Individual complaints under the CRC*

Case Reference: CRC/C/90/D/84/2019

Date of Decision: 1 June 2022

Complainant: N.B., a minor through counsel

Respondent State: Georgia

Overview

The case concerned a communication submitted by a minor, N.B., through her legal representatives, for the alleged violation of certain rights under the CRC. This concerns an incident in which a minor complainant was physically abused by a kindergarten teacher in Georgia and received clearly visible injuries. The communication is that the State failed to ensure the protection against such physical maltreatment, effectively investigate the given case, and hold anyone accountable.

Admissibility

The State party contested the admissibility of the complaint, arguing that domestic remedies had not been exhausted. In other words, it was their contention that the complainant had not pursued civil remedies, nor had she waited for the completion of ongoing criminal investigations. However, the Committee took note of the serious delays in the investigation, thus undermining the effectiveness of such an investigation. Moreover, because the complainant was unable to acquire the status of victim, it hampered access to further legal recourse and rendered available domestic remedies ineffective. As such, the Committee found that the case was admissible pursuant to the Optional Protocol.

Analysis and merits of the case

Substantive violations of Article 19: The Committee considered that N.B. was corporally punished by a teacher at a public kindergarten and showed visible bruises. Although the teacher denied it, a forensic medical report proved injuries compatible with the described physical mistreatment. The initial declarations of the complainant complemented the testimony from a grandparent of another child that matched the evidence in the medical report. The Committee considered that

the acts constituted a violation of Article 19 because States have the obligation to protect a child from all forms of physical or mental violence. Lack of a plausible different explanation for the injuries further implicated State's responsibility.

Procedural failures in investigation

Article 19, Paragraph 2: The Committee found procedural gaps in the State's response. While an investigation was opened, it was marked by significant delays and a lack of urgency in pursuing the relevant steps. Witnesses were not questioned until several months later and the collection of evidence was delayed. More than five years had passed since the filing of the first complaint, while the investigation remained pending without any important developments or conclusions.

The Committee considered that an efficient investigation should be timely, include child-sensitive procedures, and provide a possibility to bring about justice. The Committee held that none of the latter facts occurred in the present case. Therefore, the State failed in its procedural obligations under Article 19(2).

General legal framework and systemic issues

The complainant further maintained that the relevant legal framework of Georgia did not meet the standards for a prohibition of corporal punishment in any early childhood facilities. Although some legislative measures had been taken, the fact that the legislation did not explicitly prohibit all forms of corporal punishment meant that such incidents could still occur with impunity. The Committee thus recommended a comprehensive legal reform that clearly prohibited corporal punishment in all settings and also pointed to the broader systemic failures with respect to the protection of children from all forms of violence. Because of the issues identified in this case, it went out of its way to emphasise the measures for prevention, such as educator training and awareness-raising campaigns intended to modify societal attitudes toward corporal punishment.

Committee's conclusion

The Committee found that the State of Georgia had violated Article 19 of the Convention:

Article 19(1): Failure to protect N.B. against physical violence when she was in the care of a State institution, as was manifested by the injuries she suffered during the kindergarten session.

Article 19(2): An investigation which was incomplete, as it did not meet the standards of urgency, thoroughness, or effectiveness that might have been expected to provide a protective environment for children.

The Committee recommended that Georgia provide compensation and psychological support to alleviate the trauma caused. This should involve the strengthening of legislation to provide a clear prohibition of corporal punishment in all settings where education is provided. In addition, it shall ensure timely

and effective investigations of similar matters in the future using child-sensitive practices. It also shall start training programs for schoolteachers, police, and judiciary on child rights and protection against violence. It also needed to implement awareness-raising activities to overcome social norms that may tolerate corporal punishment for disciplining. In sum, this complaint disclosed severe lacunas in the handling of child protection issues by the Georgian system, more so from the perspective of the educational system. It was held that the findings of the Committee underscored the need to effect systemic changes in safeguarding children's rights to ensure incidents of violence are timely and suitably dealt with to avoid recurrence.

6. Conclusions

The study of human rights evolution in Georgia offers an interesting story of a country facing all the challenges of the post-Soviet transition, nation-building, and the integration into the global human rights framework. This article has gone to great lengths to trace Georgia's progress from the Soviet rule, when human rights were gravely oppressed, through the post-independence period and to the more recent times seeking to harmonise local policies with prevailing international trends.

The historical overview in the first part of the article illustrates how the experience of the Soviet rule imprinted scars on the national identity and human rights landscape of Georgia. The period of Soviet rule was characterised by serious political repressions, suppression of national identity, and gross human rights abuses. The post-Rose Revolution period, especially through political and legal reforms, was an era of democratisation and human rights protection post-independence. However, these processes have repeatedly been disturbed by drawbacks such as corruption, political polarisation, and continued occupation, along with the conflicts in Abkhazia and South Ossetia.

The next part of the article discussed Georgia's interaction with the United Nations and how, in turn, this relationship affected the country's human rights policy. However, the reactions of the UN have helped build the necessary support for a more structured legal and institutional framework in Georgia, even if the implementation of policies remains somewhat troublesome domestically. The UN provided technical support, monitored human rights violations, and supported civil society in the process of the establishment of human rights progress in Georgia.

A significant part of the discussion was dedicated to the involvement of Georgia in UN human rights conventions and its subsequent national adoption of international commitments. The extent to which the key UN treaties have been incorporated into domestic law demonstrates a resolve on the part of Georgia to

fall in line with internationally recognised standards of human rights. However, the effectiveness of these legal frameworks mainly depends on how strong the institutions which are authorised with their implementation are. Establishment of the PDO, Special Investigation Service, and other institutional mechanisms reflects the ongoing efforts in Georgia towards the strengthening of human rights protection.

A detailed scrutiny of individual cases before UN human rights committees has revealed to Georgia the practical challenges it faces in upholding its human rights commitments. These include alleged torture, discrimination cases, and the failure to protect vulnerable groups, which have evidenced gaps in the legal and institutional frames of Georgia. Human rights victories in Georgia have been ongoing but marred by political interference, judicial autonomy deficiency, and that of minority group treatment.

This paper concludes with a note regarding the current political landscape within Georgia, wherein recent, widely-criticised laws, such as the Transparency of Foreign Influence Law, have presented a new level of threats against democratic freedoms and human rights. All these developments show that one cannot deviate from democratic reform and the protection of human rights against consequences such as the suspension of its EU process. In sum, the advancement of Georgia in protecting human rights is a testament to its resilience and determination in the face of historical and modern challenges. However, this is a journey far from over. Whether human rights continue to be extended will depend on the further implementation of reforms, the building of democratic institutions, and the concomitant support by the international community. By facing the actual contemporary challenges and persisting in its values related to human rights and democracy, Georgia might be the ‘city upon a hill’ among Eastern European countries.

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