



ngo group for the crc

STATE PARTY EXAMINATION OF GEORGIA'S THIRD PERIODIC REPORT

48TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

19 MAY - 6 JUNE 2008

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Georgia acceded to the Convention on the Rights of the Child (CRC) on 2 June 1994. On 20 May 2008 the Committee on the Rights of the Child (the Committee) examined Georgia's third periodic report.

Opening Comments

Mr. Archil Gagnidze, Deputy Minister of Education and Science and head of delegation, emphasised recent efforts in promoting democratic values and strengthening the rule of law. The fulfilment of fundamental human rights was a cornerstone of this reform process. He mentioned programmes to reduce violence in schools as well as detailing state support for poor children and efforts towards integrated education for children with disabilities. Substantial efforts had also been made to promote the integration of minority and displaced children. New laws had also been adopted on foster care, adoption and social aid. At the same time there had been progress in the provision of social work, family support and alternative care. Finally, he mentioned that the three priorities of the national action plan for children 2008-2011 were poverty, child abuse, and the use of large-scale institutions.

Ms. Tamar Tomashvili, Legal Consultant of the Permanent Mission to the UN and other International Organisations in Geneva, described significant reforms in the area of juvenile justice. Georgia still had a long way to go in this area, but had made a start.

Mr. Puras, the Country Rapporteur, noted that the State Party report showed both progress and problems, including questions of territorial integrity. There was, however, no excuse for putting child rights low on the political agenda. He noted the unfortunate lack of trust and cooperation with civil society. He asked about the bodies involved in promotion, protection and implementation of the CRC and how they were coordinated. He asked about the scope of the National Action Plan. He wondered how the CRC was reflected and reinforced in the

implementation of other international conventions, particularly the Optional Protocol to the Convention against Torture (OPCAT). He asked about the specific measures on children in institutions taken under the Anti-Torture Plan. Finally he asked whether the 'zero-tolerance' policy was official and how it accorded with international standards.

Ms. Vuckovic-Sahovic, the co-rapporteur, wondered who was caring for the children in Abkhazia and South Ossetia since the state was unable to assess the situation or implement policies. She commended the efforts to integrate refugee and internally displaced (IDP) children until it was possible for them to return. She noted the efforts to address discrimination against refugees, IDPs and children with disabilities, but asked about the status of the Roma community. She asked about the impact of the revision of the definition of torture following the Special Rapporteur's visit in 2005. She was concerned at the decision to lower the minimum age of criminal responsibility from fourteen to twelve. The Committee's General Comment 10 set twelve as the lowest acceptable age, but did not justify or allow the lowering of age limits. A better response to the problems would be to analyse and address the root causes of the problem. She also asked about prevention programmes in the juvenile justice system.

General Measures of Implementation

Legislation

The delegation did not answer questions on the possibility of a single child rights law. The Committee asked about the status of the CRC in domestic legislation and the case law on direct application in the courts. The delegation replied that international treaties had precedence over domestic laws.

Monitoring

The Committee asked whether the Ombudsman for children complied with the Paris Principles and received sufficient resources to fulfil its mandate. It asked about visits to institutions and accessibility to all children. The delegation replied that the Ombudsman had the right to visit all places of detention. The Ombudsman could make public reports or reports to Parliament on these visits.

Coordination of the implementation of the CRC and cooperation with civil society

The Committee asked about coordination of the implementation of the CRC. It asked about the relationship with the vibrant NGO community, their participation in preparing the state report and the Ombudsman's role in coordinating the activities of NGOs. The delegation stressed that many NGOs had entered the government after the Rose Revolution. NGOs were involved in both implementation and the development of policies. For example, an NGO, which was working in the area of legal assistance, had been brought into the Ministry of Justice to run the new system of free legal assistance. All monitoring mechanisms treated NGO complaints seriously.

National Action Plan

The Committee asked whether the National Action Plan covered all area of the CRC. It asked about the achievements of the National Action Plan for 2003-2007 and the De-institutionalisation programme for 2005-2008. The delegation replied that the Action Plan for 2008-2011 built on the previous plans, but shifted the focus from de-institutionalisation to welfare.

Dissemination and training

The Committee asked about awareness-raising on the rights of vulnerable groups such as minorities, IDPs, children with disabilities, and girls. The delegation replied that the CRC was included in civic education in the national curriculum. Training on child rights was provided to teachers, care givers in institutions and social workers. The Committee asked about the training of judges. The delegation mentioned that the EU supported training programmes in this area. In September 2008 the High School of Justice would introduce new courses on juvenile justice.

General Principles

Non-discrimination

The delegation did not answer questions on the status of the Roma population.

Right to be heard

The Committee asked about cultural attitudes which inhibited the child's right to be heard and the opportunities for youth participation. It asked about empowerment programmes for vulnerable children and their inclusion in youth participation programmes. The delegation replied that there were not significant cultural barriers to children expressing their views. Civic education helped to raise the children's awareness of their rights and power. Students were included in the development of codes of conduct in schools and represented on school governing boards and disciplinary committees. Students could request funding for clubs from the resources allocated to schools for extracurricular activities. The Committee asked about parental education on listening to children. The delegation replied that parental education, including on teaching and discipline methods, was an element of the Safe Schools programme.

The Committee asked about the provisions and minimum age for child participation in family law cases, administrative proceedings and criminal proceedings. The delegation explained that there were special procedures for questioning child victims or witnesses in criminal proceeding. A child under seven was accompanied by a parent or guardian and a child under fourteen was not criminally liable for misinterpretation of events. Any child over ten could participate in civil proceedings and the decisions took their opinion and best interest into account.

Best interest of the child

The Committee was surprised that the State Party report did not mention any developments since the initial report. It asked about the practical implementation of this principle in administrative and legal decisions. It asked for figures on complaints brought by children themselves on issues affecting their rights and interests. The delegation did not respond.

Civil Rights and Freedoms

Birth registration

The Committee asked about birth registration programmes and access to services for unregistered children. The delegation explained that a legal amendment had simplified birth registration so that the whole process was carried out by the Civil Registry Agency. A programme had registered all children in schools or institutions. The Civil Registry Agency

and local social workers visited villages to identify and document unregistered children. The next challenge was to provide sustainability and to establish a database. Unregistered children did not have a problem accessing education.

Family Environment and alternative care

Parental responsibility

The delegation did not answer questions on maintenance provisions for separated families.

Alternative care

The Committee was concerned that many children were still living in dire conditions in large institutions. It wondered why progress of de-institutionalisation and reuniting of families for ‘social orphans’ was so slow. The delegation mentioned the difficulty of financing both improvements in institutional care and alternative systems, but the state was proud of achieving a fifty-one percent decrease in institutionalisation. Efforts were being made to formalise and increase the role of social workers. An assessment by a social worker was needed before a child could be institutionalised. The Committee asked about the training of social workers and of the authorities making decisions on placements. The delegation replied that universities provided degrees or there was a one-year certification programme as well as training for those already employed. The Committee asked about plans to decentralise service provision for alternative care. The delegation replied that they were still at an early stage in developing standards and training local service providers to take over from the central administration.

The Committee asked for confirmation that no children were taken into care because of poverty alone. The delegation replied that financial support was provided through monthly allowances and an emergency fund. Mother and infant shelters provided support, training and psychological assistance during and after pregnancy and the provision of free day care helped reduce abandonment.

The Committee asked about alternative care institutions not run by the state. The delegation replied that there were around 1200 children in institutions run by NGOs and Churches. These institutions would be regulated through a new law.

The Committee asked about periodic inspections and review of placement for all children not living with their families. It was concerned that the Ombudsman's reports on institutions were not read by Parliament and asked about its status and the implementation of its recommendations. The delegation did not respond on these points.

Adoption

The Committee asked about the number of children available for adoption and of families ready to adopt. It noted that the new adoption law complied with the international standards and asked whether alternative care institutions worked as adoption agencies. The delegation pointed out that the adoption law required a social worker to be involved in the process and had detailed guidance on matching the child and adopters. It also criminalised illegal adoptions. New programmes on preparing foster families were being developed in accordance with the Hague Convention.

Violence, abuse and neglect

The delegation did not reply to questions on follow up to the UN Study on Violence against Children, measures to address violence against children, the mandatory reporting of violence and abuse, or the prohibition of corporal punishment in all settings.

Standard of living

The Committee repeated the concern of the Human Rights Committee that the minimum wage was not sufficient to cover the living costs of a family and noted that there were problems with housing. It asked about the impact of the ongoing study on child poverty, the mainstreaming and prioritisation of children in poverty reduction measures, and protection of children from the long-term consequences of poverty. The delegation replied that a new approach targeted households to address poverty in the general population. This had replaced means tested subsidies. This made it hard to detail specific measures for vulnerable groups. Poor children also received assistance from the Ministry of Education. The Committee stressed the need to target children in poverty reduction programmes, and noted that increasing the income of adults did not always reduce child poverty.

Basic Health and Welfare

The Committee reminded the state of the obligation to ensure that vulnerable groups were not sacrificed in the construction of the new health care system and asked about the prioritisation of maternal and child health care. It also asked about the allocation of resources and training of health care professionals. The delegation emphasised that the health care system was in a transitional period. A public private partnership provided health insurance for those under the poverty line, guaranteeing their access to health care. Maternal and child health were a priority. The delegation stressed that the main objective was to ensure that every citizen had access to basic health care and mentioned the efforts to train medical professionals in all regions.

The Committee asked about mental health care and expressed concern about the inappropriate terminology and approach reflected in the written replies. The delegation admitted that there was no separate policy on mental health, but mentioned a new law on psychiatry which would start the development of new policies and practices. The Committee pointed out that a modern mental health system also needed a positive dimension integrated in primary care and schools. The delegation assured the Committee that general practitioners received basic training on mental health.

Early childhood development

The Committee noted that there was no holistic policy on early childhood development. It asked about programmes in this area and training of parents. The delegation promised to provide the Committee with a copy of the strategy on education and health care developed by the Early Childhood Alliance of the Parliamentary Social Committee.

The Committee observed that neo-natal and maternal mortality rates were high, although some progress had been made in promoting breastfeeding and the introduction of child friendly hospitals. It asked about steps to enforce the law on breastfeeding and to protect working women. The delegation replied that there were good programmes on breastfeeding, including mother-to-mother support. The labour legislation guaranteed maternity leave and the right to shorter hours for a year. One reason for the high mortality rates was the preference of Azeri women to give birth at home. There were also problems in this population with religious beliefs causing resistance to immunisation. However, the state was addressing these

problems. The First Lady was actively involved in programmes in this area including awareness raising on reproductive health. The Committee pointed out that programmes should not aim to make this population feel guilty, but adapt the health system to provide necessary services within cultural and religious requirements.

Adolescent health

The Committee observed that the State Party report suggested doctors had discretion to assess the ability of adolescents to make an informed decision on health issues. It asked about the minimum age for accessing health services without parental consent. The delegation replied that the Patients Rights Law established sixteen as the minimum age.

The Committee asked about services, including preventative services, and education on reproductive health. The delegation pointed out that the apparent increase in adolescent pregnancies and abortions was due to more efficient data collection. It mentioned that sexual education was not included in the national curriculum since this was a sensitive issue. The Committee stressed that reproductive health was an integral part of health education and necessary for the social development and safety of children as they matured

Children with disabilities

The Committee noted that there was little progress on disability issues. It urged the State to prioritise inclusive education. The delegation mentioned the assistance of the Norwegian government in developing pilot projects on inclusive education. The next stage was to spread these models to schools in all regions. The training of trainers for this expansion had already begun. . Projects also included the establishment of multidisciplinary support teams for the children, teachers and parents, and early intervention programmes. Part of the challenge was to change cultural attitudes to accept inclusive education. A general strategy on disabilities was being developed.

Education, leisure and cultural activities

The Committee emphasised the importance of pre-school in empowering children and helping them to escape from poverty. It was concerned about low enrolment and disparities between urban and rural access to pre-schools. It asked why all the available places were not being filled, about costs and measures to address the quality of education. The delegation did not respond on these points or the role of the Ministry of Education in providing education for children in institutions and detention facilities.

The Committee noted that there were problems with access to education, particularly among vulnerable groups of children and that budget allocations were not keeping pace with economic growth. It asked about the achievements of the plans to improve infrastructure and on computerisation. The delegation replied that twenty new schools had been built and more than five hundred had been renovated. By the end of the year there would be one computer per twenty students. They hoped to have all schools fully renovated, staffed and equipped with computers by 2010-2011.

The Committee asked about additional costs for education and the 'donations' requested by schools. The delegation replied that education was completely free. There had been some cases of school principals trying to collect extra funds from the students, but these were being tracked down and stopped. They were not aware of children dropping out of school because they could not pay.

The Committee was concerned at the low completion rate. The delegation replied that this was at least in part a problem with the statistics. The introduction of the new students' database would help resolve these problems. Research was being done on the reasons for disparities in the drop out rate.

The Committee asked about the training of teachers and the monitoring of the quality of education. The delegation replied that there were one hundred training centres where teachers received one day of training each week and there were plans to introduce a new system of certification next year. This would start with language teachers and by 2013-2014 would cover all teachers. At the same time school principals were being trained to assess the quality of teaching.

The Committee asked about measures to address sexist stereotypes in education and the tendency for girls, especially in higher education, to select course in 'female' subjects. The delegation indicated that this was not an issue. In schools there were not many optional subjects and at a higher level there was not significant gender imbalance in choice of subject.

The Committee asked about minority languages in schools and the possible conflict of interest between minority rights and the use of education as a state building tool. The delegation mentioned that there were numerous language programmes and that minorities were increasingly willing to learn Georgian. The state had printed textbooks in the Abkhasian language and there were Sunday schools teaching Ossetian. There were also preparatory courses for children from minorities studying for national exams.

Special Protection Measures

IDPs and refugees

The Committee commended the new focus on integration for refugee and IDP children. It asked about access to education and integration programmes. The delegation mentioned the development of a national strategy with the assistance of the Special Representative of the Secretary General on IDPs and the action plans on access to education and awareness raising which would help implement it. IDPs were guaranteed equal access to education and had their own schools as well as the opportunity to attend regular schools. The Ministry of Education provided books (including textbooks in their native languages), but they acknowledged that further efforts were needed. There were extensive language programmes to ensure that these children could continue their education wherever they were. The school partnership programme ran exchanges between Georgian and minority schools. The delegation did not answer questions on improving living conditions for IDPs and the privatisation of the collective centres where many lived.

The delegation did not answer questions on the rights and access to services of asylum seeking or displaced children who did not qualify as refugees, measure to improve living conditions and services for Chechen refugees or the need to harmonise refugee laws with international standards.

Abkhasia and South Ossetia

The Committee was concerned that returning children might be deprived of both education and their identity by the prohibition of the Georgian language. The delegation noted that the state could not guarantee the protection of children in these areas and the separatist regime was not bound by the state's international commitments. The state was committed to arranging prompt return of IDPs in safety and dignity in accordance with the wishes of the

international community as expressed through the UN resolutions. However, the situation was complicated and deteriorating. There were no returnees in the Gali region, but children who had never left were denied their right to education in their mother tongue and were punished for speaking Georgian. The state urged the UN to establish an independent office in this region with sufficient staff to act effectively. The UN office in Abkhazia also needed strengthening and the government would welcome a report from them on the situation there. They had regular contact with this office, but the institutionalisation of that cooperation would be a step forward.

The provisional temporary administration in South Ossetia controlled the situation on the ground and was working on social issues and improving the situation of the people under its control. The state and international organisations were working with this administration on an economic rehabilitation programme covering both Georgian and separatist controlled areas.

Minorities

The delegation did not provide information on legal guarantees and monitoring of the rights of minorities, particularly non-discrimination, or data collection on minority issues.

Economic exploitation

The Committee asked about measures to address cultural attitudes which perceived labour as beneficial to the child. It asked about laws to limit working hours and ensure working children had access to education. The delegation mentioned the ratification of the ILO Conventions 138 and 182 and the prohibition of child labour in harmful conditions. A report last year had shown children were not working in conditions which inhibited their development or access to education.

Sexual exploitation and trafficking

The Committee noted the cooperation between the Ministry of the Interior and the Anti-Trafficking Unit of the Prosecutor's Office, but suggested that a national anti-trafficking body with responsibility for coordination and awareness raising might be preferable. It asked about data collection, complaints mechanisms for victims and rehabilitation services. It also asked about training and awareness raising and the definition of trafficking in national legislation. The delegation did not respond on these issues or measures undertaken to protect children from sexual exploitation and the failure to prohibit child sexual tourism in the new law on tourism. The Committee asked about the status of victims if they refused to cooperate with criminal proceedings. The delegation pointed out that the Council of Europe Convention on Trafficking requested the promotion of victim cooperation with prosecutions. If the victim cooperated with the prosecution they were protected by criminal procedures law and the special measures on trafficking. If they did not cooperate they still received the benefits for victims provided by the law on trafficking, but not the legal protections. The Committee expressed concern about the pressure this put on victims of trafficking.

Street children

The Committee noted the lack of data on and services for street children. It asked about measures to protect them from sexual exploitation and trafficking and to deal with the high levels of substance abuse. It asked about research on root causes and the situation of street children. The delegation replied that research was being done in collaboration with Save the Children and UNICEF in all the major towns on behaviour patterns, origins and problems of street children and the results would be used to develop services.

Juvenile justice

The Committee was concerned about the decision to lower the age of criminal responsibility to twelve. The delegation replied that this law would not, in fact, come into force on 1 July 2008, as the requirements that a separate penitentiary be built for younger children had not been fulfilled. The Committee asked whether the law would come into force as soon as that requirement had been fulfilled or whether it would be reviewed. The delegation replied that the allocation of funds for this would lead to further debate on the matter. The Committee hoped this decision would be formally reversed. In response to questions about the zero tolerance policy the delegation stated that this had improved the criminal system and been successful in addressing the increase in violent crime among juveniles.

The Committee asked about the structure and functioning of the juvenile justice system and the implementation of the Committee's previous recommendations on the subject. It appeared that there was no separate juvenile justice system, nor dedicated courts or judges. The delegation stressed their commitment to developing a functioning system, rather than just legislating amendments and mentioned efforts towards training judges and magistrates as the first step in the development of a completely separate juvenile justice system.

The Committee asked about the detention of juveniles with adults and measures to address maltreatment in prisons. The delegation explained that the Ministry of Justice supervised all detention facilities except temporary detention cells, which were run by the Ministry of the Interior. There was a medical examination of the prisoner when he entered detention and every time he was transfer to a new place of detention. The delegation described various measures taken to comply with the OPCAT including the establishment of the Public Defenders Office as a monitoring and complaints mechanism and visits to detention centres by the Council of Europe Committee on the Prevention of Torture and UN Special Procedures. It promised to provide the Committee with copies of the Anti-Torture Action Plan which included a zero tolerance policy on abuse by law enforcement personnel. It assured the Committee that juveniles were never detained with adults.

The Committee asked about alternatives to detention and prevention activities. The delegation replied that the aim was to increase non-custodial measures and rehabilitation of juvenile offenders but these systems were not yet in place. The Committee pointed out the economic benefits of developing relatively cheap diversionary measures and suggested requesting technical assistance from UNICEF in this area. The delegation assured the Committee that the Criminal Procedural Code guaranteed that deprivation of liberty was a measure of last resort and could only be used for very serious crimes for 12 to 14 year olds.

Concluding Remarks

Mr. Puras thanked the delegation for the constructive dialogue. There was clearly political will for improvement. Further efforts were particularly needed in strengthening cooperation, changing societal attitudes and focus the allocation of resources on priority areas.

Mr. Archil Gagnidze thanked the Committee for their interest and their questions. He reiterated the promise to provide further documents and written answers on some issues.