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HUMAN RIGHTS COMMITTEE

Fifty-ninth session

SUMMARY RECORD OF THE 1583rd MEETING

Held at Headquarters, New York,
on Wednesday, 9 April 1997, at 3 p.m.

Chairperson: Mrs. CHANET

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Concluding Observations of the Human Rights Committee on the fourth periodic report of Colombia (continued) (Future CCPR/C/79/Add.75)

Paragraph 34

1. The CHAIRPERSON said she took it that the Committee wished to adopt paragraph 34 as amended at the previous meeting by Mr. Buergenthal.
2. Paragraph 34, as amended, was adopted.

Paragraphs 35 and 36

3. Paragraphs 35 and 36 were adopted.

Paragraph 37

4. Ms. MEDINA QUIROGA proposed that the square brackets in paragraph 37 should be deleted.
5. Paragraph 37, as amended, was adopted.

Paragraphs 38 and 39

6. Paragraphs 38 and 39 were adopted.

Paragraph 40

7. Ms. MEDINA QUIROGA proposed that the phrase "as soon as possible" should be deleted.
8. Paragraph 40, as amended, was adopted.

Paragraph 41

9. Ms. MEDINA QUIROGA proposed that paragraph 41 should be replaced by the following text: "The Committee recommends that the Government put an end to the de facto exercise by the military of powers in the special public order zones established by decrees which are no longer in force."
10. Paragraph 41, as amended, was adopted.

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Paragraph 42

11. The CHAIRPERSON noted that two alternative versions had been proposed for paragraph 42.

12. Ms. EVATT said that the first version of paragraph 42 was important because it referred specifically to acts of child murder and assault and to children caught up in the activities of guerrilla and paramilitary groups.

13. The CHAIRPERSON said that the second sentence of the first version of paragraph 42 was ambiguous.

14. Mr. YALDEN agreed with the Chairperson. The sentence in question should focus on measures to reduce and eliminate the employment of children.

15. Mr. BHAGWATI proposed that the second sentence of the first version of paragraph 42 should be amended to read: "The Committee also specifically recommends that effective measures be taken to eliminate the employment of children and to this effect, that inspection mechanisms be established", and that the square brackets enclosing the paragraph should be deleted.

16. The first version of paragraph 42, as amended, was adopted.

Paragraph 43

17. Mr. SCHEININ said that paragraph 43 should be reworded to underscore Colombia's obligation under article 24, paragraph 3, of the Covenant with regard to stateless children born in Colombia.

18. Mr. BUERGENTHAL said that paragraph 43 had been worded as it had because the reporting delegation had explained that, under domestic law, children born of transient aliens in Colombia were not entitled to acquire Colombian nationality in the same manner as children of Colombian residents. The Committee could do no more than recommend that the government consider conferring Colombian nationality on stateless children born in Colombia.

19. Mr. POCAR said that, under the Committee's General Comment 17 on article 24 of the Covenant, States parties were required to adopt every appropriate measure both internally and in cooperation with other States, to ensure that every child had a nationality when he or she was born in their territory. However, there was no obligation on States parties to grant nationality in such cases.

20. Mr. BHAGWATI supported the position taken by Mr. Buergenthal.

21. Mr. KRETZMER proposed that paragraph 43 should read:

"The Committee stresses the duty of the State party to ensure that every child in Colombia enjoys the right, under article 24, paragraph 3, to acquire a nationality. It therefore recommends that the State party

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consider conferring Colombian nationality on stateless children born in Colombia".

22. Paragraph 43, as amended, was adopted.

Paragraph 44

23. Paragraph 44 was adopted.

Paragraph 45

24. Mr. ANDO said that the only relevant part of paragraph 45 was the reference to the need to publish the Committee's suggestions and recommendations. The rest of the paragraph could be deleted.

25. Mr. KLEIN suggested that the text of paragraph 45 should be replaced by the text of paragraph 39 of the Concluding Observations on the initial report of Georgia, which read: "The Committee recommends that the report of the State party, together with the Concluding Observations adopted by the Committee, should be widely disseminated".

26. Mr. PRADO VALLEJO recalled the Committee's consensus, arrived at earlier in the session, that there should be some sort of follow-up to the recommendations made in the course of the Committee's consideration of State parties' reports. He accordingly suggested adding to paragraph 45, and indeed to the final paragraph of all concluding observations the idea that the Government should subsequently inform the Committee how its recommendations would be put into effect.

27. Ms. EVATT recalled that the Committee had already agreed that the Working Group on Article 40 would draft such a formulation at its July session, for inclusion in all subsequent Concluding Observations. She believed that, under the circumstances, it would be preferable not to go into the matter at the present time.

28. It was so decided.

29. Paragraph 45, as amended, was adopted.

30. The draft Concluding Observations of the Human Rights Committee on the fourth periodic report of Colombia as a whole, as amended, were adopted.

Concluding Observations of the Human Rights Committee on the initial report of Georgia (CCPR/C/59/CMP/GEO/1)

31. The CHAIRPERSON, speaking as Rapporteur for Georgia, introduced the draft Concluding Observations, noting that the words "final comments" in the heading and in the first paragraph should be replaced by the words "Concluding Observations".

Paragraph 1

32. Paragraph 1, as amended, was adopted.

Paragraph 2

33. Mr. POCAR proposed deleting the words "frank and constructive" before the word "dialogue" in the first sentence, because the delegation had been anything but frank in its responses or constructive in its attitude. In the second sentence, he would, for the same reason, add the word "some" before the word "clarifications".

34. The CHAIRPERSON said that she had wanted to convey the fact that frank criticisms had been expressed by the Committee in the course of the dialogue.

35. Mr. POCAR said that the text did not lend itself to that interpretation and that he maintained his proposed amendments.

36. Mr. BUERGENTHAL said that he also took issue with the final clause of the second sentence, because the Committee had not, in fact, obtained from the delegation a more accurate picture of the human rights situation in Georgia. He proposed replacing the words "more accurate" which had too positive a connotation, by the words "somewhat clearer".

37. Paragraph 2, as amended, and with minor drafting changes in the French version, was adopted.

Paragraph 3

38. Paragraph 3 was adopted, with minor drafting changes in the Spanish version.

Paragraph 4

39. Mr. BHAGWATI proposed deleting paragraph 4 because there was no reason for the Committee to welcome merely the willingness of a State party to ensure the de facto and de jure enjoyment of human rights.

40. The CHAIRPERSON said that she had included the paragraph because the delegation had referred to a recent statement by President Schevardnadze that he intended to make human rights a national priority.

41. Mr. POCAR observed that President Schevardnadze's pledge was not particularly exceptional and that the commitment was rather vague. Any specific steps to which the delegation had referred had tended more towards constitutional reform than towards the de facto enjoyment of human rights. He therefore favoured deleting the paragraph.

42. Mr. TÜRK said that he favoured retaining the paragraph as drafted. A pledge by a Head of State was significant and imposed some kind of obligation on a State party, to which the Committee could hold it in future.

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43. Mr. BHAGWATI accordingly proposed redrafting paragraph 4 to read:
"The Committee notes the assurances given by the Head of State that the enjoyment of human rights will become a priority in Georgia."

44. Paragraph 4, as amended, was adopted.

Paragraph 5

45. Paragraph 5 was adopted.

Paragraph 6

46. Mr. KRETZMER, supported by Mr. EL-SHAFEI, said that the Committee had no evidence that there had been a substantial decline in the number of violent crimes, other than the delegation's assertion and that such a decline was not in any case, a necessary condition for the fuller enjoyment of human rights.

47. Mr. ANDO proposed deleting the paragraph.

48. Paragraph 6 was deleted.

Paragraphs 7 to 9

49. Paragraphs 7 to 9 were adopted.

Paragraph 10

50. Mr. KRETZMER questioned whether the State party had in fact made active efforts to protect the human rights of minorities. The paragraph should perhaps refer rather to a declared intention to make such efforts.

51. The CHAIRPERSON said that, on the contrary, there was considerable evidence, even from non-governmental organizations, that Georgia was one of the rare countries to have a very active policy for the protection of minorities. If anything, a stronger word than "efforts" should have been used.

52. Paragraph 10 was adopted.

Paragraphs 11 and 12

53. Paragraphs 11 and 12 were adopted.

54. The CHAIRPERSON said that the second clause of the paragraph, which read "the Committee regrets, in particular, that methods of contraception other than abortion are very difficult to obtain", had been placed in square brackets because the Committee might wish to avoid giving the impression that it regarded abortion as a method of contraception.

55. Ms. MEDINA QUIROGA said that, while it was accurate to state that the Committee believed that abortion should not be the principal method of contraception, there were numerous indications in the State party's report that

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abortion was the only method available. The Committee should express its concern about that situation.

56. Ms. EVATT said that, while she had no objection to the paragraph as drafted, it might be advisable to delete the words "the Committee regrets ... that" in the second clause.

57. The CHAIRPERSON questioned whether the reference to abortion and contraception belonged in a paragraph dealing with political, economic and social discrimination against women.

58. Mr. ANDO suggested that the paragraph should be divided into two sentences by placing a full stop after "social spheres" and beginning the second sentence with: "In this connection, the Committee notes that methods of contraception ...".

59. The CHAIRPERSON supported the proposal.

60. Ms. MOGHAISEL said that, for purposes of clarity, the sentence concerning abortion and contraception should constitute a separate paragraph.

61. Mr. EL-SHAFEI agreed that paragraph 13 should end after the first clause, as there appeared to be no logical connection between the two clauses.

62. Mr. BHAGWATI, referring to Mr. Ando's proposal, said that the phrase "the Committee notes" was not strong enough; a better formulation would be "the Committee regrets" or "notes with concern".

63. Ms. EVATT, replying to Mr. El-Shafei, said that the availability of contraception and reproductive health services was fundamental to women's ability to take their place in all spheres of society and was therefore very much connected with the issue of gender discrimination.

64. Mr. POCAR, supporting Mr. Ando's proposal, suggested that the second sentence should read "The Committee further notes with concern that methods of contraception ...".

65. Mr. BHAGWATI concurred with the suggestion.

66. The CHAIRPERSON said she took it that the Committee wished to adopt paragraph 13 as amended by Mr. Ando and Mr. Pocar.

67. Paragraph 13, as amended, was adopted.

Paragraph 14

68. Mr. SCHEININ said that, while the death penalty was mentioned in paragraphs 20 and 29, those paragraphs did not deal with all the rights protected under the Covenant. In Georgia, death sentences were imposed in cases which had clear political implications. He therefore proposed that paragraph 14 should be amended by adding the following: "Any instance in which a death sentence is based on a confession obtained by torture or duress, or in which the

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right to a fair trial is not complied with, entails a violation of the right to life. The Committee is deeply concerned that such cases occur in Georgia".

69. The CHAIRPERSON said that, during the consideration of the State party's report, no member of the Committee had questioned the delegation about reports by non-governmental organizations that the death penalty was imposed on the basis of confessions obtained under torture. Accordingly, the delegation had given no reply on which the Committee could base its Concluding Observations on the subject.

70. Mr. SCHEININ recalled that he had raised the issue during the discussion of article 6 of the Covenant, but that it had not been taken up by other members of the Committee.

71. The CHAIRPERSON, confirming Mr. Scheinin's recollection, said that she had no objection to his proposal.

72. Mr. ANDO said that, while he concurred with the thrust of Mr. Scheinin's proposal, the purpose of the Concluding Observations was to reflect the dialogue that had taken place between the Committee and the State party.

73. Mr. KLEIN said that, while he had no objection to the proposal, he believed that the first sentence might give the impression of reproving the State party.

74. Mr. EL-SHAFEI suggested that the proposed amendment should be inserted in paragraph 20, as it pertained more to article 14 than to article 6 of the Covenant.

75. Ms. MEDINA QUIROGA said that she supported Mr. Scheinin's proposal, as the State party recognized in its report that the security forces sometimes resorted to torture to obtain confessions.

76. The CHAIRPERSON said that it was for that reason that she had included in paragraph 15 a reference to the use of torture for the purpose of extracting confessions. The State party's report did not, however, make any mention of death sentences imposed on the basis of confessions obtained under torture.

77. Mr. BHAGWATI, concurring with the Chairperson's remarks, said that the first sentence of the proposed amendment simply recalled the Committee's jurisprudence.

78. Mr. BUERGENTHAL suggested that the proposal should be further amended by adding, after its second sentence, the following: "It also deplores the fact that some death sentences appear to have been imposed in cases based on confessions extracted under torture or in violation of article 14."

79. Ms. EVATT said that she could support Mr. Scheinin's proposal and a further amendment along the lines proposed by Mr. Buergenthal.

80. The CHAIRPERSON said that the proposed general reference to article 14 was awkward. It was necessary to be more specific and to state that the Committee deplored not only the imposition of the death penalty, but also the fact that

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it had been imposed at trials which did not meet the requirements of article 14, paragraph 5, of the Covenant. She further suggested that paragraph 20 should be deleted.

81. It was so decided.

82. Paragraph 14 was adopted, subject to drafting changes.

Paragraph 15

83. Mr. KRETZMER said that the phrase "The Committee is disturbed" was not strong enough; a better formulation would be "deeply concerned". He did not recall having heard any evidence that paramilitary forces were operating in the prisons. Furthermore, as the State party had indicated that proceedings had, in some cases, been brought against individuals and groups accused of torture, the word "usually" should be inserted before "go unpunished".

84. The CHAIRPERSON said that paramilitary forces, some of which were allied with the armed forces, had been mentioned in the reports of non-governmental organizations.

85. Mr. YALDEN noted that Mr. Kretzmer had questioned whether paramilitary forces were involved in torturing individuals under detention.

86. The CHAIRPERSON said that there appeared to be a discrepancy between the English and French texts since, in French, "these acts" did not necessarily refer to cases of torture occurring in prison.

87. Ms. GAITAN DE POMBO suggested that the words "The Committee is deeply concerned" might be a stronger way to begin the paragraph. The Committee should also mention the names of the paramilitary groups about which it had received reports.

88. Ms. MEDINA QUIROGA, supported by Ms. EVATT, suggested that the words "acts of torture" should replace "these acts" in the second sentence.

89. Mr. KRETZMER said that, since there was no mention of paramilitary groups in the State party's report, mentioning them in paragraph 15 could cause legal problems. He suggested removing the reference to police and paramilitary groups entirely.

90. Mr. TÜRK agreed with Mr. KRETZMER that the second sentence should refer to the phenomenon of torture in general.

91. Mr. KLEIN said that the Covenant addressed acts of torture committed under the authority of the State. He, therefore favoured amending the second sentence along the lines proposed by Mr. Kretzmer and Mr. Türk.

92. The CHAIRPERSON noted that according to the Committee's General Comment on article 7, torture also included acts committed by persons acting without any official authority. Besides, referring to torture in the abstract would weaken the text.

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93. Mr. YALDEN said that, in his view, the paragraph was attempting to cover two aspects; first, the torture of persons in detention and, second, those responsible for such torture. If prisoners or detainees were being tortured, prison guards or police officers were obviously responsible. He therefore supported the amendment proposed by Mr. Kretzmer.

94. Paragraph 15, as amended, was adopted.

Paragraph 16

95. Mr. BUERGENTHAL suggested that the words "the resort to" should be inserted before "pre-trial detention".

96. Paragraph 16, as amended, was adopted.

Paragraph 17

97. Mr. POCAR suggested that, in the third line, "delinquents" should be replaced by "detainees".

98. Mr. KRETZMER said that he had three suggestions: the word "concerned" in the first line should be replaced by a stronger formulation; the words "and lack of medical care" should be inserted after "poor sanitary conditions" in the second line; and the following sentence should be added at the end of the paragraph: "The Committee stresses that the State party is not complying with its obligations under article 10 of the Covenant".

99. Paragraph 17, as amended, was adopted.

Paragraph 18

100. Mr. BUERGENTHAL said that, in the English version, the words "persistence of ties" should be replaced by "continuing close relationship that exists".

101. Paragraph 18, as amended, was adopted.

Paragraph 19

102. Paragraph 19 was adopted.

Paragraph 20

103. Paragraph 20 was deleted.

Paragraph 21

104. Mr. BUERGENTHAL suggested that an explanation of the term "propiska" should be added.

105. The CHAIRPERSON noted that the term "propiska" also appeared in paragraph 7. The definition "internal passport" could be added in brackets to that paragraph, and would not need to be repeated in paragraph 21.

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106. Mr. YALDEN suggested it might be enough to simply use the term "internal passport".

107. Mr. KLEIN favoured retaining the word "propiska", in order to evoke the system of restrictions on freedom of movement that had been a legacy of the Soviet system.

108. Paragraph 21 was adopted.

Paragraphs 22 and 23

109. Mr. SCHEININ said that, since the information on the media had come from non-governmental organizations and not from the State party, paragraph 23 should be deleted.

110. Ms. EVATT said that it might nevertheless be worth noting that the State party had taken no measures to ensure that media commentary did not prejudice the right to a fair trial.

111. Mr. KRETZMER supported the deletion of paragraph 23.

112. Mr. BUERGENTHAL said that, while he supported Mr. Scheinin's proposal, he felt that paragraph 22 could not stand alone.

113. Ms. MEDINA QUIROGA said that, since the concern expressed in paragraph 23 had some connection with State supervision of the media, paragraphs 22 and 23 could be combined.

114. Mr. BUERGENTHAL pointed out that only the electronic media were under State supervision in Georgia.

115. The CHAIRPERSON suggested that the two paragraphs might be combined to read: "The Committee regrets that political opponents are prosecuted because characterizations of crimes are very vague and general and the constituent elements are hard to determine (insubordination, sabotage, ...). The Committee is concerned that radio and television remain under the supervision of the State".

116. Mr. KRETZMER said that the Covenant did not expressly prohibit State supervision of the electronic media. In fact, some highly democratic countries still had State-owned broadcasting companies.

117. The CHAIRPERSON said that problems arose when the State had a monopoly over the broadcast media.

118. Mr. KLEIN said that the text should convey that it was State interference with the media that was cause for concern.

The meeting rose at 6.05 p.m.