

HUMAN RIGHTS SITUATION
IN THE CONFLICT ZONES
OF GEORGIA

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CONTENTS

Introduction	119
<i>Shota Malashkhia</i>	
Human Rights Protection in Conflict Regions	121
<i>Zurab Bendianishvili</i>	
On the Role of Civil Society and International Organizations in the Improvement of the Human Rights Protection in the Conflict Regions	127
<i>Martina Bielawski</i>	
What is the Role of International Organizations in Ensuring Human Rights compliance in Georgia's Separatist Entities?	137
<i>Murman Chkhotua</i>	
On the Cases of Human Rights Violations in the Territory of Abkhazia	150
<i>Soso Tsirgvava</i>	
Educational Problems and Situation of Georgian Schools in the Conflict Zones (Gali District)	160
<i>Iulia Kharashvili</i>	
Impact of protracted Displacement on IDP Women and Children	165
<i>Rima Gelenava</i>	
Human Kidnapping in the Conflict Regions of Georgia	175
<i>Narine Berikashvili</i>	
Engaging State Actors and Non-State Actors in Landmine Ban	183
<i>Vakhtang Kolbaia</i>	
Conflict in Abkhazia – The Existing Situation and Problems	198

Development and progress of any country greatly depends on its human rights protection environment. This issue is especially relevant in conflict regions, where the Georgian authorities are unable to provide protection of its citizens' rights.

Our partners in the project Human Rights Protection in Georgia's Conflict Regions have obtained the relevant information, processed it, determined trends, and what is the most important, tried to find solutions for addressing this problem.

The given articles represent one of the first attempts to have a public discussion of this most problematical issue, with a view of further involvement of a broad circle of experts.

The people, who stayed in uncontrolled territories, especially those, who do not have the status of a "local citizen", are not able to use factual mechanisms of legal protection, whereas the international organizations do not have enough mandate to defend their rights.

The human rights protection situation in the conflict regions demands more firmness from the organizations working in Georgia in this field. In particular, it is necessary to develop and activate, with the participation of relevant legislative and executive structures, and the office of the Public Defender of Georgia, complex mechanisms of timely reception of information on human rights violations and responding to it, in Abkhazia and Tskhinvali region, and provide active involvement of UN and OSCE missions in Georgia, UN and OSCE Human Rights Office in Sokhumi, ICRC, and human rights protection oriented international local regional NGOs in these steps.

In addition, it would be effective to increase the scope of the acting priorities of the international organizations. In particular, along with rehabilitation

programmes it would be good to implement political and legal awareness raising programmes for the local population, which could foster the development of the public structures of the human rights protection and involvement of the respective public opinion.

The project showed us the necessity of conducting a fundamental research of this issue as well as the scarcity of the studies implemented so far. Because, human rights protection situation together with other arguments is clearly indicative of urgent necessity to resolve the conflict.

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HUMAN RIGHTS PROTECTION IN CONFLICT REGIONS

SHOTA MALASHKHIA

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Today everybody knows that the jurisdiction of the Georgian state does not cover its conflict regions. For this reason the state fails to secure human rights protection for people residing there. Despite efforts by the state authorities and international organizations aimed at improving the human rights situation in the conflict zones, there are still many cases of universal human rights being violated.

Proceeding from this, when domestic mechanisms fail to achieve the desired outcomes, we find that the European Court of Human Rights is the most appropriate means to redress the rights of citizens residing in the conflict zones.

With Georgia's admission to the Council of Europe in April of 1999 and ratification of the European Convention of Human Rights, Georgia recognized the jurisdiction of the European Court, which is a guarantor of rights and freedoms enshrined in the Convention.

Today it can be stated firmly that the European Convention of Human Rights is the principal document in the field of human rights protection. The Convention not only addresses fundamental civil and political rights, but has also established a mechanism for the protection of these rights in the form of the European Court.

Since its ratification the European Convention has become an integral part of Georgian legislation. According to Article 6(2) of the Constitution of Georgia and Article 19(1) of the Georgian law "On Normative Acts", the Convention has supreme legal force over domestic normative acts and, in the hierarchical list of normative acts, is placed after the Constitution of Georgia and the Constitutional Agreement.

Ratification of the Convention is especially important for states that have problems with territorial integrity, where the states fail to protect human rights. Georgia is among such countries.

At OSCE gatherings member states have repeatedly expressed their concern in

regard to the “ethnic cleansing” of population, especially of ethnic Georgians. The massive expulsion of Georgians and casualties among innocent civilians was the subject of dismay at those forums.¹

Certain cases from the Case-law of the European Court of Human Rights and argumentation of those cases may be used for the protection of our citizens’ interests, for example: *Loizidu v. Turkey*²; *Ilasku and others v. Moldova and Russia*³; *Chechen residents v. Russia and Cyprus v. Turkey*.⁴

Through analysing and generalizing such cases, the Temporary Commission on Territorial Integrity issues of the Parliament of Georgia has prepared the following draft-resolutions:

1. “On the Creation of a State Commission for Learning the Damage to the Country in the Course of Conflicts (Abkhazia, former South Ossetian Autonomous District)”;

2. “On Announcing an international tender to select a legal firm to prepare cases to be submitted to the European Court of Human Rights regarding the compensation of damage to the country in the course of conflicts (Abkhazia, former South Ossetian Autonomous District)”.

The aforementioned draft-resolutions were unanimously adopted by the Parliament of Georgia on 17 March 2006.

Ratification of the European Convention of Human Rights enables Georgia to submit the application to the Strasbourg Court with the aim to redress the rights of any citizen under its jurisdiction. However, against the background of the current situation, where the violation of human rights in the conflict regions has a regular and large-scale character, we deem the systemic, unified approach to this issue through the implementation of the aforementioned resolutions more appropriate. Such an approach is also reasonable since the process of submitting an application to the Strasbourg Court is not an easy procedure and requires accurate compliance with certain conditions. We would like to draw your attention to some of them:

¹ OSCE Budapest Resolution of 6 December 1994; Declaration of the OSCE Lisbon Summit of 3 December 1996; Declaration of OSCE Istanbul Summit of 19 November 1999.

² *Loizidu v. Turkey*, 23 March 1995.

³ *Ilasku and others v. Moldova and Russia*, 8 July 2004.

⁴ *Cyprus v. Turkey*, 10 May 2001.

1. The right to submit the application to the European Court may emerge if the rights defined in the Convention or in its Protocols are violated – **ratione materiae**.

If we consider the rights recognized in the European Convention against the current situation in our conflict regions, we will find that almost all kinds of rights are systematically violated:

Right to life. Since the day that the conflicts erupted, the fundamental right – right to life – has been violated in Georgia. The facts of murder remain without a reaction and there is no effective investigation of such cases.

Prohibition of torture. Inhuman and degrading treatment against persons living in the conflict zone is common practice. Discrimination on ethnic grounds often violates human dignity. Such cases are evident in daily life (in the street, at schools, in public transport etc.), as well as at the places of preliminary detention and in penitentiary institutions.

Prohibition of slavery and forced Labour. Violation of this right of the Convention can be found in every corner of the conflict regions. There are several facts proving that the local population is under physical and psychological pressure, they are forced to work without remuneration and after such work every kind of product is taken away.

Right to liberty and security. Violation of the right to liberty is a normal case in the conflict zones. Deprivation of personal liberty without legal ground is frequently exercised there.

Right to a fair trial. Implementation of this right depends significantly on the respect of human rights and freedoms in general. As it is known, the citizens of Abkhazia and Tskhinvali regions are deprived from access to independent and impartial courts.

No punishment without law. Implementation of this right is directly linked with the access to a fair trial. Our citizens who are residing in the conflict zones often become the victims of the “amateur performance” of judicial authorities there. Criminal prosecution and conviction without any legal basis is also in practice in the conflict zones.

Right to respect for private and family life. Taking into account the entire aforementioned, one may not be surprised that the violation of the right to respect for private and family life is a normal practice in the given regions.

Freedom of thought, conscience and religion. Our citizens are deprived the possibility to express in any form their religion and belief – Georgian Orthodox churches are devastated and divine services in the Georgian language is prohibited.

Freedom of expression. Today in the conflict regions the violation of this right of the Convention is most visible. Local inhabitants have no right to express and disseminate their views and opinions. Often they restrain themselves from stating their views, since it might end with revenge. There are many examples of this happening.

Freedom of assembly and association. We think there is no need to make comments on the violation of this right. As the people living in the conflict regions are deprived of almost all the fundamental rights, the establishment of any kind of association is beyond imagination.

Protection of property. Protocol 1 to the European Convention of Human Rights provides the right to protect property – “every natural or legal person is entitled to the peaceful enjoyment of his possessions”. The violation of this right has more or less touched every individual residing in the conflict zone. So far they have no access to their belongings, which is a result of different factors – most of them fail to return home, the property of others does not exist any more (given to arson, or other destruction), and some of them lost property due to unlawful expropriation.

Right to Education. Protocol 1 strengthens the only social right – the right to education – enshrined in the Convention. Unfortunately the Abkhaz population is deprived from this right too, as the Georgian language is not a language of instruction and the school directors and teachers are ordered to use Russian language instead, otherwise they are threatened with schools being closed.

2. Another condition for submitting the case to the European Court is if the rights enshrined in the Convention and in its Protocols shall be violated on the territory of one of the Contracting Parties. This means that a right shall be violated on the territory of the state which ratified the European Convention of Human Rights. However, when considering the cases – *Loizidu v. Turkey*⁵, *Ilasku and others v.*

⁵ *Loizidu v. Turkey*, 23 March 1995.

*Moldova and Russia*⁶ – the Strasbourg Court referred that the jurisdiction of the state is not limited only with the territory of the Contracting State, and the state is also held responsible for the territories under its de facto control. Responsibility for the respect of human rights on such territories comes to the state, which controls it.

Proceeding from the aforementioned, the Russian Federation may be held responsible for violations in Abkhazia and the Tskhinvali region, though these regions are not part of Russia's territory.

3. According to the common rule, an application consisting of incidents that took place before the ratification of the Convention is not accepted by the Court. In other words, any Contracting State takes obligations under the Convention after its signing and ratification. From this very moment the state is responsible for violations of human rights.

In the case *Loizidu v. Turkey*⁷, the Court decided that a violation of a continued nature comes under the scope of the European Court if such violations have been repeated by the responsible state after the ratification of the Convention. This means that the European Court may consider the cases of violation committed before ratification of the Convention, if such violations still are in practice after the ratification of the Convention by the given state.

Based on the abovementioned condition, it can be said that Russia can be held responsible for those violations that took place in the conflict regions before Russia's affiliation to the European Convention, i.e. before 1998, and such violations still are in progress.

4. Before submitting the application, all domestic legal remedies shall be exhausted. These remedies must be effective, i.e. their application shall be real, followed with efficient results. The national courts represent such remedies. As for the administrative authorities, they are not considered effective, as such.

The European Convention also provides the possibility to consider cases of interstate nature and therefore the case *Cyprus v. Turkey*⁸ is also interesting for us.

⁶ *Ilasku and others v. Moldova and Russia*, 8 July 2004.

⁷ *Loizidu v. Turkey*, 23 March 1995.

⁸ *Cyprus v. Turkey*, 23 March 1995.

We believe that the issue of the execution of decisions made by the European Court should also be reviewed briefly.

The implementation of fundamental rights and freedoms enshrined in the European Convention is secured not only by the European Court, but also by the Committee of Ministers. Under the Convention the Committee of Ministers shall supervise the execution of the final judgement of the Court.

The judgement of the Court is of a declarative nature, i.e. it only states whether there was a violation or not. When the Court finds that there has been a violation of the Convention, most often the Court affords just satisfaction, or the right for the injured party to receive compensation. In such cases the Committee of Ministers observes the payment of pecuniary compensation made by the states.

The authority of the Committee of Ministers is not limited to controlling the pecuniary compensation. In addition to this task the Committee of Ministers may also decide measures of individual and general character aimed at executing the judgement.

The individual measures aim to put an end to the violations and eradicate the consequences, while the general legal measures aim at preventing future violations.

The Execution of the Court's judgement is often associated with serious difficulties. Nevertheless, the Committee of Ministers is successful in exercising this function thus providing a considerable endowment to the effectiveness of the Convention.

Finally, taking into account all the aforementioned, we reiterate that we find the Strasbourg Court of Human Rights as the most effective and efficient mean to protect the rights of citizens living in the conflict regions of Georgia. We welcome the support of the President of Georgia in this endeavour, as well as of the Government. The work in this direction is already in progress.

ON THE ROLE OF THE CIVIL SOCIETY AND INTERNATIONAL ORGANIZATIONS IN THE IMPROVEMENT OF HUMAN RIGHTS PROTECTION ISSUES IN THE CONFLICT REGIONS

ZURAB BENDIANISHVILI

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Georgia has to address quite a number of problems on the path of restoration of her centuries-old statehood and become a full member of the modern European family.

This conference is pertaining to the most painful problem of all – conflicts in Abkhazia and in the former South Ossetian autonomous region, where severe and massive violations of human rights take place. Regarding these issues, unfortunately, no tangible results have been achieved in spite of the longstanding common efforts of the Georgian government and the international community.

Peacekeeping operations, exertion of the international organizations and activities of the civil sector are the mechanisms that should contribute to the improvement of human rights protection issues in the conflict zones of Georgia.

I would like to remind the conference participants of the main agreements and formats, that still serve as foundations for peacekeeping operations: neither these agreements and formats, nor the efforts of the UN, OSCE and the leading countries of the world could have moved forward the peaceful process due to some reasons, that the state of affairs have, unfortunately, revealed. They failed to regulate conflicts politically and legally, failed to restore the territorial integrity of the country and to establish necessary conditions for the secure return of the refuges and IDPs to their permanent residence, therefore they failed the subsequent restoration of the Georgian jurisdiction in Abkhazia and in the former South Ossetian autonomous region.

With regards to the Abkhazian conflict it was a quadripartite agreement signed in Moscow on April 4, 1994 “on voluntary return of refugees and displaced persons”, and another one, signed in Moscow on May 14, 1994 “on a Cease-Fire and Separation of Forces”.

Based on the above-mentioned agreements and on the agreements signed under the aegis of the UN in Geneva on December 1, 1993 and on January 13-14, 1994, the Georgian government came to an unprecedented decision - they appealed to the UN to allow the CIS "joint" forces to use only Russian military contingent for peacekeeping operations in Abkhazia. This particular appeal was conditioned by the absence of any other alternatives for peaceful settlement of the conflict at that particular moment. The last twelve years have clearly showed that the CIS Russian peacekeeping forces failed to fulfill the undertaken obligation to provide the necessary and secure return of the refugees and IDPs. In fact, they just have fixed an artificial border between the territory controlled by the separatists and the rest of Georgia. About 2000 peaceful local residents have been killed or died from injuries in Gali district during the period of presence of the peacekeeping forces in the conflict zone. Gross violation of human rights and freedoms has been going on there.

I would like to draw your attention to these violations in separate trends:

1. General issues and security. The disregard of the provisions of the Moscow quadripartite agreement of April 4, 1994 "on voluntary return of refugees and displaced persons" left the refugee return issue unsolved, including the return to Gali region, which is the main source of all other troubles.

The Gali region, where the majority of population are Georgians and to where, one way or another, from 20 to 60 thousand refugees have already returned, remains to be the epicentre of the constant clashes. Up to the date, even basic security has not been provided to the local population. Murders, robberies, burglaries, illegal arrests, kidnappings and hostage takings are common there. All these are greatly conditioned not only by the incapability of the Abkhaz administration and the law-enforcement agencies to maintain the order, but furthermore, by the direct involvement of the representatives of the law-enforcement in different criminal acts. Illegal arrests of the young conscripts for forcing them to join the Abkhaz army became more frequent.

The Gali district residents are being threatened by expatriation unless they turn down the Georgian citizenship and accept a so-called Abkhazian passport.

2. Absence of the right to a fair trial. Besides the fact that the existing demographic balance in the region is disregarded when recruiting people to the law enforcement bodies and mainly ethnic Abkhazs, many of them being transferred from

other regions of Abkhazia, are appointed to various positions, as managers and regular staff, the administration of justice remains undeveloped. The local population of the Gali district cannot reach out for any legal assistance and protection of the judiciary. Practically they are left unprotected against Abkhaz criminals and a willful behavior of the law enforcement bodies. These explains the numerous violations of human rights and the reluctance of the Abkhaz *de-facto* government concerning opening of the UN Sokhumi Human Rights Head Office's regional branch in Gali and introducing the international police component, that have been repeatedly demanded by the international organizations, but still is left unaddressed.

- 3. Educational problems.** The absolute majority of the population is expressing its protest against the compulsory education of Georgian children in Russian and Abkhaz languages and not in their mother tongue. Only in some schools, teachers dare, at their own risk, to teach children in Georgian language in secrecy. It is forbidden to teach Georgian history and geography in schools. In fact, the Russification policy is pursued in Abkhazian educational system: in Sokhumi and Gudauta, after the fourth grade, they teach only by Russian textbooks. The material and technical basis of the schools are in extremely grave condition.
- 4. Social Security and Health Care.** The Social Security System is ruined. The greater part of the population is unemployed, people do not get pensions. Disabled and socially deprived people are not protected. There is a deficiency of medical professional personnel and the patients, who require serious medical intervention, have to go to Zugdidi or to Tbilisi for treatment. Due to the shortage of vehicles and the increased number of the highway robbery incidents by local criminals on Gali-Zugdidi route, transportation of the patients across the Enguri River, is local extremely complicated. As you know, at present the traffic on the Enguri Bridge has been put on hold.
- 5. Civil Society.** The civil society, in fact, is making its first steps, the population is turned away from the civil life, and there are no political parties in the region.
- 6. Restrictions on religious freedom.** There is no practicing church in the region and the local population have to travel to the Ilori village in Ochamchira district or Zugdidi for any church ceremonies (christenings, confessions and etc).
- 7. Militarization of Abkhazia.** The militarization of Abkhazia, supported by Russians,

is aggravating the situation in the conflict zone. Lately, the military maneuvers are becoming more frequent there, including the restricted-weapons zone. The peacekeeping forces allow the Abkhaz militaries and law enforcement to bring the weapons prohibited by the agreement into the mentioned zone. The population of Gali district has been forced to dig trenches. The international monitoring of the military base in Gudauta has not been implemented so far and thereby raising doubts on the fulfillment of this paragraph of the Istanbul Agreement.

8. Violation of the state, public, refugees and IDPs' property rights in Abkhazia.

The violation of the state, public, refugee and IDPs property rights in Abkhazia continues without any agreement, and actually against the Georgian Government's will. Explicit violation of the housing and property rights of the refugees and IDPs became massive; their property is being sold mostly to the Russian citizens. By doing this, the Abkhaz side is manifesting the disruption of the Memorandum of Understanding "On Cease Fire and Humanitarian Aspects" signed by the Georgian and Abkhaz sides in Geneva at their first meeting under the UN aegis on December 1, 1993. According to this Memorandum, the Abkhaz side had clearly expressed their readiness to make restitution of the property to the refugees on their return, i.e. their apartments, houses, plots of land and other property.

9. Activities of Russian Peacekeeping Forces in the Conflict Zone. Cases of breach of the non-intervention policy by the representatives of the peacekeeping forces, supported by the Sokhumi regime, shutting one eye on the violations of the rights of the Georgian population by the law enforcement authorities, and, in some cases, even gross violation of the rights of the Georgian population by the peacekeepers themselves, have become quite frequent. The above mentioned cases, the recent deterioration of the relations between Georgia and Russia and the unprecedented measures taken against the ethnic Georgians (including tens of thousands of refugees from Abkhazia) in the Russian Federation, leave no doubt to anybody that the Russian peacekeeping forces can not stay in the conflict zone any longer. To justify the actions of the peacekeepers and to prove their efficiency, the Russian side appeals to the fact that during the period of stay of these forces 112 peacekeepers have been killed, at the same time overlooking the fact, that the majority of these servicemen died not in the course of peacekeeping operations, but as a result of the violation of the military discipline and in the course of other

various accidents. The peacekeepers commanders are trying not to encourage much attention to these facts, because during their stay about 2000 innocent civilians have been killed in the conflict zone.

Hard conditions in Gali district were described in the report of the UN and OSCE joint monitoring action that was carried out on November 20-24, 2000. Unfortunately, most of the recommendations of the joint evaluation mission stay ignored and have not been executed by the Abkhaz side. Among those is the opening of the Sokhumi Human Rights Office branch in Gali district. Notwithstanding the fact that the necessity of opening this branch is being permanently noted by the UN Security Council's resolutions for the last 3-4 years, the Abkhaz side is categorically against the opening of the office, probably, trying to keep the international community in the informational vacuum regarding the situation in Gali district.

Here it should also be mentioned, that the UN Promoting Respect for Human Rights office (the UN Human Rights office) has been functioning in Sokhumi since October 22, 1996 upon the request of the Georgian side and by the UN efforts, in order to monitor human rights protection issues in Abkhazia, but failed to provide necessary monitoring on the whole territory of Abkhazia, especially in Gali district, with mainly Georgian population.

Reasoning from the above, we think, that the time has come for considerable changes in the ongoing peacekeeping operations. We support the introduction of the international civil police component and the establishment of the joint Georgian-Abkhaz administration under the international auspices.

We strongly believe, that for the settlement of the Abkhaz conflict more active involvement of the international community and, in the first place, of the UN and OSCE, is necessary. We understand that currently the UN is busy carrying out a number of other peacekeeping operations. Nevertheless, we hope, that the UN will be able to find necessary resources to take active part in resolution of the Abkhaz conflict. In order to achieve the implementation of more successful peacekeeping policy in our region the UN should have a closer cooperation with the OSCE and other regional organizations, and the CIS as well. We think that, for the sake of the conflict resolution, it would be very appropriate to use, in the first place, as much as possible the OSCE resources for carrying out an international monitoring over human rights issues.

Now, let us refer to the peacekeeping operation in the former South Ossetian autonomous region. It is based on the Agreements signed on June 10, 1992 in Kazbegi and on June 2, 1992 in Dagomis (Sochi) by the leaders of Georgia and the Russian Federation. To your information, pursuant the mentioned agreements and for the stabilization of the situation in the conflict zone a mixed monitoring commission, consisting of Georgian, Russian and Ossetian peacekeepers, has been formed. These commission remains to be the sole official mechanism for the conflict resolution until the date. From our side, on many occasions, we have spoken out about the necessity of changing the existing format, because the Georgian side is represented in minority there, and that makes it practically impossible to reach any effective decision on the settlement of the conflicts. The situation is aggravated by the fact that under this format the OSCE has no right to vote, thereby strengthening the dominating role of Russia.

We think, that at present, in order to take the strain off the critical situation, it is necessary first to shift the negotiations to the political level and to activate the international component, then to change the peacekeeping operations format, especially by strengthening the role of the OSCE.

The participation of the European Union in the implementation of the economic rehabilitation programme is appreciated. We believe that nowadays, the feasibility of the strengthening of the OSCE's role is motivated by its representative mandate and active participation in the process of conflict settlements during the last years.

To enhance the active role of the OSCE it is necessary:

- to strengthen the role of the OSCE in the process of activation of the political negotiations with the authorized representatives as per the Boden Document;
- OSCE to carry out active monitoring on the entire territory of the former South Ossetian autonomous region;
- OSCE to conduct monitoring of the Georgian-Russian border, on the so-called South Ossetian sector, and of the Rocki Tunnel, in particular, to stop crossing of the smuggled cargo, illegal ammunition and the armed men. It is possible to circulate a Letter of Appeal among the OSCE member countries to conduct the monitoring operation in consideration of the borders, customs and police components to control people, cargo and transport crossing and to establish the efficient monitoring mechanism;

- under the umbrella of the OSCE to carry out demilitarization on the territory of the entire South Ossetia; first to withdraw the heavy armament, or lay it up, or destroy it and then, disband the illegal paramilitary formations;
- under the OSCE to carry out the decriminalization on the territory of the entire South Ossetia and restore the law and order through the execution of the plan drawn up by Strategic Police Unit of the OSCE Secretariat. In order to carry out the joint patrolling according to this plan, it is necessary to activate the joint Georgian-Ossetian police subdivisions.

In order to conduct the efficient execution of the above-mentioned steps, we believe it is necessary to increase the contingent of the OSCE observers. We also think that for the political settlement of the conflict, a significant attention should be directed to the rehabilitation and development of the regions, victimized in the course of the conflict, and the participation of the international organizations in this programme should be increased. Here we have in mind the former South Ossetian autonomous region alongside with Abkhazia.

We would like to inform you, that at the end of the year 2000, Russia introduced a visa regime for the Georgian citizens, but retained the visa free entry for the citizens of the separatist regions of Abkhazia and Tshinvali/South Ossetia, hereby breaching the elementary international legal norms. To this day, they have been ignoring the protests of the Georgian side against this discriminating act. Moreover, this was topped with the gross practice of issuing the Russian passports and, accordingly, easily granting the Russian citizenship to the population of Abkhazia and Tshinvali region; also, appointing Russian citizens to the managerial positions, especially in the enforcement security and defense agencies. I hope you will agree with me that this fact, that was tagged even by the Russian mass media as “the legal expansion”, does not serve the purpose of peaceful settlement of the conflicts.

Again, we insist that the peaceful settlement of the conflicts in Abkhazia and in the former South Ossetian autonomous region is the Georgian government’s sole choice. With regards to this, we would like, once again, to express our gratitude to the UN and to the group of the General Secretary’s friends, and to the OSCE for their input in the peacekeeping process. But unfortunately, as I have already mentioned, nowadays, the Abkhaz and the South Ossetian sides have declared their categorical refusal to consider the document on the determination of their

political status within the Georgian state. I have to announce once again, that this fact is actually denying the longstanding work that has been carried out by the UN and the Group of Friends, who spent so much of their time and energy. Hence, we have to admit, that without proper cardinal changes, the successful progress in the peaceful settlement in the conflict zones is seriously doubtful.

We hope that with the help of the international organizations, including, in the first place, the UN and the OSCE, it could be possible to overcome the unconstructive approach of the Abkhaz and Ossetian sides and to realize these proposals in practice.

Here, it would be appropriate to make a good use of the possibilities of the OSCE mechanisms to restore the atmosphere of trust and to reinstate the traditional meetings between the Georgian and Abkhaz sides under the UN umbrella and in the framework of the Geneva Coordination Committee. To your information, three of such meetings took place in: Athens, October 16-18 1998; Istanbul, June 7-9, 1999; and Yalta, March 15-16, 2001, where the joint declarations and an action programme on the consolidation of mutual trust were adopted.

There is no doubt, that the role of public diplomacy in the process of trust consolidation between the parties cannot be overestimated. We are far from thinking that the public diplomacy could be a panacea and it would be able to solve this extremely hard chain of problems that have not been solved on the governmental level in 10 years. However, at the same time, it is obvious, that it could successfully serve as some kind of bridge between the societies that have been torn apart in the course of the conflict. It could restore personal and family ties, wipe out alienation, and later, could assist the compromise between the confronted sides and further settlement of the conflict.

Non-governmental sector and free media are the most essential elements of democracy, but building democracy in the conflict zones in peaceful way is the key guarantee for their true resolution.

A serious work in the establishment of the civil society in the conflict regions has been carried out. But nowadays, we should objectively consider the privileged part of the Abkhaz and Ossetian non-governmental organizations as the supplements to the separatist regimes. On the one hand, they enjoy international interest and financial support, and on the other hand, they, in fact, execute the instructions

of these regimes and are their messengers on the international level.

We believe that the development of economic relations with Abkhazia and South Ossetia will be the best way to consolidate trust between the sides. It is necessary to discover mutual interests and try to work them out together.

The state of affairs of the human rights issues, alongside with other factors, in the conflict zones, essentially depend on the position of one of the primary subjects, the Russian Federation, that is involved in the process of conflict settlement. Unfortunately, the state policy of the Russian Federation in Abkhazia and Tskhinvali remains inconsequent.

On the one hand, Russia officially recognizes Georgia's territorial integrity within her internationally recognized borders, and from the other hand, it is reserving monopoly on the peacekeeping forces, contributes to the dragging of the negotiation process and tries to pull Abkhazia and Tskhinvali out of the information space. Russia herself is breaching the famous CIS states leaders Summit decisions. Without Georgia's consent, mediates in various economic and financial agreements with separatist regimes; assists them economically, financially and militarily; opens railway and sea traffic; takes part in the ongoing illegal privatization process in Abkhazia; permits visa free entry regime on the Abkhaz sector of the state Georgian-Russian border; grants the Russian Federation citizenship in large numbers to the Georgian citizens, residing in Abkhazia; delays the execution of the Russian-Georgian agreement on the withdrawal of the military base from Gudauta, adopted at the OSCE states leaders summit on November 17-19, 1999 in Istanbul,; unilaterally, behind Georgia's back, controls the Abkhaz sector of the state Georgian-Russian border together with the armed forces of the separatist regimes, and practically disrupts the internationally recognized borders between the two countries. The above mentioned is further topped with the Russia's economic sanctions, that have been condemned by Georgia and by the civilized world, and with an unprecedented actions against the ethnic Georgians, residing in Russia.

We consider the Russia's position on the so-called referendum, conducted in the former South Ossetian autonomous region on November 12, 2006 as inadequate: it has clearly revealed the one-sided position of the Ministry of Foreign Affairs of the Russian Federation and of the State Duma. Moreover, this has been happening while neither Georgian government nor the international community recognized

the elections and referendums, conducted in Abkhazia and the former South Ossetian autonomous region.

Against such a background, it should not be a surprise for Russia, that its politics in Abkhazia and in the former South Ossetian autonomous region are considered by the Georgian side, in fact, as an attempt of annexation of the integral parts of Georgia .

In spite of everything said above, we are aware of Russia's interests in the South Caucasus, particularly in Abkhazia, its possibilities and potential in the settlement of the conflicts: therefore, we are ready to consider these interests to the maximum, which is not going beyond the territorial integrity of Georgia and its sovereignty, is not interfering in the Georgian people's, Georgian population's will to live independently, as the full member of the Euro-Atlantic space, in the democratic and reinstated Georgia. This decision is Georgia's historical choice that has been made by the Georgian people and therefore, cannot be a subject of further political debates.

The peaceful settlement of the conflicts in Abkhazia and in the former South Ossetian autonomous region is still the sole choice for Georgia. Therefore, we would like to express once again our gratitude to the UN and to the group of friends of the General Secretary, and to the OSCE for their input in the peace process. But, as I have already mentioned before, unfortunately nowadays, the Abkhaz and the South Ossetian sides have declared their categorical refusal to consider the document on the determination of their political status within the Georgian state. Once again, I have to announce, that this fact is actually denying the longstanding work, that has been carried out by the UN and the Group of Friends, who spent so much of their time and energy. Hence, we have to admit, that without proper cardinal changes, the successful progress in the peaceful settlement in the conflict zones is seriously doubtful.

We hope, that with the help of the international organizations, the UN and the OSCE in the first place, and active participation of the civil sector, it might be possible to improve the human rights situation, strengthen trust between the sides, secure a decent return of the refugees and IDPs to their homes and achieve a full-scale resolution of the conflict.

WHAT IS THE ROLE OF INTERNATIONAL ORGANIZATIONS IN ENSURING HUMAN RIGHTS COMPLIANCE IN GEORGIA'S SEPARATIST ENTITIES?

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1. INTRODUCTION

Not even the most fervent opponents of Abkhazia's and South Ossetia's current *de facto* independence from Georgia would raise an eyebrow when these separatist entities are accused of human rights violations. In fact, this language has already become so common that a section on the human rights situation in Abkhazia is included in each report of the UN Secretary General.

This is remarkable, as traditionally human rights have been understood as “fundamental guarantees and standards of legal protection for individuals against the power, and particularly, against the abuse of power, of **states**”¹ (*emphasis added*). In the case of Georgia, however, the state has lost its effective power in Abkhazia and South Ossetia to the *de facto* authorities administering these territories. Demanding human rights compliance from the separatists thus implies, to a certain extent, a demand that they take over some of Georgia's obligations in ensuring that each individual has access to his or her universally guaranteed human rights.

It is evident that international organizations engaging in human rights protection in Georgia walk into a legal-political minefield as soon as they attempt to extend their activities to Abkhazia and South Ossetia. Demanding human rights compliance amounts to an imposition of international obligations to a non-international entity. Denying human rights protection leaves the population in a legal black hole and deprives them of their inherent rights.

¹ Reinisch, A. (2005): The Changing International Legal Framework for Dealing with Non-State Actors, in: P. Alston: *Non-State Actors and Human Rights*, Oxford, New York, Oxford University Press: 37-92, at 37/38. See also Donnelly, J. (2003). *Universal Human Rights in Theory and Practice*, Ithaca, Cornell University Press, at 34.

The following article will shed light on the difficult role of international organizations torn between non-recognition and the fundamental protection of rights. Initially, the obligations of non-state actors will be briefly discussed. Before turning to international organizations, the most pressing human rights problems in the conflict zones will be mentioned. The main part of the article deals with the current strategies of international organizations that are focusing on capacity-building in the civil-society sector. Finally, the current strategy will be evaluated and prospects for new mechanisms will be examined.

2. HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS

The German lawyer and scholar Prof. Jochen Frowein has pointed out that entities claiming to be states despite non-recognition will be treated as partial subjects of international law, if they in fact govern a specific territory.² But it has been rightly noted that determining whether an entity is a subject of international law is largely an academic exercise that is not necessarily endorsed by practice.³ The European Court for Human Rights, for example, has attributed human rights violations in Northern Cyprus and Transdnistria to the respective protector states Turkey and Russia, thus avoiding any partial recognition of the separatist entities.⁴

The problem with such an approach is that while it is formally correct, it does not effectively do justice to the victims of the human rights violations. Despite the crucial role of protector states in sustaining separatist regimes, direct control over people and territory is exercised through local authorities. In contrast to the protector state, which denies its direct involvement, local authorities claim to be responsible for what is taking place within their self-declared 'state'.

² Frowein, J. A. (1992): De Facto Regime in: R. Bernhardt (ed.): *Encyclopedia of Public International Law*, North- Holland, Amsterdam, London, New York, Tokio, Elsevier Science Publishers, Vol. 1: p.966-968, at 966.

³ Clapham, A. (2006): *Human Rights Obligations of Non-State Actors*, Oxford, New York, Oxford University Press: at 70-71.

⁴ *Loizidou v. Turkey* (Application No.25781/94), ECtHR, Judgment (Merits) of 18 Dec. 1996, *Cyprus v. Turkey* (Application No. 25781/94), ECtHR, Judgment of 10 May 2001, *Case of Ilascu and Others v Moldova and Russia* (Application No. 48787/99), ECtHR, Judgment of 8 July 2004.

Can we identify the existence of a legal framework that obliges non-state actors to comply with human rights laws? While the question of human rights obligations of non-state actors is extremely topical at the moment, it is mostly articulated in connection with trans-national corporations and international organizations.⁵ The obligations of an insurgent group within a state are merely regulated within the framework of international humanitarian law⁶.

The latter, however, does not seem to be a good guide for frozen conflict situations, like those in Georgia where armed conflict ceased over a decade ago.

Individuals committing gross and systematic human rights violations can be punished under international criminal law; however, this does not reflect the current reality in South Ossetia and Abkhazia. While there are certain infringements, they would not qualify for the high standards set by the universal jurisdiction of international criminal law.

International human rights treaties only bind signatory states and therefore are not applicable to the regimes in Sukhumi and Tskhinvali. But what if a norm of international customary law were to emerge stating that human rights obligations bind those who effectively control a territory?

As the Court decisions mentioned above demonstrate, such an interpretation goes against common sense. Nevertheless, the promotion of human rights activities in the separatist territories by international organizations suggest that such an understanding is on the rise.

In fact, international organizations engaged in such activities move within a zone of emerging law. The challenge of these activities is to create incentive structures for the unrecognized governments of Abkhazia and South Ossetia to take positive action and show the necessary restraint with a view to human rights. Without any doubt the primary concern of the two regimes is to stay in power. Therefore it is hard to imagine that they will concede to the demands of international organizations without receiving anything in return. Against the background of prolonged non-recognition, the separatists have hardly acquired a sense of obligation towards the international community.

⁵ see for example Alston, P. (2005)(ed.): *Non-State Actors and Human Rights*, Oxford, New York, Oxford University Press; Clapham, A. op cit. 4).

⁶ Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-international Armed Conflicts (Protocol II) of 8 June 1977.

3. SPECIFIC HUMAN RIGHTS PROBLEMS IN ABKHAZIA AND SOUTH OSSETIA

Human rights violations are not a specific feature of unrecognised de facto regimes. They occur everywhere. The Caucasus region as a whole has been ranked between partly free and not free when it comes to political rights and civil liberties⁷. When looking at Abkhazia and South Ossetia it is important to understand which problems are specific to their particular status and which problems should be understood in the context of the overall human rights situation in the Caucasus. While all rights need to be protected equally, this article focuses on issues peculiar to the separatist entities.

Two problems stand out in the separatist territories and should receive the primary attention of international organizations. These are first, the discrimination against ethnic Georgians, and second, the overall failure of the legal system.

3.1. ETHNIC GEORGIANS IN ABKHAZIA AND SOUTH OSSETIA

Ethnic Georgians who did not leave the separatist territories face everyday discrimination. According to the 2003 census conducted by the Abkhaz authorities about 40 443 Georgians live in Abkhazia, mostly in the Gali region. Georgians from Georgia proper travel frequently to the Gali region to visit relatives. About 14 000 Georgians have remained in South Ossetia in a handful of Georgian villages. Until the flare-up of hostilities in August 2004, travel to South Ossetia was largely unrestricted for Georgians.

Due to the character of these unresolved conflicts, these travellers have in the past frequently come under the suspicion of being involved with “terrorism” and were detained by the separatist authorities. As the Mamasakhlisi case, regarding Georgian detained in Abkhazia for charges of “terrorism”, shows, the Georgian authorities are not able to offer their citizens in detention any support. Another frequent and conflict-specific context for arbitrary detention is the allegedly illegal crossing of the administrative border by Georgians who have not obtained permission from the separatists prior to their journey.

⁷ see Freedom House Index 2006, www.freedomhouse.com

For permanent Georgian residents the realization of language rights, property rights and access to public jobs are major concerns. Schools teaching in Georgian are rejected by the separatists and regularly threatened with closure because of their use of textbooks originating in Georgia. Not surprisingly these books picture Georgia in its internationally recognized borders and produce standard accounts of Georgian history.

While in the Gali region the everyday use of Georgian is common, there are anecdotal reports of physical violence against individuals speaking publicly in Georgian in other parts of Abkhazia.

The restitution of property to Georgians that fled South Ossetia and Abkhazia during the wars is barely moving forward. Considering that demography is a core concern in the separatist republics, withholding property is seen as one way of preventing the return of IDPs.

Furthermore, Georgians are denied access to a number of public services. They are usually not accepted into law enforcement agencies⁸ and public administration. An International Crisis Group report observes that no lawsuit of a Georgian against an Abkhazian has been won since the war.⁹ The legislation systematically disadvantages Georgians, as it is only applicable to “citizens”. Georgian’s who would like to obtain Abkhaz citizenship, however, are forced to surrender their Georgian citizenship first. It is difficult to imagine that a Georgian would exchange his legal documents for internationally unrecognised Abkhazian citizenship.

The issues at stake regarding ethnic Georgians are especially sensitive, as they relate to the main bone of contention – sovereignty and statehood. For example, the offence of “illegal crossing” of the frontier directly relates to Abkhazia’s claim to be a fully-fledged state. It is equally unacceptable for an entity claiming independence for (Georgian) schools to use schoolbooks that picture Abkhazia as a part of Georgia. If international organizations want to become active on these issues they inevitably advance to the core area of conflict.

⁸ International Crisis Group: *Abkhazia Today*, Europe Report No.176 of 15 September 2006, at 11.

⁹ *ibid.*

3.2. ABSENCE OF RULE OF LAW

Beyond ethnic discrimination, the major problems of the absence of a genuine rule of law in South Ossetia and Abkhazia can largely be attributed to their precarious status. It has been shown that the breakaway states of the Caucasus are not lawless places.¹⁰ Both have largely adopted Russian legislation and proved successful in ensuring general peace and order.

Nevertheless, the legal institutions are vulnerable to corruption, intimidation and cronyism and are usually heavily dependent on the de-facto government. These shortcomings are aggravated by the poor training of staff and limited access of students and practitioners to legal resources. Court decisions are often openly absurd, especially in human rights cases, due to the awareness of the courts that no appeal can be made to a higher authority (e.g. the European Court for Human Rights). Due to the non-recognition of South Ossetia and Abkhazia, the rulings of their courts are internationally not regarded as local remedies. Not being able to turn to a recognized court, people are left without protection.

Whereas across the Caucasus international organizations and national aid agencies have promoted the rule of law through technical assistance and capacity building, they have largely refrained from doing this in the separatist areas because of the sensitivity of the issue.

The poor training of lawyers is reflected in the overall society by a poor general understanding of (human) rights.

Again the rule of law is a most difficult issue. Considering that the laws are based on a constitution and decided by a parliament the international community does not recognize, it is sensible for international organizations to become active in this field. But by doing this they would to a certain extent have to accept the local legislation, which is most likely to be regarded as an offence by Georgia.

¹⁰ Waters, C.P.M. (2005): Rule of Law in the Secessionist States, in: C.P.M. Waters (ed.): *The State of Law in the South Caucasus*, Hampshire, at 74.

4. THE PROBLEMATIC ROLE OF INTERNATIONAL ORGANIZATIONS

It has been shown above that the question of human rights protection touches upon basic questions between Georgia and its separatist territories. This makes it a very sensitive issue for international organizations to act on. Committed to the principle of sovereignty and territorial integrity, they have to respect the position of Georgia. In order to clear the way for a substantial contribution from these organizations Georgia would not only have to admit its loss of de facto control, but also that the current authorities administering South Ossetia and Abkhazia bear international legal capacity. Even then it is not guaranteed that the separatist entities will agree to international involvement. One well-known example is the refusal of the Abkhazian authorities to permit the opening of a branch of the UN Human Rights Office in Gali¹¹.

Without a doubt, the reason why the separatist entities remain sceptical about international organizations is that the latter are typically seen as agents of the Georgian side. Furthermore, international organizations are often regarded as not having much to offer in return. The leadership of Abkhazia and South Ossetia is well aware of the risks of a liberal and pluralist society to their position. In both regions the ruling elite is widely regarded as corrupt and unreliable, while it is the cohesion resulting from the belief in creating a common state and the fear of renewed war with Georgia that silences the population. Abkhazia and South Ossetia would not currently risk their cohesion due to the promotion of western liberal values without getting anything in return.

In conclusion it can be said that the current problem for international organizations lies first of all in the attempts of the metropolitan state to avoid any action that could be misunderstood as recognition. Secondly, because international organizations are seen to represent the closed club of recognized states, they are met with a certain suspicion by the separatist entities. Lastly, there is the complete absence of incentive structures for the de facto authorities to fulfil human rights obligations. Through an effective protection the authorities will

¹¹ The opening of a Human Rights office in Gali, as demanded by the UN Security Council UN-Doc. S/RES/1554 (2004) of 29 July 2004, has been delayed by the Abkhaz authorities, who favor the opening of a NGO human rights office instead.

not be afforded any status or receive substantial benefits. At the same time they perceive the extension of human rights and fundamental freedoms as a threat to their fragile current situation of de facto independence.

4.1 HUMAN RIGHTS ACTIVITIES OF INTERNATIONAL ORGANIZATIONS IN SOUTH OSSETIA AND ABKHAZIA

Following these general observations, I will give an overview of the activities of international organizations present in South Ossetia and Abkhazia, including the United Nations, OSCE, CoE, EU and the CIS Peacekeeping Force (CISPKF).

While the UN is not active in South Ossetia, it is the central international agency when it comes to human rights protection in Abkhazia. The UN Human Rights Office (HROAG)¹² monitors the general human rights situation in Abkhazia and engages in creating awareness throughout Abkhazia. Jointly staffed by OHCHR and OSCE officers, HROAG is mandated to¹³

- monitor the human rights situation in Abkhazia;
- establish direct contact with the local authorities of Abkhazia to prevent and redress human rights violations;
- report to the UN High Commissioner for Human Rights on the overall human rights situation in Abkhazia;
- provide technical assistance for the strengthening of local capacities to protect human rights;
- develop human rights education;
- contribute to the development of human rights structures in civil society.

The office accepts individual complaints and tries to use its contact with the local authorities to respond to such complaints. However, due to the unrecognized nature of the regime, classical “name and shame” approaches have little prospect for success. Therefore, a quiet approach is applied by HROAG, which is often perceived as a position of passivity and powerlessness in Georgia.

¹² Established by UN-Doc. S/RES/1077 (1996) of 22 October 1996

¹³ UN-Doc. S/1996/284 of 15 April 1996, Annex I

While capacity building, legal consultations, and support for the return of refugees (mostly to the Gali region) lie at the centre of HROAGs activity, not much is done with a view to rule of law. In 2006 a human rights training programme for local law enforcement agencies was offered in Sukhumi. Nevertheless, the expansion of human rights trainings from civil society actors to law enforcement and administration is only reluctantly pursued in order to avoid giving the wrong signals.

Complementary to the United Nations effort, the OSCE's activities are focused in South Ossetia. Its effort is mainly concentrated on supporting civil society actors such as NGOs, and an NGO resource centre has been opened with the help of this international organization. While it is impossible to avoid contact with the local authorities when measures are taken to improve the human rights situation, they are not directly addressing the de facto authorities or their enforcement organs.

Although in general the rule of law dimension of the OSCE in Georgia is not expanded to South Ossetia, the organization did establish a joint South Ossetian-Georgian working group dealing with policing issues and it also offers free legal advice to inhabitants of South Ossetia.

The Council of Europe (CoE) has not so far extended its activities to South Ossetia or Abkhazia. So far the CoE Human Rights Commissioner and Committees of the Parliamentary Assembly have visited the conflict region and made statements, but this has not resulted in any specific action. A visit by the Human Rights Commissioner to Abkhazia expected for 2006 has not taken place. This passivity can be explained by the local CoE office's conviction that Georgia alone, and not Abkhazia or South Ossetia, is their partner.

With projects worth EUR 25 million, the EU is the largest donor in Abkhazia¹⁴. At large this sum goes into rehabilitation and the Enguri Power plant. Much smaller amounts are allocated to human rights projects within the framework of the European Initiative for Democracy and Human Rights. Two grants for human rights and rule of law projects have been allocated on the basis for a call for projects. This approach also aims at capacity-building on the civil society level instead of targeting the local authorities. In South Ossetia the EC delegation's activities are limited to rehabilitation.

¹⁴ International Crisis Group: Abkhazia Today, op.cit. 8), at 16.

This short overview demonstrates two things. First of all, international organizations seem to believe that the authorities have the **legal capacity** to violate human rights. This means that the de facto entities are believed to be able to violate international (human rights) norms and thus must bear some sort of limited legal personality under international law.

In contrast to the often voiced opinion that they are doing ‘nothing’, international organizations are in fact are very active in monitoring and capacity-building as well as running awareness campaigns. Secondly, they concentrate their capacity-building activities on civil society actors. The problem is that these two things do not neatly fit together if universal human rights protection is the stated goal. Civil society actors are important, but they are not the ones committing human rights violations, and are rarely in a position to prevent them. Especially with a view to the problems specific to South Ossetia and Abkhazia, one has to admit that their role is marginal.

Furthermore, it has been seen in many post-Soviet states, including Georgia itself, that a pluralistic, well-developed and well-trained network of local NGO’s is not necessarily the expression of a respectful, democratic and human-rights observing state. There often seems to be an invisible frontier between the ruling stratum and the rest of society. While the society seems free to express its opinion, it is generally ignored in the higher echelons of power. Apart from that, especially within the South Ossetian population, the perception prevails that as long as their territory is under an imminent “Georgian threat,” certain suspensions of rights and liberties have to be accepted. Thus the civil society in these territories has only a limited capacity to become the “Trojan horse” bringing democratic change.

The consequent non-recognition of the local government by the international community has another important impact. In accordance with international law, which accepts the Georgian government as the only legal government, elections in the breakaway regions are universally not recognized. Therefore no mechanisms of observation exist to confirm the legitimacy of the results. In consequence the whole executive and legislative apparatus in South Ossetia and Abkhazia stands on a shady basis. But it is from this basis that judges, enforcement officers and other agents exercising de facto force over the local population are being chosen. It does not come as a surprise that these people are much more prone to abuse their powers than a democratically legitimized appointee would do.

I do not want to suggest that the authorities of Abkhazia and South Ossetia have to be fully recognized, but I want to emphasize that the problem of non-recognition is in some respect less a problem for the secessionist territories than it is for the international community and the metropolitan state.

4.2 PROSPECTS FOR SETTING UP HUMAN RIGHTS MECHANISMS

Now that we have shown the particular problems involved in human rights protection in Abkhazia and South Ossetia, it is time to move on to propose mechanisms that could help improve the current situation. Because the issue of the protection of international (human) rights in a non-international entity (South Ossetia, Abkhazia) touches upon the core bone of contention, i.e. the sovereignty of the unrecognized entity, the proposals made below are undoubtedly controversial.

1. One possible path is to transfer the experiences gained regarding the human rights commitments of Trans-national Corporations (TNCs). Whereas no formal human rights obligations for TNCs exist so far, they have been put under pressure to agree on codes of conduct. The distinguished international law scholar Prof. August Reinisch remarks that, despite the absence of supervisory mechanisms, “codes of conduct are often relatively effective in spite of the absence of any legally enforceable obligations under the codes themselves.”¹⁵ International organizations could push the separatists to elaborate a code of conduct made up of concrete commitments rather than the elusive language in their self-proclaimed constitutions. Such a code of conduct would build up the expectations of the region’s inhabitants, outlining the rights they can claim from their authorities. On the other hand, international organizations can exercise more moral pressure without having to refer to international principles.
2. The Georgian Parliament voted in July¹⁶ for the withdrawal of Russian forces. While this reflects the current miserable relationship between Georgia and its

¹⁵ Reinisch, A., op.cit. 1).

¹⁶ RFE/RL: *Georgian Parliament Votes To Expel Russian Peacekeepers*, July, 18, 2006, at: <http://www.rferl.org/featuresarticle/2006/07/112db9d9-8c35-4dec-b592-866ad083a25c.html>

northern neighbour, the possibilities for following through on parliament's decision seem slight. Currently the withdrawal of the CIS Peacekeeping Force (CISPKF) would leave the unarmed UN mission (UNOMIG) unprotected. At the same time there is no UN Security Council majority supporting a robust mandate for UN peacekeepers.

If the CISPKF is a fact that one cannot be rid of, maybe the way out is to make it internationally responsible for the influence it exerts. This would mean entrusting the observation of human rights partly to the CISPKF, and accordingly make it legally responsible if it fails to guarantee protection. This might seem unacceptable, considering Georgian resentment against the Russian presence. But the CISPKF is the only real force in Abkhazia that can be held internationally accountable. Furthermore, it is already involved in performing such tasks as law enforcement, e.g. through regular patrols in the Gali region.

It has been shown in the Ilascu Case (concerning the Transdnistria Region of Moldova) that even despite a judgment Russia can easily escape responsibility by claiming not to have any control over the territory in question¹⁷. It will be much more difficult for Russia to argue that it has no effective control over its armed forces.

3. The discussion of human rights issues between conflicting parties has often a rather destructive effect, as both immediately start to draw up lists of the others' wrongs. This circle can be broken if the cause of a violation is not clearly attributable to one side. One instance, for example, is the Gali region, in which Georgian and Abkhaz criminal groups can pursue their activities without fear of punishment. Therefore, setting up a joint commission of NGO representatives and law enforcement organs of the Zugdidi and Gali regions to elaborate a strategy for effective law enforcement throughout the region could prove successful. A mutual "name and shame" mechanism could be included in such a strategy. Such a mechanism would be toothless enough to be accepted by the authorities in Tbilisi or Sukhumi. Nevertheless, it will be painful for the gangs operating in the Gali region and the enforcement organs on both sides supporting the former.

¹⁷ Russia has been ordered to pay reparations, but refuses to do so claiming that it has no control over events taking place in Transdnistria.

A similar commission could be set up for the problem of smuggling in South Ossetia.

4. Georgia should consider supporting international organizations and aid agencies in educating lawyers, judges and law enforcement agents throughout the hierarchical chain in Abkhazia and South Ossetia. The quality of these people's training directly impacts the overall human rights situation. Objections against such a step are understandable from a sovereignty point of view. However, it should not be forgotten that if these territories return it will be advantageous for Georgia to receive a well-trained administration and a more or less well-governed piece of territory. Rule of law programs, as they have been conducted throughout the Caucasus within the last 15 years, would have been implemented in these entities had they not separated. While Abkhazia and South Ossetia are understandably subject to economic and political isolation, it is a questionable form of punishment to deprive them of the means to ensure order.

These are four possible strategies for how to deal with the dilemma outlined above. Every one of them bears certain risks and could be politically difficult to pursue. Having said this, it must be noted that a perfect solution is not feasible. Although more flexibility on behalf of the Georgian side and a bolder approach by international organizations promise advances, it will not be possible to eliminate the contradictions resulting from the universal non-recognition and simultaneous de facto control of the Abkhaz and South Ossetian authorities unless a comprehensive peace settlement is reached.

ON THE CASES OF HUMAN RIGHTS VIOLATIONS IN THE TERRITORY OF ABKHAZIA

MURMAN CHKHOTUA

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It is hard to talk about human rights protection in Georgia, the country, where the most painful problems, – conflicts in Abkhazia and South Ossetia are still unresolved. Over fourteen years there is no progress observable in the relations between Georgia and Abkhazia, nothing to say about rapprochement of the sides of the conflict. Georgia failed to regain its jurisdiction over the lost territory, neither managed to return the IDPs to their native places. Although up to the date there is still ongoing a dialogue under the auspices of UN, OSCE, Council of Europe and CIS, seeking a peaceful resolution of the conflict, many duly signed documents or resolutions have been adopted, the result of the implementation of the decisions made on the highest level equals to zero. UN so far did not succeed to recognize the fact of ethnic cleansing and genocide of the Georgian population despite the evidence of multiple (over two hundred volumes) horrifying materials.

In Abkhazia, Sokhumi there is currently stationed the head office of UN, residence of the UN Chief Military Observer and his deputy (36 military observers, 56 international and 75 local staff members) residence and office of the Special Representative of the UN Secretary General, UN Human Rights Protection office and nearby the headquarters of the Russian peacekeeping forces (There are 1800 military personnel of the Russian peacekeeping forces in Abkhazia). Despite all this, the cases of gross violations of human rights are recorded in whole territory of Abkhazia, especially in Gali district.

The recent developments, which took place in the Upper Abkhazia made the situation in Abkhazia even tenser. The Russian side started to deploy its troops, Cossacks and Northern Caucasian gunmen penetrated there; the Georgian youngsters were forcedly drawn to serve in the Abkhazian army, new check-points have been opened and manoeuvres conducted. After Bagapsh came to power there have been conducted 15 manoeuvres.

The condition of the people, who stayed to live in Abkhazia is much harder. Although media is actively working there, the broad public is still not completely aware of the life of Georgians living in Abkhazia. Actually they have to live under the pressure of Abkhazians. The Georgians' well being is dependent on their mood.

The Abkhazian side's acts are incited by impunity and lack of control. The evidence, which we have, shows that they can any time and anywhere take as many peaceful Georgian residents hostage as they like, humiliate them for any reason, demand any ransom, torture the hostages using most incredible methods, charge them, prosecute them and even take the human life. The Abkhazs would not be so ruthless if they did not rely on Russia and its peacekeepers.

There is endless rage of the Abkhazs against Georgians.

Reportedly, about 300 cases of robberies, assaults, murders and other crimes have been recorded.

I will bring some examples, which took place during 2006.

On January 6, in the village Nabakevi of Gali district 6 gunmen have drawn out of a minivan under the threat of weapons Malkhaz Okujava, a resident of the village Tagiloni. He has been released after paying a ransom of 12 thousand dollars.

On January 8, in the city of Gali several unidentified people assaulted Dazmir Ekhvaia's home, looted 200 kilograms of hazelnuts and disappeared.

On January 8, in the village Nabakevi of Gali district Zaira Ekhvaia was kidnapped, who is the mayor of the village. She has been released on January 11, after paying 5 thousand US dollars.

On January 13, in the village Tagiloni of Gali district, two unidentified masked men kidnapped Valeri Gamisonia, a resident of the village. He has been released on January 20, after paying 9 thousand laris.

Different raids are systematically conducted on the territory of Gali district for various reasons.

On January 14, during one of the raids in the villages of the lower zone of Gali district, the group of raiders led by Otar Turanba, militia deputy chief, have opened fire on a group of local youngsters. Manuchar Pirtskhelava was killed, a person

named Chakaberia and another young man were injured as a result. The young people were arrested and driven to Gali.

On May 26-28, another group led by major Otar Delba, the deputy chief of Tkvarcheli Administration of internal affairs raided villages of the upper zone of Gali. Among the group members there were officers of the military commissariat led by a man named Tcholaria. This group pursued and arrested Georgian conscripts according to the list they had. Over ten young people have been arrested and moved to Tkvarcheli. The arrestees were forced to serve in Abkhazian army.

On June 26, in villages Tchuburkhinji and Tagiloni of Gali district a joint raid by Abkhazian militia and military commissariat was conducted, during which 11 young people were arrested, who were taken to Gali militia station and forced to serve in the Abkhazian army. Later the arrestees have been released after paying some money.

On March 1, 2006, the Abkhaz separatist authorities arrested members of a non-governmental organization: Tea Sharia, Giorgi Sokhadze, and Gia Eliava, a citizen of Ukraine. They have been arrested during their visit to the monastery of the village Bedia of Ochamchire district, where they made some documentary video records, based on the agreement with the Patriarchate. The arrestees have been taken to Sokhumi pretrial detention prison. The Abkhazian security service charged them with an allegation of illegal crossing of the border and they were ordered to three months of pretrial detention. On March 24, Gali court sentenced them to one year of imprisonment. I have made a number of statements concerning this case. We wrote a letter to the UN representatives and met with them. Despite all these efforts the prisoners have been released only **on March 25**.

On March 3, Tamaz Antia, a resident of the village Okumi and his family were attacked by unidentified people at their home. The assaulters have beaten the family members and looted the family valuables and two tons of hazelnuts.

In mid March the so-called Abkhaz law enforcement people have arrested in village Ghumurishi, Gurgun Tsaguria, a village resident, who was charged with unauthorized bearing firearms. Tsaguria's family members from the very beginning stated that the officers furtively put the gun themselves. Reportedly,

drunken O. Turanba entered the prison cell, where T. Tsaguria was detained, several hours later T. Tsaguria was found dead hanging in the cell.

On April 10, at dawn two unidentified gunmen kidnapped Otar Natchkebia from his house and took him in the direction of the village Nabakevi of Gali district. Later the kidnappers called the Natchkebia's family and demanded 100 thousand US dollars. On April 25 O. Natchkebia has been released after paying a certain sum of money.

On April 25, four masked gunmen, armed with sub-machine guns assaulted the Shakaias' family resident in the village Agubedia of Ochamchire district and kidnapped Mitusha Shakaia aged 60. The kidnappers called the victim's family and demanded a ransom.

December 7, The Ministry of Internal Affairs of the self-declared republic of Abkhazia categorically demanded from the Georgian side to release Pridon Chakaberia, the head of the village Barghebi of Gali district. The latter has been accused in robberies of Georgian families, and ransacking tombs. During his arrest he had a large concealment of narcotics with him. His group members have been arrested together with him. According to the statement made by the Abkhazian side P. Chakaberia came to Zugdidi to buy some medication.

As a sign of protest against this arrest, the Abkhazian side blocked the Enguri Bridge on December 8, and demanded to release P. Chakaberia. S. Bagaph has announced that the electric power supply to Western Georgian regions would be cut off. The traffic across the bridge has been stopped. Because of this the students from the village Saberio of Gali district had to take a detour to reach their school in the village Chkoushi of Tsalenjikha district.

Reportedly, an incident happened on one of the check-points, The Abkhazs stopped three children on the way to their school. The Abkhazs forbade the children to speak Georgian and even threatened them with weapons. The scared children went back home but later could sneak to school taking a roundabout way.

December 11. The family of Omar Abashia living in the village Pirveli Gali of Gali district was attacked by the four armed people, among them two stayed in the yard and two entered the house and demanded money and jewelry from the

family members. At the very moment a quarrel arised between the assaulters and the attacked family members. During the quarrel one of the assaulters was scared and shot into chest Omar Abashia, injured him and than they ran away. Heavily injured Omar Abashia was taken to the Zugdidi hospital where he was operated by the surgeon. He is still in a critical condition.

The militia has not made any relevant response to the mentioned incident so far.

The Abkhazian militia continued attacking the village. On December 12 in the village Otobaia of Gali district they cought a 24-year-old Paata Kiria and issued an ultimatum to his family to pay 1500 US Dollars for their son's freedom.

They also beat a mother and a son Gvaramias in the same village and seized the citrus harvest prepared for sale by the population.

On December 12 in the village Kvemo Barghebi the local population held the meeting and required release of P. Chakaberia. We can assume for sure, that the village residents would not have wished to gather unless they were forced by the Abkhazian Administration.

With regards to the above described facts, which happened on December 11 and 12 the relevant notifications have been submitted to the Permanent Representative of the UN Secretary General and the UN Human Rights Protection Office Sokhumi Branch.

May 15. The self – declared parliament of Abkhazia – the Public Assembly adopted a resolution about “on protection of Abkhazian citizens’ rights, provision of housing and regulation of their conditions of life”. According to this resolution the Abkhazian court shall not admit for adjudication, of if it is already admitted – shall terminate the adjudication regarding the cases that raise claims to return the properties to the people, who left Abkhazia before the armed conflict started in 1992-1993, during the conflict period, or after it, and whose real estate and other property was seized by or transferred to the Abkhazian citizens with the right of unlimited use. The same resolution overrules the execution of previously announced court decissions regarding the similar claims. The city and district administrations shall not admit for consideration any documents for registration

directly or by means of a letter of attorney concerning the people, who left Abkhazia before the armed conflict started in 1992-1993, during the conflict period or after it. The decision entered the force on the date of its adoption. The mentioned decision particularly legalizes the ethnic cleansing in the region and infringes the Right of Property guaranteed by the article 1 of the Protocol 1 of Vienna Convention.

With regards to the mentioned resolution the UN Sokhumi Office has issued its opinion in compliance with our letter, but still, the resolution remains in force.

Adoption of such resolution was caused by the fact that some Georgians, Russians, Armenians and even Abkhazians who left the region during the armed conflict and hid away outside it, have returned to Abkhazia. Some of them went to other parts of Georgia, others found shelter in Russia. Those who went back to Abkhazia found Abkhazians and other newcomers in their own homes. These people of course did not want to give their houses up, That's why they applied to the courts. The courts proceedings prolonged and delayed the cases but still, people claimed protection of their rights and property through the courts. Some trials could not resist the pressure coming from these people and the UN Sokhumi Office, and upheld the claims, which caused the anger on the part of the Abkhazian people (e.g. cases of Chachkhalia vs. Dzvelaia, Esartia vs. Taganova, Kikabidze and others).

Our office has expressed its attitude towards the Russian peacekeepers **forces many times**; the peacekeepers have done nothing positive for Georgia during the last 12 years except fixing the Georgian – Abkhazian border on the river Enguri. Moreover, in major cases together with Abkhaz armed gunmen the Russian peacekeepers are participating in attacks against the peaceful population, bus robberies involving both their personnel and technical equipment. There is an evidence of murders as well (the examples could be provided upon the request).

As we all know, on December 13, 2005 the rotation of Russian peacekeeping forces took place in Abkhazia. Regarding this fact the Russian broadcasting company “NTV” transmitted its coverage from the city of Samara, where one of the soldiers being on military service at Ural Military district – Dmitry Yonov told the interviewer that the peacekeepers were taught a brief course of “Abkhazian History” before sending them to the conflict zone. The “history” said that: “Abkhazia was always an independent state and stayed only for some 30-40 years within Georgia's borders

as an autonomous republic. That meant that Georgia's claims concerning the Abkhazian territory were ungrounded".

From the above we can assume that Russia psychologically prepares in advance those military servants who are sent for their "peacekeeping" purposes to the conflict zones in Abkhazia and South Ossetia. The peacekeepers are beforehand "taught" how to behave, what "policy" to implement during their mission and what "attitude" to have toward local peaceful population. We have plenty of examples of the "peacekeepers" conduct in the conflict zones.

February 12, 2000. At about 18:00 in the village Dikhazurga of the Gali district the neighbours found 80-year-old Tavela Mikaia murdered at her own house. The neighbours, who found her said that on February 11 she was visited by the Russian peacekeepers who came on "EFP" type vehicle with the signs "VC" on it and insistingly demanded to be hosted by Tavela. The latter hosted the visitors. On the next day the same vehicle approached Tavela's house and the passengers asked again for hosting, but Mikaia refused as she was not able to host them again. When leaving the peacekeepers threatened the old woman. On the same date they came back to Mikaia's house and began shooting. After the soldiers left the neighbours came to Mikaia's house and found her shot dead.

May 2, 2006. In Gali, in the family of Liana Papava living in Dzneladze street, who has a commercial shop next door to the house was attacked by four armed Russian peacekeepers at 04:00 in the morning (Igor Sazonov, Marina Sazonova, Andrei Trifonov and Valodia Serdiukov) who were under the influence of alcohol intoxication and demanded more alcohol. After Papava's refusal they insulted the family members and started shooting around that resulted in injuring Liana Papava. Marina Sazonova – being a wife of one of the peacekeepers and therefore having a civil status – was shooting from the gun too. Badly injured L. Papava was taken to Gali hospital.

On December 1 of the current year, in the North part of the Security Zone of Gali district the Russian peacekeepers undertook rotation. After that on December 4, the Commander General of the peacekeepers Mayor-General S. Chaban mentioned to the Russian journalists that the Russian peacekeepers do their best in the conflict zone to achieve their objectives. Finally he said that "for the present moment the replacement of Russian peacekeepers with the military

contingent of other country is out of the question. Our peacekeepers undergo their services very honestly and in compliance with the relevant mandate, this means that there is no alternative to them so far. The time frames of their presence in the zone have not been determined. 112 Russian soldiers and officers died in the conflict zone since the peaceful operation started.”

The same idea was developed by S. Bagapsh.

S. Chaban and Baghapsh need to be reminded that the Russian government together with their so called “peacekeepers” makes all efforts to aid the Abkhaz separatists. They are not able and do not accomplish the tasks assigned to them. They themselves participate in the infringements and conduct attacks, robberies and murders together with the Abkhaz separatists and assist them with their military troops. None of the so called “peacekeepers” died during the peacekeeping operations within the conflict zone, on the contrary all of them died during the disputes and arguments, or swam drunk and drowned in the sea, or committed suicide etc. We have many examples proving the above mentioned. We’ve obtained the information, in particular it is a list of 40 soldiers with description of the causes of their deaths. Unfortunately it was impossible to obtain a complete list.

On June 1 of 1997, at 5:00 a.m. in the village Sida the Russian peacekeeper sergeant Artur Vaganov shot 11 soldiers, badly injured 5 and then committed suicide.

October 24, 2001. at 07:00 a.m. a soldier of Russian Peacekeeping Forces Alexei Vladimirovich Sulski (born in 1981) being under the alcohol influence beat Demna Enverovich Jakhiaia (born in 1988, resident of the village Lekukhona of Gali district, currently temporarily living in the village Potskho of Tsalenjikha district). His house is located next door to the RPF’s post # 312 where A. Sulski was serving. Jakhiaia was at home alone. His nose was broken and he had other multiple bodily injuries.

January 14, 2006. on the Zugdidi territory, the Head of Russian post # 209, the senior Lieutenant Roman Lubimtsev was killed by his fellow sergeant Sergei Zinchenko as they say accidentally.

May 9, 2006. In Sokhumi in the territory of the Russian military circuit sanatorium “Sokhumi” – where the Russian peacekeepers are located, the former military servant Radislav Ishildin “**fell down**” from the 11-th floor of the building under construction and died. The information was confirmed by the commander of Russian peacekeepers S. Chaban, but he refrained from commenting the fact.

June 3, 2006. in the same sanatorium a contracted military servant of the Russian peacekeepers drowned in the sea. The name of the dead man was not announced. The dead body was found only the next day.

May 20, 2006. at 08:00 a.m. an armoured vehicle of Russian Peacekeepers # 521, with 15 Russian peacekeepers drove at a high speed from the village Tchuburkhinji to Gali district. The driver lost control near the village Mziuri and turned over and fell down into the river Ojokhorie. Six people died at the accident scene, among them four officers, one lower rank officer and one contracted soldier. Other six soldiers were badly injured and moved to the Krasnodar Hospital. According to the information obtained the soldiers were under the alcohol influence and intended to perform raids. It is clear what kind of raid did they wish to conduct. Regarding this accident the group of officers arrived from Moscow to investigate this fact properly. The group was led by the Deputy Commander of land forces Yuri Bichkov. As you will guess, the results were not publicized.

There is a legitimate question: do we need Russia and its peacekeeping forces in the role of a mediator. During the last 14 years they could not step forward even a millimeter in order to solve the conflict. Their passive and negative attitude puts under risk lives of Georgians, Abkhazs and other people living there?

Of course not! We do not need such peacekeepers any more and they should immediately leave Abkhazia. The sooner they leave the better the conflict will be solved.

I would like to discuss separately the issue related to the Georgian language discrimination in Abkhazia. There are no Georgian schools left in Abkhazia. Some of the buildings are ruined and others host different institutions other than schools. The Minister of Foreign Affairs of separatists S. Shamba said in one of his interviews (newspaper "Nuzhnaia Gazeta" # 41, October 19, 2005) that "we will never agree with the fact that Georgian language is taught at our schools". We cannot help mentioning the head of Gali education department, former sniper A. Agumaa. According to the verbal information of the teachers he allows himself to enter the lessons any time, to outrage the teachers, call them "fools" and "stupid" in front of the students and even beat the children. At school # 31 he beat a 9-th grade student because the latter failed to read fluently the Abkhazian text (the child was injured). As they say the Abkhazian prosecutor's office has started proceedings on the issue but without any results so far.

Let me remember another well known fact, where the Georgian delegation, which arrived to the four party meeting in Tchuburkhinji on January 24, 2006 was met by school students with the shouts “long live Georgia”, that caused outrageous response from Abkhaz and Russian sides: all teachers working at that school were called for interrogation to Sokhumi.

Our office immediately responds to all infringments of human rights in the territory of Abkhazia. Namely, we submit information in writing to the permanent representative of UN Secretary General in Georgia, to the Head of UN Sokhumi Office and to the management of IRC besides the written correspondence we arrange meetings too.

Due to the existing situation we have raised with UN the question of opening the UN Human Rights protection Office in Gali but the Abkhazian side was against, because opening of such office would limit their raging in the Gali district.

We fully agree with the position of the Public Defender of Georgia in terms of the necessity of conducting the international monitoring for assessment of the human rights protection situation in Abkhazia and in particular in Gali. We also agree that the people who committed offences in Abkhazia or South Ossetia should be prosecuted and the cases should be properly investigated. In fact there are several criminal proceedings started and more than 200 volumes of materials of available. The only instant left is announcing search warrants for the offenders.

Finally, we beleive, that the similar conferences would support planning and implementation of all necessary steps for protection of human rights in the conflict zones of Georgia.

EDUCATIONAL PROBLEMS AND SITUATION OF GEORGIAN SCHOOLS IN THE CONFLICT ZONES (GALI DISTRICT)

SOSO TSIRGVAVA

Head of Educational Office of Gali District

After the massive expulsion of the Georgian population from Abkhazia as a result of the military confrontation in 1992-1993, Georgians remaining in the territory of the Autonomous Republic found themselves in a grave situation. Obviously this tragedy had an effect on the educational system of Abkhazia, especially in the Gali district, where 19 schools have been burned down. If in 1993 there were 58 secondary schools with 13,180 children; today only 3,895 schoolchildren go to 30 schools of the district.

It can be firmly stated that the reconstruction and proper functioning of these schools is a result of the enthusiasm and personal initiative of the teachers who decided to return after exile to their native dwellings. The Abkhaz side didn't impede the process of school reconstruction. Unfortunately, as was expected, the approach of the separatist authorities was not to bar the process of rehabilitation of devastated schools, but to encourage a shift in the process of education for children of this old Georgian region on the basis of a new ideology.

The schools within the Gali District may be divided into three zones. The analysis shows that the local regime failed to fulfill this goal in the villages of the "lower zone," where close proximity with the territory under Georgian jurisdiction and an active partisan movement seems to have discouraged the Abkhaz authorities in implementing their goal. But it turned out to be easier to make the schools of the other zones obedient, and they concentrated their efforts on those schools. It should be mentioned that at the initial stage the schools of the Gali District that were attached to Tkvarcheli were in better condition than those in the town of Gali and neighboring villages. This can be explained by the fact that the Educational Service of Tkvarcheli had to resolve the problems of other schools too, while in the Gali District they only had to "take care" of Georgian schools. The specially selected personnel started the process of transforming Georgian schools into Russian-Abkhaz ones.

The first target of this process was city schools. Before the outbreak of hostilities there were four schools in the town of Gali, three Georgian and one Russian. After the war the educational process was restored at 2 schools. Former school # 1, i.e. the Russian School, was renamed School # 1 and there were fewer problems with Russian speaking personnel. Additional staff was selected among those Abkhaz families that Abkhaz authorities sent to the region for district administration. The Abkhaz then faced the problem of Russian and Abkhaz speaking teachers at school # 2 of Gali and at the village-schools. In order to solve this problem they introduced the so-called “first grade principle”, i.e. from the new academic year the language of instruction in Georgian classes would remain Georgian – except history and geography – and first grade schoolchildren would be instructed in Russian. The school directors received very strict orders to find a person in the village of any profession speaking some Russian and urgently appoint him/her as a teacher, otherwise the director would have to leave the school and the village too, or the school would be closed. The cycle of Georgian classes was completed long ago.

In the given zone, where only ethnic Georgians are sitting at the desks, the usage of Georgian as a language of instruction is allowed only at Georgian language and literature lessons. At the same time, the higher authorities of the Abkhaz regime repeatedly declare that they have never prohibited teaching of Georgian and are not going to do so in the future either. Such declarations may be misleading. Let's observe: teaching in Georgian, as well as paperwork in Georgian, is strictly prohibited. Only Georgian language, as a separate subject, is allowed to be taught in Georgian, with a strict limitation of hours. In Gali school # 1, which by the local regime is recognized as a school of the elite, teaching of Georgian language as a separate subject is not provided at all and only optional lessons of 2 hours a week are available.

This position of the separatist regime is opposed only by the unwavering effort of local teachers, but this may not change the situation. In reality, teaching the Georgian language to Georgian schoolchildren by Georgian teachers is prohibited at every school of the given zone.

Until recently there has been a better situation at the schools in the so-called “upper zone”, but they do not belong to the Gali District any longer. Such a relatively liberal approach is a result of the re-subordination of those schools under Ochamchire and Tkvarcheli districts, which was unwittingly done by the Abkhaz

regime with the aim of dividing the Georgian population of the Gali district.

The persecution of Georgian as a language of instruction very much depends on Abkhaz officers working in the specific fields. The teachers of the upper zone to some extent have enjoyed the more liberal attitude of the head of Educational Office of Tkvarcheli district, but this cannot be considered a solution: when the case depends on the good-will of certain officials it is not easy to foresee the possible metamorphosis of the problem. We have already experienced such development in the Tkvarcheli district. The head of the Educational Office had been changed there and immediately the situation became worse. During the current academic year a Russian first grade class has been introduced in the village Okumi, which has a 100 percent Georgian population. Chkhortoli school was transformed into Russian one a long ago. In the Achigvara school, which is attached to the Oчамchire district, Georgia as a subject is restricted.

As mentioned above, the situation, due to geographical location, is relatively better than the schools of the so-called “lower zone”. The Abkhaz Education office used to fail to exercise control over this zone, but the situation has changed there too. The Georgian signs have been removed from all Georgian schools and the directors are ordered to introduce Russian as the language of instruction. This process was to be initiated in September of the current year, but the Russian classes haven’t yet been introduced. This is because the head of the Educational Office was changed and the new head, who is not so anti-Georgian, stopped the process.

The process of introducing Russian classes was probably also impeded by another well known incident. On 24 January 2006, Georgian schoolchildren sent welcoming words from their school building to the participants of a meeting being held near the school under the auspices of the UN. This was broadcasted by Georgian TV. The next day the director and teachers of the school were called by the representative of the de facto authorities, who intimidated them with threats of closing the school and certain other sanctions. The government of Georgia expressed its protest and the separatist authorities had to justify this action before the international community, stating that they were not going to restrict the teaching of Georgian in Gali.

The final resolution of problems of the schools of the Gali district within its real boundaries will be possible only after the restoration of Georgia’s jurisdiction in Abkhazia. But it is not also admissible to remain a passive witness before this

happens. A person shall have the right to receive an education in their native language in any circumstances and under any regime. In the current situation the international organizations and their firm position with respect to education play an important role in maintaining Georgian as a language of instruction. At the same time it should be mentioned that these international organizations also contribute to the rehabilitation of school premises. Their potential should be used in more rational way and if a common action program is elaborated for the educational problem in Gali, their role has to be quite important in its implementation.

Over the last five years the Georgian government has implemented a project of annual assistance for the teachers in the conflict zone. Since the beginning of this year the Ministry of Education and Sciences of Georgia is in charge of this project, which is very much welcomed. We deem it necessary to stress the fact that 42 students last year and 44 new students this year were provided with social grants, and their education fees are covered by the state. This year free preparatory courses will be open for last-year secondary school students from the conflict zone, as was done last year, to prepare them for the national examinations.

Constant attention should be paid to the involvement of teachers of Gali district in training-seminars organized by the Georgian Ministry of Education. It would be good to establish a training center for teachers in Zugdidi with qualified trainers, professional staff and a sound action plan. The elaboration of national curricula, methodology and text-books for the schools across the river could also be included within the function of the center.

Many of the schools that survived from arson have been devastated and robbed. Almost every functioning school requires renovation. The rehabilitation program for the schools of the Gali region can be launched if the necessary funds are available. Obviously, the local regime may oppose the implementation of such a program, but if it is carried out by international organizations the Abkhaz administration will find it difficult to prevent.

In the action program special attention should be paid to organizing excursions in different regions and historical places of Georgia for the schoolchildren of each school. Involvement of international organizations in this endeavor is also very important in order to get permission for those children to leave the conflict zone.

The number of homeless children in the Gali district is drastically increasing.

The creation and financing of a sport center would be a positive breakthrough to address this painful issue. There is also great desire for a computer network with internet connection in the secondary schools of the district.

The Gali district is the only district in Abkhazia with a compact settlement of Georgians. The inhabitants of the district are in a grave situation just because they are Georgian. The rest of the population of Abkhazia is not well protected either, but they are not so strictly limited in receiving education in their native language.

IMPACT OF PROTRACTED DISPLACEMENT ON IDPWOMEN AND CHILDREN IN GEORGIA

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In this article I'd like to address several issues related to the protracted displacement of people in Georgia, and to violations of IDP rights that are being observed due to the impossibility of people to return in safety and dignity and return to normal life in the places of their habitual residences. These issues include the situation of IDP women and children in Georgia proper, the situation with the rights of women living constantly or temporarily in post conflict zones, and the issue of the health status of those women, including physical, psychological and reproductive.

The main causes of this are the denial of IDPs to return by the de-facto authorities in Abkhazia and the Tskhinvali district, the poor socio-economical situation in the zones of possible return, and the absence of security guarantees for possible returnees.

In this review I will use personal experience as an IDP woman, as well as the knowledge and experience gained during my work with the IDP community.

OVERVIEW OF THE GENERAL SITUATION OF IDPS IN GEORGIA – NEW TRENDS, OLD CHALLENGES

During its short history of independence Georgia experienced two severe military conflicts on own territory. As a result of these conflicts thousands people were killed on both sides, hundreds of thousands were exiled, and two regions – Abkhazia and South Ossetia – gained *de facto* separation from Georgia. As a result, around a quarter of a million people, mainly ethnic Georgians, were displaced into other parts of Georgia.

The latest verification of the numbers of IDPs in Georgia proper, conducted in 2005 (*data from the Ministry of Refugees and Accommodation*) sets the figure at 245 296 persons. Of these, 12 673 are from the Tskhinvali region, and about 232 623 are IDPs from Abkhazia.

Taking into account that Georgia's total population now is only 4,4 million people, the situation in the IDP community can significantly influence the general situation in the society and, according to the opinions of some experts, it might be one of the reasons why President of Georgia Mr. Mikhail Saakashvili announced that the peaceful resolution of existing frozen conflicts and the restoration of territorial integrity is one of the country's main priorities.

The strategy of the previous Government of Georgia involved the preservation of the *status quo* in its dealings with Abkhazia and the Tskhinvali region. The message it projected to the IDPs was that a speedy return would follow ("if not this summer, then soon after") and kept IDPs under the illusion that the resolution of the conflict was around the corner.

The Government which came to power after the "Rose Revolution," by contrast, did not promise anything concrete to IDPs for two years. In fact, there was little communication with the IDP constituency from the side of the central government. However, it reformed the existing Government of the Autonomous Republic of Abkhazia in Exile by a severe cut of numbers of employees, twice changed its Chair, and cancelled the Abkhazian Deputation to the Georgian Parliament (which was elected before the conflict by the whole population of Abkhazia), thereby reducing the political weight of the conflict issue. Unfortunately, this was not immediately followed by the announcement of a clear strategy concerning the destiny of the IDPs.

In late 2005, the Special Representative of UN Secretary General on IDP Human Rights, Dr. Walter Kälin visited Georgia with the aim to assess the situation in IDP community and the effects of IDPs' protracted displacement. Based on his assessment of the situation in IDP community as a critical one, the Government of Georgia in 2006 initiated the process of development of IDP National Strategy.

The Strategy, which is prepared by a state commission appointed by the Prime Minister with the wide participation of civil society and the international community, will soon be presented to the government and the public. It provides guidelines for

the improvement of IDP socio-economic conditions in short term and long term perspectives and states two goals – the preparation for a peaceful return of IDPs and the improvement of their socio-economical conditions prior to this return.

The Strategy proposes the ways how to address the existing challenges faced by the displaced population in Georgia proper which are related with poverty, lack of adequate accommodation, high rate of unemployment, poor health status and social exclusion. More than 44% of IDPs still live in overcrowded communal centers (former public buildings temporary populated by IDPs). After 13, for some categories – 15 years of displacement the IDPs still suffer from stigma, have psychological problems of adaptation, often ethnically mixed families still live across the *de facto* borders.

If poverty is a general challenge for majority of the population of Georgia, absence of own dwellings makes immediately IDPs much more vulnerable. Currently existing a few programs of resettlement (such as – provision of monetary compensation or bank certificates for those leaving the communal centers) did not significantly improve the IDPs well being – the questioning of more that 500 IDPs, conducted by the New Approach to IDP Assistance programme¹, showed that only half of those who were resettled claimed that resettlement improved their living conditions, other people even lost their jobs, even their expenditures increased after leaving communal centers so significantly that they did not benefit from becoming the owners. IDPs, living in private accommodation – with relatives, friends, renting the flats – have not benefited from resettlement programmes at all.

In some cases the IDPs initiated the process of privatization of communal centers by themselves, asking to be allowed to privatize some of their temporary shelters to be on the safe side in case return does not happen. In many cases the local authorities refused, while other inhabitants located in the same buildings received permission.

However, there are many centers that cannot be privatized or converted into social shelters. Such centers exist in Tbilisi, but are mainly located in the regions – including “Vector” and “Combinat” in Zugdidi, communal centers in Khobi, and

¹ Ana Dolidze, Lali Chkhetia, Manana Tatishvili, “Study on Privatization of IDP communal centers”, published by New Approach to IDP Assistance, UNDP, Tbilisi, 2005.

many others. The IDPs living in Samegrelo have much less chances to be resettled through privatization of buildings, as no investors are interested in the region, which at the moment does not have clear perspectives for economic development. At the same time, in most cases in Samegrelo people live in houses not suitable for living and without any facilities (such as former farms, plants, rock breakers). In such places, the Government should assume full responsibility for the improvement of IDP living conditions and their resettlement.

In places that are attractive for private investors, resettlement is sometimes connected to severe violations of the IDPs human rights. The desire to enlarge the budget by selling buildings that house IDPs goes against the interest of the IDPs themselves. As there is still no clear criteria on how compensation should be provided (according to the number of family members, according to the number of occupied rooms, and so on) it is very difficult to ensure fair distribution of money. This leads to misunderstandings and human rights violations, as happened with Adjara Hotel when several dozen IDPs ended up on the street. Those IDPs were removed by masked police, a move that received a widespread negative public reaction.

The regulations of privatization and sale of land plots currently existing in Georgia makes difficult for IDPs to participate in land purchase, as the first priority during the auction is always given to local inhabitants of communities, and the IDPs living in the same villages, often are not accepted as community members. Hence, even IDPs with good agricultural skills still often do not have access to land.

During the last two years, there have also been many cases of homeless IDPs trying to occupy unfinished or abandoned and unused houses – very often they are kicked out by police, and only in few cases they have been able to stay. In these cases owners' rights and IDP rights for shelter come up against each other, and it is clear that special attention should be given to this issue to ensure that no one side will suffer, but also that IDPs will be given proper shelter.

It is recommended that the elaboration of the Action Plan for the implementation of the National IDP Strategy should include legal provisions to prevent arbitrary eviction from state buildings. Simultaneously, an agency or special Committee should be appointed which will have both legal power and also recognition from other branches of power to prevent such actions and to assist a smooth resettlement process.

Often it is women who suffer most from such situations. According to observations, often women are the main breadwinners in IDP families. At the same time, they take care of children, the elderly and traumatized men, and create a psychologically stable climate. During and after the armed conflicts, they took the responsibility for the survival of families and communities, and their survival, capacities and development are crucial for the survival and development of the IDP community as a whole, both in Georgia proper and after their return.

WOMEN'S SITUATION IN POST-CONFLICT ZONES

It is better to separately tackle the situations in the two post conflict zones (Abkhazia and South Ossetia/Tskhinvali region) and in the two IDP communities, because their recent developments are different.

The Tskhinvali region/South Ossetia (former South Ossetian Autonomous Oblast) is a small administrative entity, which after *de facto* separation still includes 9 villages that are under Georgian jurisdiction, but geographically are located after Tskhinvali, which makes their communications with the rest of Georgia problematic. Some people, both of Georgian and Ossetian origin, which left the conflict zone and later returned, have the official status of returnees, which gave them opportunity to be assisted by UNHCR (be rehabilitation kits and shelter rebuilding). However, the majority of Georgians in these villages do not have the status of returnees; many of them did not leave the zone of conflict at all. It is difficult to talk about the safety and dignity of people living in the Georgian-Ossetian conflict zone. Endless kidnappings and murders accompany their lives during the last years, regardless of the presence of peacekeeping forces under the Joint Coordination Commission, which was created for the regulation of the conflict.

Women both in Georgian and in Ossetian villages are suffering from a lack of security, danger of possible criminal actions and mine explosions, and almost total unemployment.

It is easier to understand the challenges faced by women living in this region based on the example of one Georgian village – Kurta. This village is inhabited by 7 348 persons. Of these, 7 001 are Georgians and 251 are Ossetians. There are 110

single pensioners, 79 multi-children families and 93 orphans, 32 children are disabled, 784 persons have IDP status. Having so many vulnerable, the community needs special attention and assistance. The main source of income is fruit production.

Last year, apples, which are the main product of the villagers, could be sold for 30 kg for 1 GEL (0,58 USD). As the harvest was very poor this year, it is expected that surviving the winter will be even more difficult.

The health status of both IDPs and the local population is poor. Children are starving from malnutrition, which is a common phenomenon for IDP children also in other regions. There are some specific diseases related with psychological trauma received as a result of the armed conflict, and constant psychological tension. Special concern is related with widely spread STDs, the poor reproductive health of women and men and lack of opportunities for development among children. Movement in these villages very often is limited and related to risks for life and health.

There are a very few NGOs in the region that are able to advocate for IDP and women's rights, even the several organizations that work across the border trying to build the dialogue between Georgian and Ossetian women and restore the trust which was broken again in 2004. The lack of real power in the region causes instability and negatively influences the situation of women and children.

A programme of education for women in gender and peace issues, leadership and mutual and psychological self-support recently started by some NGOs was highly appreciated by women. Up to now 172 women have gone through the course. Women who become more aware about the tools and mechanisms they can use to prevent conflict at community feel empowered and ask for the continuation and widening of the programme.

It is recommended that rehabilitation programmes be organized, including small income-generating projects to allow women to increase their contribution to a peaceful resolution of the conflict and their influence within their families and communities.

The situation of Abkhazian IDPs at the moment is quite different: there is only one category of IDP, those who are originally from the Gali district and who can cross the cease fire line along Inguri river. For the moment approximately 76 100 persons from the Gali are registered as IDPs, and part of them return seasonally to

Gali. In order to work on their lands and to receive some income, some people have returned and resettled in Gali.

The only document that should regulate returns to the Gali district, and the whole of Abkhazia, is the quadrilateral agreement signed by the Georgian and Abkhazian sides, Russia and UNHCR in 1994. This agreement does not have any practical value – of the 311 IDPs who returned after the agreement, no one stayed in Gali. The Russian peacekeepers that monitor the situation in the zone of conflict cannot provide real security. In fact, people living in Gali are not real returnees, as no conditions that are necessary for a secure and dignified return are implemented there – but they are forced to be in Gali to survive.

There are very different figures of IDPs who are in Gali at the moment, varying from 40 000 to 65 000 people. Different organisations have different assumptions about the numbers of spontaneous returnees. The figures are often used for political manipulation, for instance, to state that the return to Gali has already happened, which is often done by local *de facto* authorities. The Ministry of Refugees and Accommodation recently proposed to establish special status for people living in zones of high risk – in Gali, Upper Abkhazia and the Tshlinvali regions – **it is necessary to elaborate clear criteria for returnees and not to take away their IDP status before physical, psychological, legal, material security is ensured**, even if it is replaced by another status that provides more financial benefits.

There is a stereotype that it is safer for women to return to post-conflict zones, and that is exactly why very women are often sent by families to work on lands and to bring in the harvest. This leads to physical, psychological and moral risks for them. The health, particularly, psychological and reproductive health of women and young girls, are under threat; political and civic participation of spontaneous returnees is very limited; and the quality of education is only a dream. During this seasonable migration of parents, children often suffer as well, as they sometimes don't have access to regular education if they travel together with parents; if they stay, they are left without their parents' tutelage.

The language issue is a subject of separate analysis, but all queries conducted in the framework of IDP National Strategy development demonstrated that students of the high school from Gali rarely could achieve real success in the national exams in Georgia proper and need additional education in their native language.

Life in post-conflict zones puts incredible psychological tension on IDP children – many of them have nightmares, enuresis, and suffer from chronic depression and fear. This has been documented by the mobile medical teams working in lower Gali and by teachers in schools in Zemo Bargebi and Nabakevi. The lack of adequate security has a further negative impact on children’s psychological well-being due to fear of becoming a victim of criminal activity.

Serious health concerns in the Gali district are related to an increased number of TB cases, hypertension, and neuroses. In the Akubedia, Achigvara, Okumi villages during the last 12 years no one women has had the possibility to visit a gynecologist, and the mobile team registered many cases of pre cancer (15), STDs, C and B hepatitis, and bronchial asthma.

The recommendation will be to improve the capacity of medical institutions in the Gali district and to support the mobile medical teams, as usually the population of remote villages cannot apply to existing ambulances.

While talking about the women and children in post-conflict zones, it is necessary to mention that the international documents that provide protection for these groups are not used enough by the government or the women themselves. This includes the Guiding Principles for Internal Displacement, which represent the only international framework for IDPs’ and returnees’ protection, the Convention on the Rights of the Child and UN Security Council Resolution 1325, which address the impact of war on women and women’s contributions to conflict resolution and sustainable peace.

Aiming to implement Articles 28 and 29 of the Guiding Principles on Internal Displacement, which are related to the equal involvement of women and girls in all kind of programmes, a number of NGOs have started to work in the Gali district to build confidence between spontaneous returnees and the rest of population, creating self-support groups from women, and assisting schools. Here it is necessary to mention the Women’s Center in Gali, the Avangardi Association, the IDP women’s Association Consent, and other NGOs. The women’s crisis center in lower Gali, the most dangerous zone of return where women experience abnormal pressure and often become victims of harassment and violence, is run by enthusiastic local doctors and volunteers – again women. Seminars in conflict management, reconciliation, and women’s rights have been conducted in many schools of the

Gali district, in medical institutions and even at the Inguri power station this year.

As a member of the advisory Council on Gender Equality, I need to stress the importance of Resolution 1325 and its practical implementation again. The security of women – spontaneous returnees in Gali are not protected – in cases of violence and harassment women have no structure to report to or apply for protection – the quadrilateral Commission in Chuburkhinji, which deals with the security issue in the post-conflict zone, consists of men and it is easy to imagine that sometimes the perpetrators themselves are included in questioning of women – victims of violence in Gali. When something happens related with kidnapping or violence against women and children, neither NGOs, nor international organizations have access to the victims to apply internationally recognized mechanisms of protection and to punish the perpetrators.

The restoration of Georgian jurisdiction will definitely help in solving or reducing many of these problems. However, as a temporary measure

it is recommended to include woman representatives of NGOs from both sides of the conflict line in the Chuburkhinji commission to act as independent advocates and consultants for women who need assistance.

Women have demonstrated the best skills in peace building at the grassroots level. Women and youth dialogues are the most visible success stories in the public diplomacy sphere. The Unity of Women for Peace network unites IDP women and women acting in post conflict zones, and provides the forum where women can advocate for peace and raise their voice against violence and human rights violations. There are outstanding examples of cooperation across the *de facto* borders of women organizing peace actions, joint camps for traumatized children, and peace dialogues.

Unfortunately, in the last two years the effectiveness of peace talks in the public sector has become very low due to the intention of the *de facto* authorities to decrease the number of public contacts and diminish the effect of public diplomacy. Women and youth dialogues are a real tool to achieve reconciliation between the conflict sides at the community level, and this resource should be used in the peace talks. Women's organisations and groups have good capacity to overcome the barriers created by the conflict situation. Resolution 1325 directly notes the importance of women's participation in the peace process as, at the community level as well as in official negotiations, such participation can bring a new spirit to the peace process.

It is recommended to

- 1) increase access of IDP women to the official negotiations table and to support public diplomacy efforts made by women and youth and;*
- 2) effectively use international mechanisms for the protection and promotion of women's participation in peace process.*

Psychological rehabilitation is still relevant, as a majority of the programs addressing IDPs psychological assistance have already been completed. The need for the restoration of such programs is evident, due to IDPs deteriorated health and psycho-social status.

One program facilitating the processes of temporary integration and adaptation of IDPs in Georgia proper was the New Approach to IDP Assistance. Created 6 years ago, it was revolutionary for the time, claiming equal rights for IDPs and the possibility of their temporary integration. The New Approach is aimed at improving the lives of displaced persons in Georgia as well as the conditions of host communities by reforming government policy and developing more appropriate assistance programs. Several studies on IDP health and education profiles, vulnerability, and access to financial instruments and information gave the opportunity to advocate for the most burning issues related to IDP rights and access to their implementation. Today these studies give the opportunity to create the comprehensive vision necessary for the development of the National Strategy.

The Millennium Development Goals adopted by Georgia, also address IDPs, and at least in three priorities the IDPs are mentioned directly:

- Halve the proportion of people living below the poverty line;*
- Halve the proportion of people that have unbalanced diets;*
- Ensure socio-economic rehabilitation and civil integration of population affected and displaced as a result of conflicts and natural calamities.*

For the real achievement of these results **the government of Georgia, the civil society sector and international organisations should use all available resources and mobilize them for the social and economic support of the most vulnerable, create conditions for both integration and return, and develop sustainable peace initiatives at the community level using the existing resources of women and youth.**

HUMAN KIDNAPPING IN THE CONFLICT REGIONS OF GEORGIA

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I would like to draw your attention to the practice of the oldest crime – human kidnapping – in the conflict regions of Georgia. This type of crime is widely spread in the modern world, and it never was unusual in Georgia. Child kidnapping was a frequent offence in Georgia in the past, ending with selling the children abroad, as a rule.

In the second part of the 20th century, human kidnapping has assumed a dangerous dimension, which is proved by the analysis of available statistical data. In accordance with the data provided by the security company “Hiscox Group”, which includes information on 70 countries, in 1997 alone there were 1407 cases of kidnapping, while in 1999 there were 1789 cases.¹

The number of cases of kidnapping for ransom has manifestly increased in the course of the last decade.

TYPES AND CATEGORIES OF KIDNAPPING

There are several types and categories of kidnapping in the world:

- 1. Kidnapping aimed at profit-making – to get ransom, exert some influence on the decision-making process in business or commercial deals;*
- 2. Kidnapping perpetrated on the basis of confrontation between different criminal gangs, demanding paying back the incurred debt or obtaining advantage on illegal markets;*

¹ Wilson, J., “Kidnaps for ransom reach worldwide high”, in: The Guardian, 21 April 2000.

3. *Kidnapping for sexual exploitation, for illegal trade in women and children within the country, as well as abroad;*
4. *Kidnapping on the basis of political and ideological motives;*
5. *Kidnapping accompanying the commitment of another crime, for example while taking hostages. This type of kidnapping is a frequent occurrence during robberies and is referred to as “tiger-style” kidnapping;*
6. *So-called “express” kidnapping, when the kidnapped person pays the ransom himself/herself;*
7. *Simulation, that is, faked kidnapping, when in order to get ransom a “victim” colludes with kidnappers or acts independently;*
8. *Kidnapping based on family disputes.*

From the kidnapping categories mentioned above, kidnapping for ransom is the most widespread one. This category of kidnapping is present in all regions of Georgia. However, it is a well-known fact that kidnapping is most prevalent in the territories that are not under de facto control of the Georgian authorities- in Abkhazia and the Tskhinvali region.

HUMAN RIGHTS THAT ARE VIOLATED IN THE KIDNAPPING CASES

In the cases of kidnapping a whole range of fundamental human rights enshrined in the Universal Declaration of Human Rights and other international documents are violated.

The violations of human rights that are prevailing in the conflict zones of Georgia are considered by the international law to be international crimes.

Residents of Abkhazia (mostly in the Gali region) and the Tskhinvali region are subjected to systematic violation of their human rights and freedoms that are protected by the Constitution of Georgia and international agreements, namely:

1. The Universal Declaration of Human Rights (articles 3, 4, 5, and 6);
2. International Covenant on Civil and Political Rights (articles 6 and 9);
3. The European Convention for the Protection of Human Rights and Fundamental Freedoms (articles 3, 5, and 8);
4. The Constitution of Georgia (articles 15, 17 and 18).

In spite of the fact that in the conflict zones the hostilities stopped long time ago, formal and informal military units of different status continue their illegal activities and violate fundamental human rights of the local population on a permanent basis.

The local population residing in the conflict zones face violence and further deterioration of the criminal situation, on the one hand, and isolation and economic hardships on the other.

Due to various reasons, complete information on cases of kidnapping taking place in the uncontrolled territories is not always available to the Directorate for Analysis and Information of the Ministry of Interior of Georgia. Therefore, there should be no doubt that the actual number of kidnapped persons is far more than it is registered by the Directorate for Analysis and Information.²

Some people (relatives of the kidnapped persons), upon the categorical demands of criminals (kidnappers) and out of fear for the live of their loved ones, do not inform the de-facto law-enforcement authorities about the facts of kidnapping. They usually try to return the kidnapped relatives through mediators, since they do not trust the de-facto low-enforcers to investigate the case and return the kidnapped persons. As a rule, they would secure the return of kidnapped persons after paying substantial amounts of money.

KIDNAPPING MARKET

In the conflict zones, the market price for a kidnapped person's release depends on the economic capacities of the kidnapped, his/her relatives and/or

² "Legal and Criminal Aspects of Human Kidnapping", Jemal Gabelia.

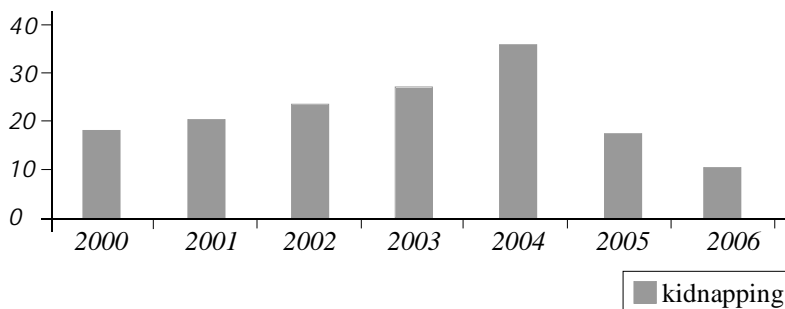
organization to which she belongs to. The amounts of ransoms are quite substantial and tend to increase every year. For example, in Abkhazia, namely in the Gali region, ransom amounts fluctuate from 1000 to 100 000 USD.

HOSTAGES

In accordance with the available statistics, the vast majority of those people kidnapped in Georgia, and in the conflict zones in particular, are local residents. As a matter of fact, kidnappers demand substantially higher ransom when it comes to foreign citizens; however, at the same time the risk of being punished for kidnapping foreign citizens is substantially higher.

The de facto authorities of Abkhazia and the Tskhinvali region abuse the fact that Georgian jurisdiction is limited on these territories and it is extremely difficult to carry out operative-research activities, and therefore the de-facto authorities of these territories have turned kidnapping into a source of their illegal income.

In accordance with unofficial data from the Gali region the following number of kidnapped persons and taken hostages were registered: in 2000 – 17 persons; in 2001 – 20 persons; in 2002 – 23 persons; in 2003 – 26 persons; in 2004 – 35 persons; in 2005 – 17 persons; in 2006 – 10 persons.



Bellow you will read about some facts of kidnapping that occurred in Abkhazia and the Tskhinvali region:

On 6 July 2005, residents of the village Kutra of Great Liakhvi Gorge, cousins Hamlet Khachapuridze,, Mamuka Khachapuridze and Galaktion Khachapuridze

and Mamuka Lomidze, a resident of the village Bitchvnisi of the Khashuri region, came to Tskhinvali to purchase a Kamaz truck and were kidnapped the same day. On 24 November, parts of the body of Hamlet Khachapuridze were sent to the Khachapuridze family. Khachapuridze's and Lomidze's bodies were found on 14 December on the adjacent territory of the Dzara road.

In August 2005, unidentified persons kidnapped 14-year-old Levan Tsatsiashvili from the village Kvesheti of the Tskhinvali region. Later on, he managed to escape from his captors. He was severely beaten and after returning back home he suffered from psychological stress and had severe speech problems.

On 20 January 2006, several armed persons kidnapped Lado Chalaury - head of the Erdveti police department - and Gocha Gvimradze - an officer of the same department. They were severely beaten and then released on 25 January after several days of captivity.

On 30 January 2006, unidentified ethnic Ossetians kidnapped two duty officers of the financial police of Georgia - K. Dvalishvili and Z. Papiashvili. In the Tskhinvali commandant's office the kidnapers inflicted physical abuse on Z. Papiashvili. Dimitry Tasoiev, a member of the parliament of South Ossetia head of counterintelligence battalion of ministry of defense, who was personally acquainted with the hostages, managed to take them from Tskhinvali to the territory under the control of the Georgian authorities.³

On April 10, 2006 Mr. Otar Nachkebia was kidnapped from the village of Khurcha of the Zugdidi region, which borders the village of Nabakevi of the Gali region. He was been kept in captivity for 28 days was released only after a ransom was paid. Initially, the kidnapers demanded 100 000 USD, though finally after the family members paid 20 000 USD, the kidnapers set the hostage free. According to the former hostage, he had been chained to a post in remote place and regularly beaten.⁴

³ Report of the Public Defender of Georgia, 2006.

⁴ http://rustavi2.com/news/news_textg.php?id_news=15395&im=main&ct=25.

In the conflict zones of Georgia, there are facts of people disappearing without a trace. For example, On November 4, 2004 Mr. Eldar Kakhniashvili, a 24-year-old resident of the Tskhinvali region, disappeared without a trace. In spite of active search activities, up until now there is no information about his whereabouts.

In the conflict zones and adjacent territories there is trade not only in not-excised cigarettes and untaxed petrol, but also in theft cars, light arms and drugs. The existing criminal situation in the aforementioned regions represents a serious problem in terms of economic development and establishing order and discipline in the customs and tax services of Georgia. It should be underlined that a substantial segment (if not the whole economy) of the Abkhazia economy is criminalized, since the framework for legal economic activity is extremely narrow.⁵

The major reason for violations of human rights in the conflict zones, especially in the security zone, remains the prevailing disorder and the abuse of power by de facto law-enforcement bodies. The existing situation is conducive to the commitment of grave crimes. In addition, there are many cases of illegal arrest and detention. Unfortunately, it is evident that in the conflict zones the de-facto authorities and law-enforcement agencies carry out a manifestly discriminative policy against the ethnic Georgian population of the regions.⁶

Under the pretence of anti-criminal operations, the so called law-enforcers of Abkhazia would arrest the local Georgian population of the Gali region en masse, after which they would, as a rule, be transferred to the Gali (city), Ochamchire or Sukhumi, and placed in isolation cells of the so-called ministry of interior or security. There have been cases when local residents were arrested and forced to pay ransoms for not having the “temporary passports” of the so-called Republic of Abkhazia: In June 2006, Abkhaz police officers in 6 cars raided the following villages of the lower zone of Gali region- Sida, Tagiloni, Nabakevi, Otobaia, Gagida, Ganakhleba and Barghebi. Otar Turanba was in charge of that punitive operation. Nugzar Kobalia, Jumber Bubtaia, Firuz Mikava and Gocha Mikava were arrested on the 10th of July. The very next day, on 11th of July, Zaza Tsulaia and Ramaz Khubulava were arrested

⁵ “They All Loved the Homeland”, 2006. Georgian Institute of Public Affairs, George Gurgenzidze.

⁶ Report of 2004: “Security Zone and Human Rights”. The South Caucasus Institute of Security.

in the village of Sida. The detained persons were delivered to the Gali police department. In accordance with the available information, there were released on 12 June after having paid a certain amount of money.

It should be underlined that all these violations took place in front of the CIS peacekeeping forces. All this happens against the background of the decision on the “Application of Collective Forces in the Georgian-Abkhaz Conflict Zone” taken by the Council of CIS Heads of State, dated August 22, 1994, and the appendix to the decision dated May 26, 1995. According to these documents, the collective forces are obliged to “promote the protection of human rights and norms of international law” on the territory under their control. The aforementioned documents are those very documents by virtue of which the Russian CIS forces are still deployed in the conflict zone.

The activities of the Russian peacekeeping forces under the aegis of the CIS are ineffective, and more often than not these actions are criminal. For example, on May 2 2006 at approximately 19:00, four military servicemen in an armoured troop carrier arbitrarily entered the house of Mr. Mamuka Sartania, resident of the village of Sida of the Gali region, and demanded alcoholic beverages. When they were refused, they beat him and his family members severely.

On the same day, at approximately 04:00 in the morning, four persons from the Russian peacekeeping forces (Igor Sazonov, Marina Sazonova, Andrey Triphonov and Vladimir Serdiukov) arbitrarily entered the house of Gali resident Ms. Liana Papava on Dzneladze Street and demanded alcoholic beverages. When they were refused, the Russian military servicemen physically insulted her family members and started shooting around, as a result of which Ms. Liana Papava was wounded (It should be noted that Ms. Marina Sazonova, the wife of one of the military servicemen, was also shooting).⁷

To be sure, against the background of the aforementioned cases and other numerous incidents, it is clear that the Russian peacekeepers do not / can not guarantee the security of the peaceful population, as it has been tasked to do by the relevant UN resolutions. Once again, it demonstrates the unwillingness of the peacekeepers to honour their commitments.

⁷ Report of the Public Defender of Georgia, 2006.

In the Gali region there are no human rights NGOs or local representations of international organizations which would, in compliance with the norms of international law, objectively and comprehensively study and assess the existing situation in the conflict zone (in Gali). The opening of a UN Human Rights office remains a topical issue. The Sukhumi UN Human Rights office functions with certain limitations. The work of the office in the Gali region is rather ineffective, while when it comes to the rest of Abkhazia, it actually does not apply at all. On several occasions, the Georgian authorities put forward a proposal requesting the opening of a UN office in Gali. It should be mentioned that UN Secretary General Koffi Annan has repeatedly called upon the Abkhaz side to introduce the UN mission's civil police into the Gali region and to agree to the opening of a UN Human Rights office in Gali. Irrespective of all these requests on the part of international organizations, a UN human rights office has not been opened and the UN mission's civil police have not been introduced to the Gali region.

Unfortunately, up until now not a single person guilty of violating human rights and committing grave crimes in the conflict zones of Georgia has been brought to justice, which, in turn, allows perpetrators acting on the territory under control of the Russian peacekeeping forces to continue criminal actions with impunity.

Proceeding from the aforementioned, it is high time to consider the fight against kidnapping as one of the most important priorities in the general fight against crime. Kidnapping, as practice shows, is changing on a daily basis and turning into a kind of organized crime. At the same time, through the application of new methods of global terrorism, it is becoming a grave threat for the whole society and, therefore, it is high time to pool all our resources and means to stop it.

ENGAGING STATE ACTORS AND NON-STATE ACTORS IN LANDMINE BAN

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MINE ACTION

Antipersonnel (AP) mines and similar victim-activated explosive devices are indiscriminate weapons. Their use is contrary to universally accepted principles of the international humanitarian law. During war, they blindly strike civilians and soldiers and foes alike. AP mines recognize no ceasefire and they remain active and continue to pose a danger to civilians long after hostilities have ended.

Beyond the direct threat they pose to the physical safety of those who live with them, landmines prevent communities from having safe access to land, water and infrastructure, and constitute a serious obstacle to return of internally displaced persons and refugees. These remnants of war impede reconstruction efforts, socio-economic development and create further insecurity in already vulnerable societies.

Since 1992, humanitarian organizations, most notably the International Campaign to Ban Landmines (ICBL) and the International Committee of the Red Cross (ICRC), have campaigned tirelessly against AP mines. In 1997, these efforts culminated in the adoption of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, commonly referred to as the Ottawa Convention or Mine Ban Treaty (MBT). The Convention is a hybrid of international humanitarian law and international disarmament law. It has characteristics of a disarmament treaty, but has a purely humanitarian purpose. Its States Parties are “*determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or*

maim hundreds of people every week..., obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement.” The

“ANTI-PERSONNEL MINE”

Under Article 2 of Mine Ban Treaty – “Anti-personnel mine” means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped. “Anti-handling device” means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine. – Mine Ban Treaty, Article 2 – Definitions.

One important distinction is that Deed of the Commitment, in contrast with the Mine Ban Treaty, includes all mines that can be considered to be victim-activated, even if they are not specifically designed to be so.

Under Article 1 of the Deed of Commitment – “Anti-personnel mine” means a device which effectively explodes by the presence, proximity or contact of a person, including other victim-activated explosive devices and anti-vehicle mines with the same effect whether with or without anti-handling devices. This includes commercially manufactured AP mines, victim-activated improvised explosive devices (IEDS), anti-vehicle mines that can be triggered by the weight of a person; it also includes Booby-Traps prepared with explosives, i.e. mines that are designed to look like harmless objects, and that are victim-activated.

Treaty entered into force on 1 March 1999, crystallizing the willingness of States to eradicate the humanitarian problems caused by landmines. Today, over three-quarters of the world’s Sates have acceded to the Treaty. Despite this significant step in the fight against landmines, 7 years after the entry into force of the MBT, landmines continue to be an acute problem threatening human security in over 90 countries around the world. More concretely, it is said that the landmine problem

causes between 15,000 and 20,000 victims around the world every year, of which only about 15% are identified as military personnel.¹

MINE ACTION IN GEORGIA

Georgia has not acceded to the Mine Ban Treaty. It has expressed support for the global ban on antipersonnel mines on several occasions, most recently in May 2006: “Georgia is convinced that the negative impact of landmines far outweigh their military value and tries to make its possible contribution [to] the process of elimination and eradication of this threat.”²

FOR NOTICE!

Under Article 4 of Mine Ban Treaty – Each State Party undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control...

Under Article 5 of the Mine Ban Treaty – Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control...

Disagreement over the status of Abkhazia and South Ossetia (Samachablo) has led both entities – which are not recognized as States - into conflict with Georgia. Although these are currently “frozen conflicts” which can be described as “no peace, no war” situations, “over the years one of the principle reasons for not [acceding] to the convention has been the **existence of the territories uncontrolled by central authorities of the state,**” and therefore, Georgia’s inability “to fulfill the obligations put forward in the convention.

Georgia has voted in favor of every annual UN General Assembly (UNGA) resolution supporting a ban on antipersonnel mines since 1996, including UNGA

¹ Estimations of casualties by landmines, casualties defined as individuals killed or injured due to incidents involving AP mines, anti-vehicle mines, Improvised Explosive Devices (IEDs), and Unexploded Ordnance (UXO), Landmine Monitor Report 2003, pp.38-39.

² Statement by George Dolidze, Deputy Director, Department for Security Policy and Euro-Atlantic Integration, Ministry of Foreign Affairs, Standing Committee on General Status and Operation of the Convention, Geneva, 8 May 2006, p. 1.

Resolution 60/80 on 8 December 2005. In May 2006, it pledged to “continue to vote in favor of it in the future.”

Georgia is party to the 1980 Convention on Conventional Weapons (CCW) and its original Protocol II, but it has not ratified Amended Protocol II for the “same reasons as [it has not acceded to] the Ottawa Convention.”

Georgian officials have maintained that Georgia has never produced, exported or imported antipersonnel landmines since independence.

Georgia has had an official moratorium on the use of antipersonnel mines in place since September 1996.³ In May 2006, Georgia stated that, “since that time corresponding official structures of Georgia have been strictly refraining from use of antipersonnel mines.”⁴

NON-STATE ACTORS

One of the important challenges that face the mine ban movement is the inclusion of the armed non-State actors (NSAs). It is estimated that there are approximately 200 NSAs in the world today, be they rebel groups, guerrilla groups, liberation movements or de-facto governments.⁵ As with other international treaties and conventions, acceding to the Mine Ban Treaty is a process that is exclusively for States. NSAs cannot participate in the negotiation or drafting of treaties, nor can they sign them.

Because they do not participate in the drafting of international treaties, NSAs might not feel bound by the provisions that they contain. In the case of the MBT therefore, NSAs may continue to use, produce, acquire, transfer and stockpile mines despite efforts by the government of the country in which the NSA operates, to adhere to and implement the obligations of the treaty.

³ The moratorium was proclaimed by President Eduard Shevardnadze at the UN in September 1996 and has been repeated by officials many times since. See Landmine Monitor Report 1999, p. 792, and Note Verbale to the OSCE, 17 January 2001.

⁴ Statement by George Dolidze, Ministry of Foreign Affairs, Standing Committee on General Status and Operation of the Convention, Geneva, 8 May 2006, p. 2.

⁵ “The involvement of Armed Non-State Actors in the Landmine Problem”, Executive Summary, by Anki Sjoberg, 29 November – 3 December 2004.

“NON-STATE ACTOR”

Geneva Call defines an NSA as any armed actor with a structure of command operating **outside State control** that uses force to achieve its **political/quasi-political objectives**. Such actors include armed groups, rebel groups, liberation movements and de-facto or non-recognized governments. This definition therefore excludes paramilitary groups, since these, in a stricter or looser way, are tied to a State apparatus. Responsibility could consequently be attributed to the State for the actions of these groups. The use of landmines by criminal groups or individuals is also excluded, which does not rule out that landmine use by such actors can be a problem in some regions.

The presence of NSAs has an adverse and counter-productive impact in the mine policy of States. In some cases, governments have linked their accession to the MBT with a mine ban commitment on the part of the NSAs living and operating within their borders or to the presence of landmines in territories under NSA-control, which makes it difficult, if not impossible, for them to fulfill their obligations under the Treaty.

Also should be mentioned a number of problems in meeting the obligations of the MBT that arise as a result. Firstly, NSA mines are hard to locate. Indeed, the government is not able to maintain clear records of where these mines are, not least because the NSAs sometimes relocate the weapons as part of their combat tactics. In addition, there is no precise information available on the number or composition of the mines. Secondly, the mines are hard to remove; NSA minefields are generally sewn with IEDs, which are produced at low cost but which require significant economic and human resources to deactivate. Finally, it is very difficult for the State to guarantee that NSAs do not lay new IEDs. Moreover, it clearly indicates that armed groups make it difficult to fulfill the obligations of the MBT, particularly those under Article 5 that require each State Party to destroy or ensure the destruction of all AP mines in mined areas under its jurisdiction or control.⁶

⁶ Under Article 5(1) of Mine Ban Treaty: “Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.”

In order to achieve a truly universal ban on AP mines, it is essential to engage NSAs in the fight. A ban that is participated in by States alone will not resolve the landmine issue. NSAs are part of the problem; therefore they must also be part of the solution.

This is the spirit in which Geneva Call was launched shortly after the coming into force of the MBT. Since 2000, Geneva Call has been advocating an inclusive approach to the mine ban and involving NSAs from around the globe in a humanitarian dialogue by providing them with a unique opportunity to publicly commit to the mine ban. Geneva Call seeks to obtain commitments from NSAs toward the mine ban through a unique mechanism entitled the “Deed of Commitment for Adherence to a total Ban on Anti-Personnel Mines and for Cooperation in Mine Action” (Deed of Commitment), an innovative and inclusive mechanism. When NSAs sign this document, they publicly commit to a total prohibition on the use, production, acquisition, transfer and stockpiling of AP mines, and agrees to cooperate in mine action programmes aimed at protecting the civilian population living in areas under their control or where they are active. Signatory groups also agree to issue the necessary orders to commanders and the rank and file for the implementation and enforcement of their obligations, and to treat their adherence to the Deed of Commitment as one step in a broader commitment to the ideals of international humanitarian norms. The custodian of these Deeds is the Government of the Republic and Canton of Geneva.

Adherence to the mine ban norm by NSAs may facilitate accession and compliance to the MBT by governments. In 2002, the government of Colombia released a report indicating that due to the use of AP mines by NSAs, the government would find it difficult to fulfill its obligations under the MBT. The Government of Sri Lanka has said it will agree to an AP mine ban providing the Liberation Tigers of Tamil Eelam do so as well. Georgia justifies its abstention from the MBT because of the presence of mines in NSA-controlled areas, which the government says makes it difficult, if not impossible, for it to meet the obligations under the MBT. Alone, an inter-state ban will not solve the landmine problem. Engaging NSAs in a complementary process is essential to achieve true universalisation of the mine ban norm.

ABKHAZIA

Abkhazia is not an internationally recognized state, so it cannot become party to the Mine Ban Treaty. Officials have expressed sympathy with humanitarian concerns surrounding landmines, but bluntly stated that Abkhazia cannot ban antipersonnel mines at this time. In May 2005, the Foreign Minister of de-facto authorities stated that “Abkhazia suffered great losses because of landmines, and Abkhazia is interested in solving the landmine crisis around the world. Our problem is that we live under constant pressure of another war. Abkhazia cannot refuse to use landmines, because it is one of the means of defense of its forces. When we have international guarantees that there will be no war, then we will make significant steps towards the Ottawa Convention.”⁷

Contamination of Abkhazia with mines and unexploded ordnance (UXO) resulted from the armed conflict of 1992-1993 between the breakaway republic and Georgia proper. The war was “characterized by front lines moving along the Black Sea coast from the Gumista River, north of the city of Sukhum, to the Ingur River further south.... Mines were laid in flat and fertile valleys to augment the natural obstacles of the rivers.”⁸ During 2005, the HALO Trust completed clearance operations in the Gali region and the Gumista river valley near Sukhum.⁹ There is confirmed mine and UXO contamination in the Kodori valley.¹⁰ In previous years, HALO had noted that due to insecurity and lawlessness in the valley, it was not possible to conduct survey or mine clearance operations. During the latter half of 2005, however, HALO was given unrestricted access to the Abkhaz-controlled lower Kodori valley, where it carried out extensive survey and marking of the mine contamination.¹¹

⁷ Interview with Sergey Shamba, Minister of Foreign Affairs, Sukhum, 23 May 2005. Military officials echoed similar sentiments: “Landmines in Abkhazia are used for the purpose of defense of her military personnel, and at this moment we cannot refuse to use this weapon.” Interview with Lt. Gen. Anatoly Zaitsev, Deputy Minister of Defense and Chief of General Staff, and Col. Garry Kupalba, Deputy Minister of Defense, Sukhum, 24 May 2005.

⁸ See Landmine Monitor Report 2005, pp. 933-934.

⁹ HALO Trust, “The HALO Trust Mine Clearance Programme Abkhazia, Activity Report 2005,” pp. 2, 9.

¹⁰ “HALO Abkhazia 2005 Update,” February 2006, provided by email from David McMahon, Program Manager, HALO Trust Abkhazia, 21 February 2006. Contamination in that area had previously been claimed by local authority representatives. See Landmine Monitor Report 2005, p. 934.

¹¹ “HALO Abkhazia 2005 Update,” February 2006; email from Matthew Hovell, Caucasus and Balkans Desk Officer, HALO, Scotland, 24 April 2006.

Abkhazian forces maintain a stockpile of antipersonnel mines, though its size and composition is unknown. Russian engineering units serving with Commonwealth of Independent States peacekeeping forces may also stockpile antipersonnel mines. There were no reports of use of antipersonnel mines by any armed forces in Abkhazia during 2005 or early 2006. In May 2005, military officials stated that “there are special units in Abkhazia that are ready to install landmine fields at any moment providing it is necessary for the defense of national security.” They said the military forces of Abkhazia had not used landmines for the past two years.¹² On 21 June 2006, President of de-facto authorities, Mr.Sergei Bagapsh threatened to mine the border with Georgia if Russian peacekeepers were withdrawn from the area.¹³

There is no national mine action authority in Abkhazia. Mine action data collection, planning and operational coordination continues to be provided by the Abkhaz Mine Action Centre (AMAC), which was established by HALO in 1999.¹⁴ Coordination of HALO’s activities was arranged through, the President of Georgia’s special representative to Abkhazia¹⁵ and *de facto* Minister of Foreign Affairs of Abkhazia.¹⁶ AMAC records all survey, clearance and post-clearance data. It is not clear to what extent AMAC is able to manage mine action autonomously. All known minefields in Abkhazia have been prioritized for clearance, with minefields closest to human habitation determined as the first priorities.¹⁷ The Department of State found that, “The program was considered to be efficient, well-run and on course to declare Abkhazia mine-safe during 2007.”¹⁸

¹² Interview with Lt. Gen. Anatoly Zaitsev, Ministry of Defense, and Col. Garry Kupalba, Ministry of Defense, Sukhum, 24 May 2005. Abkhazia last acknowledged using antipersonnel mines in mid-2002. See Landmine Monitor Report 2004, p. 1180.

¹³ At a press conference, the President stated that there is no alternative to Russian peacekeepers in the zone of conflict, and if Georgia continues to insist on their withdrawal, Abkhazia will withdraw from the negotiations. He said, “I assure you that the attitude to the border will be different than it is today. There will be 100 percent mining of the border... according to international rules.” (Translation by Landmine Monitor), www.regnum.ru/news/660767.html. Another Abkhazian official, Kristian Bjanja, representative of the President, confirmed the remarks about use of mines. Email from Abkhazian Campaign to Ban Landmines, 4 July 2006. Georgian media also reported on the Abkhazian president’s remarks. See news.gpb.ge/english/det.html?id=3178&dateg=21-06-2006.

¹⁴ See Landmine Monitor Report 2005, pp. 934-935.

¹⁵ Response by HALO to Landmine Monitor Mine Action Questionnaire, 26 February 2006.

¹⁶ Email from Matthew Hovell, HALO, Scotland, 24 April 2006.

¹⁷ See Landmine Monitor Report 2005, pp. 934-935.

¹⁸ Email from Matthew Hovell, HALO, Scotland, 24 April 2006.

In 2005, USA-UK demining organization HALO Trust reported 15 new casualties in four landmine/UXO incidents, including three killed and 12 injured. At least three children were among the casualties as well as five military personnel and one HALO deminer. This is a significant increase in casualties compared to 2004 when six people were injured.¹⁹

On 16 November 2005, residents of the Gali region were traveling by lorry through Kokhora village when they hit an antivehicle mine; two passengers were badly injured and received initial treatment at a local hospital, while the driver died at the scene.²⁰ A group of Abkhaz soldiers tampered with a rocket from their own stores to use the explosives for fishing, and in the resulting explosion, two soldiers were killed and three injured. Two other incidents were the result of a dispute and attempted extortion with antivehicle mines in the village of Kokhora, Ochamchire region; seven people were injured, including several children who were traveling on tractors when the mines exploded.²¹

No new casualties in 2006 were reported as of May 2006. HALO has recorded 682 mine/UXO casualties between 1992 and the end of 2005, 150 people were killed and 532 injured.²²

SOUTH OSSETIA

South Ossetia is not an internationally recognized state too, so it cannot become party to the Mine Ban Treaty. Contamination of South Ossetia with mines and unexploded ordnance (UXO) resulted from the armed conflict of 1992-1993 between the breakaway region and Georgia proper. South Ossetian forces maintain a stockpile of antipersonnel mines, though its size and composition is unknown. Russian engineering units serving with Commonwealth of Independent States peacekeeping forces may also stockpile antipersonnel mines.

In USSR period, in South Ossetia was deployed engineering-sapper foundation,

¹⁹ See Landmine Monitor Report 2005, p. 937.

²⁰ "An Anti-Tank Mine Explosion Wounds Two Persons In Gali District," Prime News Online (Tbilisi), 16 November 2005.

²¹ Email from David McMahan, HALO, Abkhazia, 4 May 2006.

²² "The HALO Trust Mine Clearance Programme Abkhazia, Activity Report 2005," March 2006, p. 7.

which during confrontation in 1992, left a place of the disposition, the warehouse was plundered and over 3000 mines appeared in hands of the armed formations and citizens in the zone of the conflict.²³ One of examples of these mines usage can be named the fact that in the middle of March 2002 in 7 km to the north of South Ossetian settlement Dzhava, on the site of Transcaucasus highway there were casually found 23 anti-tank mines, 20 kg of trotyl and 43 kg ammonite prepared for explosion.²⁴

However, in July and August 2004, due to some renewed military activity, this statement threatened to erupt into a full-scale war. A new cease-fire has been in place since August 2004, although sporadic shootings still take place.²⁵

There is no national mine action authority in South Ossetia. Mine action data collection continues to be provided by ICRC, ICBL and OSCE. In September 2004, the OSCE expressed concern “about the fact that Georgia and South Ossetia are mining the conflict area” in order to reinforce their defense facilities.²⁶

In September 2004 while carrying the engineering investigation, the engineering platoon of JFPK, found out a remote control mine; the line of remote control has been laid along the river Big Liakhva with an output on opposite coast of the river, in a direction of Kemerti settlement. As a result of the conducted demining was found out that it is the prepared demolition charge in gross weight in a trotyl equivalent of 108 kg incorporated under a stone canopy and the remote control line of exploding. The explosive was in due time revealed by JFPK. However the next day, on the specified place the new explosive was revealed.²⁷

In August 2004 as a result of mine explosion near village Kehvi died Russian and Ossetian representatives of the mixed peacekeeping forces; two more Russian peacekeepers were wounded.²⁸

²³ “Zone of Tskhinvali conflict”, ICBL GC publication “Mine Wars”, 1999.

²⁴ Michail Vignanskiy, Tbilisi, 22 March 2002, www.vremya.ru/2002/50/5/21047.html.

²⁵ Statement by George Dolidze, Ministry of Foreign Affairs, Standing Committee on General Status and Operation of the Convention, Geneva, 8 May 2006, p. 2.

²⁶ “OSCE voices concern over landmines in Georgian-Ossetian conflict zone,” Interfax (Tbilisi), 10 September 2004.

²⁷ “In South Ossetia was found the explosive mechanism of 100 kg trotyl power”, “Explosions took place in territory supervised by the South Ossetian side”, – was noted thus in Ministry of Internal Affairs of Georgia”, 27 September 2004, <http://www.regnum.ru/news/331634.html%D0%92>; “News from South Ossetia” <http://www.iryston.com/28-09-2004.htm>.

²⁸ «Two peacekeepers and a child died as the result of mine explosions in the zone of Georgian-Ossetian conflict» 01 September 2004, www.day.az/news/georgia/12163.html; www.day.az/news/georgia/12163.html.

Only in September 2004 in hospital of village Kurta was delivered 5 injured from mines, in October – two journalists of TV channel “Rustavi 2” and a child were delivered in Tbilisi hospital; in October was killed the inhabitant of village Eredvi.

New casualties were reported in 2005 and 2006, the exact number of mine victims/survivors is not known. According to ICRC data since August 2004 till the end of 2005 there were registered 22 mine/UXO victims. In 2006 (April-October) – 6 people.

A mine has exploded in the village of Kekhvi, Didi Liakhvi Gorge, injuring two locals, father and son. Reportedly, the father died after a few minutes.²⁹ Another man from this village has lost both lower limbs. Village Kekhvi is the last settlement in the Didi Liakhvi Gorge, bordering the conflict region, where such incidents are very frequent.³⁰

A soldier of the Russian battalion of the Joint Peacekeeping Forces lost his arms and received serious facial injuries. The mine exploded when the Georgian police and the Russian soldiers were trying to find the body of Gogi Kakhniashvili, who also exploded on a mine. Because of the explosion two Georgian police officers received minor injuries as well.³¹

Since both parties allegedly have been using booby-traps and factory-made mines, it is difficult to attribute responsibility for mine incidents.

According to Georgian Ministry of Foreign Affairs “in recent years the South Ossetian side accused the Georgian side in mining the territories in conflict area, however, it must be stressed, that all allegations of that sort do not reflect the real picture – the Georgian Armed Forces and other relevant structures strictly follow the declared moratorium.”

There were no reports of use of antipersonnel mines by any armed forces in South Ossetia during 2005 or 2006.

²⁹ “Explosion kills one in conflict zone”, 26.10.06, http://rustavi2.com/news_text.php?id_news=17960&im=main&ct=25.

³⁰ “Mine explosion injures one”, 09.10.06, http://rustavi2.com/news_text.php?id_news=17716&im=main&ct=25.

³¹ “Russian soldier survives explosion, loses arms” 17.06.05, http://rustavi2.com/news_text.php?id_news=11330&im=main&ct=25.

PEACE PROCESS THROUGH MINE ACTION

Although deemed by many as lacking decisive military utility and despite their disastrous humanitarian consequences, landmines clearly serve different purposes for each NSA that employs them.³² Knowing why and how NSAs use these weapons could contribute to developing a successful strategy for engaging these groups in the landmine ban. The impact of NSA mine use is in many respects similar to the impact of state mine use. However, it appears that NSA mines are more widely dispersed than state mines and non-state actors are usually less prone to mark or map their mines. The humanitarian impact of NSA mine use is difficult to measure, since it takes place in a conflict situation, in areas where little or no mine action is taking place and where civilians may fear reporting mine incidents. In addition, the impact of NSA mine use is difficult to distinguish from that of the conflict itself until the conflict has ended and information becomes available through mine-action efforts.

Considering the disastrous effects of landmine use, there is a requirement for national and international agencies to undertake mine action in areas where NSAs operate and/or are in control.³³ Given the benefits of mine action to affected populations, it is indispensable for the concerned governments to allow such actions.

In order to map the benefits and challenges related to the involvement of non-state actors in humanitarian demining and to encourage other NSAs to ban anti-personnel mines and get involved in mine action, there is a need to further investigate current mine-action efforts undertaken by these actors in conflict and post-conflict situations. Many NSAs (as well as states) lack the long-term perspective of the consequences of mine use, and it is therefore crucial for the international community to find channels of communication with NSAs on the AP mine issue. Parties to conflict often use accusations of AP mine use to discredit the other party because

³² “*The Involvement of Armed Non-State Actors in the Landmine Problem: A Call for Action*“ Executive Summary, by Anki Sjöberg, Geneva Call (2004)

³³ Action 46 of the *Nairobi Action Plan* states that States Parties in a position to do so will “continue to support, as appropriate, mine action to assist affected populations in areas under the control of armed non-state actors, particularly in areas under the control of actors which have agreed to abide by the Convention’s norms.” http://www.gichd.ch/fileadmin/pdf/mbc/MSP/6MSP/Nairobi_Action_Plan.pdf, Accessed March 27, 2006.

of the stigmatization of such arms following the Ottawa process, but also because of the natural “perception of landmines as an illegitimate type of weapon.”³⁴

NSAs, as well as states, are thus reluctant to admit they are using a victim-activated weapon. This suggests an inclusive approach – involving advocacy based on accurate information – could be the key to success for spreading a mine ban among NSAs.

International organizations can initiate this process, while continuing to maintain their neutrality and use its humanitarian mandate and intermediary capacity to:

- facilitate the establishment of relationships amongst and between armed groups and those in a position to assist in the implementation process;
- create a favorable environment for dialogue involving States and NSAs in order to include humanitarian concerns in the political agenda;
- disseminate the mine ban by providing material resources to NSAs, such as a
- raise awareness about the importance of engaging NSAs.

The prohibition of the use of landmines is also linked to peace, but in a more tenuous way. While renouncing the use of any weapons may be done in the spirit of putting an end to violence, the underlying rationale for prohibiting landmines is to lessen the suffering associated with war. By definition, landmines are used by those who continue to wage war and one of the key goals pursued by the campaign to ban the use of these weapons is to ensure that parties that continue to engage in hostilities do so without using landmines. It is therefore crucial to avoid a situation where if a peace process collapses, the parties to the conflict can justify the use of landmines on the basis that the ban was part of the so-called “deal”. Hence, the importance of concluding “stand alone” agreements, such as the Deed of Commitment, that continues to apply even when a peace agreement or cease-fire agreement fails.

Removing mines is not a purely technical activity, but a highly political one. There are distinguished the various phases of armed conflict, arguing that mine clearance is primarily understood as something that takes place after the hostilities have ended, at the peace consolidation or peace building stage. It requires information-sharing which is an integral part of building trust and humanization. In situations where there is no war (because there is no active fighting), but there is

³⁴ Harpviken, Kristian Berg and Bernt A Skåra. “Humanitarian Mine Action and Peace Building: Exploring the Relationship.” *Third World Quarterly* 24.5 (2003): p. 813.

also no formal peace process underway, demining can provide an opportunity for parties to work together on a specific issue. The act of demining is in itself a reflection of a willingness to move towards peace. If disagreement arises regarding the way forward on the landmine issue, it can develop into a major impediment to progress on other fronts that are central to the peace. There is therefore a case to be made for keeping the two processes on separate tracks.

Making areas under the control of armed groups accessible for mine clearance and victim assistance programmes has the potential of being a first step in the direction of a ceasefire agreement or indeed a precursor to “talks-about-talks”. The inclusion of mine action clauses within peace agreements can also act as an important confidence building measure between parties to the conflict – especially if such an agreement includes the possibility of “joint mine action operations”. Mine action can contribute to an environment of normalcy and an atmosphere of peace. Mine clearance creates socio-economic opportunities that may deter former combatants from returning to the use of arms. By providing an opportunity for parties to cooperate in, for instance, stockpile destruction or in finding common solutions to the humanitarian effects of landmines, mine action can contribute to reconciliation.

International organization should prioritise transparency and endeavour to work in partnership with local organisations and communities; should use its impartiality to ensure that mine action initiatives favour rather than hinder peace efforts; should respond positively to requests by NSAs to intervene in peace negotiations only to the extent that this does not jeopardise its impartiality and humanitarian mandate; and should focus on supporting the stakeholders that are in a position to further negotiations.

In light of these points, it is appropriate to conclude that the engagement of an NSA to ban landmines and to undertake mine action, such as through the signature of Geneva Call’s Deed of Commitment,³⁵ would have a positive impact on the implementation and universalization of the MBT. Within States Parties,

³⁵ A mine ban by an NSA can also be unilateral or through a bilateral agreement with the concerned government, although such declarations and agreements do not always contain provisions on engaging actively in mine action as the Deed of Commitment does. (The Impact of Armed Non-State Actors on the Mine Ban Treaty Research and Analysis by Geneva Call, A working paper presented at the 7th Meeting of States Parties to the Mine Ban Treaty, Geneva, 18-22 September 2006).

the commitments assumed by an NSA in this way should facilitate a State Party's capacity to implement the mine ban across its whole territory in compliance with the MBT.³⁶ For example, if a signatory NSA pledges to destroy its own mine stockpiles and to demine the territory under its de facto control.

Similarly, where the presence of an NSA deters a non-signatory State from signing the MBT due to its reluctance to give up a weapon that is still available to the rebel group, a commitment by the latter to ban landmines could provide the State with sufficient reassurance to sign the MBT. Such an outcome was seen in Sudan. Following from this, in instances where a government and an NSA are locked in reciprocal mine use, and a unilateral renunciation of landmines does not seem possible on either side, a simultaneous commitment to ban landmines, through the Mine Ban Treaty and Geneva Call Deed of Commitment respectively, might offer means of breaking the deadlock.³⁷

Ridding the world of landmines requires the participation and dedication by all those involved in their use. The MBT offers an avenue for States to make such a commitment, whereas Geneva Call provides one for NSAs. Both tiers must be supported and strengthened if our ultimate objective—a world free of mines—is ever to be realized.

³⁶ “[States Parties in a position to do so will]... Continue to support, as appropriate, mine action to assist affected populations in areas under the control of armed non-state actors, particularly in areas under the control of actors which have agreed to abide by the Convention's norms” Action # 46, Ending the Suffering Caused by Anti-Personnel Mines: Nairobi Action Plan 2005-2009 (The Impact of Armed Non-State Actors on the Mine Ban Treaty Research and Analysis by Geneva Call, A working paper presented at the 7th Meeting of States Parties to the Mine Ban Treaty, Geneva, 18-22 September 2006).

³⁷ Such a possibility was recently included in the European Parliament Resolution on Sri Lanka, adopted in May 2006, which urged “both sides [the government and LTTE], as an immediate gesture of goodwill, to cease the use of anti-personnel landmines and to assist in their removal, and considers that, to this end, the Government of Sri Lanka should set an example by signing the Ottawa Convention and the LTTE should sign the Geneva Call “Deed of Commitment” (The Impact of Armed Non-State Actors on the Mine Ban Treaty Research and Analysis by Geneva Call, A working paper presented at the 7th Meeting of States Parties to the Mine Ban Treaty, Geneva, 18-22 September 2006).

CONFLICT IN ABKHAZIA – THE EXISTING SITUATION AND PROBLEMS

VAKTANG KOLBAIA

Foundation Caucasian Dialogue, Board Member

Caucasus is a location, where we can observe a strong confrontation of the leading powers of the world, whereas the local multi ethnicity and multi confessionalism double the amplitude of the antagonism.

The painful and complicated internal conflicts threaten the interests of not only a particular people, but the whole social-ethnic groups.

Fragile national political institutions prevent the system of geopolitical security of this region from full-fledged functioning.

The international community is interested in addressing those challenges and trying to find an optimal legal solution for finding a way out of the existing situation. Because, there are no more local or “other’s” conflicts in the world. So significant and so fast growing is the level of the technological development in the modern world that almost any threat acquires the global importance.

The European politics today is more familiar with a so-called South Caucasian or a smaller South Caucasus format.

On the Black Sea coast of the South Caucasus countries, right on the Georgian territory, in Abkhazia display Russia’s interests towards Georgia. After Russia lost its direct control over Adjara in May 2004, as a result of the *Rose Revolution*, and its politics failed during the presidential elections in Ukraine, it is trying to concentrate all its energy on the *Abkhazian Knot*.

After the Soviet Union was dissolved, the Georgian government of that time failed to get involved the interests of the Ossetian and Abkhazian ethnoses in construction of the young state. In reality happened the opposite – they estranged.

Unfortunately, then the Georgian government was unable to take full account of the international political situation, as well as its own resources, and was allured into the provocation and engaged into a large-scale military confrontation having fatal implications – today we, as a result, have temporarily separated territories, over three hundred thousand IDPs, thousands of killed and disabled people.

The situation was more complicated due to the fact that the conflicts, which developed in Balkans took all attention of the West and this in fact gave Russia freedom of action, which it used to manage conflicts in Georgia in compliance with its own interests and resolve the armed confrontations to achieve outcomes to its own satisfaction.

There are 4 frozen conflicts in the post soviet area. Agreeing to freezing those conflicts would mean that the international community accepted to the existing *status-quo*, which, in my opinion, is not a pragmatic approach to this issue, because it will affect the developments in the whole region.

The “frozen” status of this and other similar conflicts suits Russia. On the one hand it is reluctant to recognize Abkhazia as a sovereign state, because this may entail similar secessionist propensity in Russia’s own autonomies, on the other hand it cannot give up its control over this republic, because it will threaten the current political regime

At the same time, we should keep in mind that Russia has its own strong interests in Caucasus and therefore nobody in the modern world shall still doubt that it (Russia) cannot be an impartial mediator in the conflicts on the territory of Georgia. I have become more certain concerning this assertion of mine after the measures taken by the authorities of Russian Federation against Georgia and ethnic Georgians living in Russia which is unprecedented in the modern Europe for the last 60 years. Such actions were of followed by an adequate reaction of the Council of Europe and the countries of the free world.

Formally, Russian Federation acknowledges Georgian sovereignty and jurisdiction over the territories within its internationally recognized boundaries including Abkhazia, however today *de facto* Abkhazia is another subsidiary subject in the south of Russia. The majority of the people in Abkhazia today already holds Russian passports, while Abkhazia’s domestic political life as well as its both legal and illegal economy is totally oriented to Moscow and dependent on its biddings.

So far the Abkhazian side is absolutely trying to match its own interests with those of Russia. And Russia is doing its best in taking an advantage of it being aware of Georgia’s aspirations towards integration with Euro-Atlantic Union.

That is why a certain part of the Russian elite is trying its best to maintain the existing *status quo* on Abkhazian territory.

In Abkhazia, Georgian schools are made illegal, although the numbers of the Georgian and Armenian population are more or less the same the Armenian schools are permitted while Georgian schools are prohibited. In Gali district, they restrict Georgian language classes, the subjects of history and geography of Georgia have been removed from the curricula.

In the materials of the monitoring of the Human Rights situation in Gali district conducted some time ago by a joint UN/OSCE mission we read that in Abkhazia there are severe violations of all universally declared rights (violating the right for life, taking prisoners, kidnapping for ransom, slave labour, restricting in using native (Georgian) language, monoethnic (Abkhazian) rule etc.)

It is noteworthy that this monitoring has been conducted with participation of the Abkhazian side. It has been stated that in this respect the situation is embarrassing in Gali district. Some recommendations have been suggested, which among others also specified the duties of the international organizations, however, despite many attempts from our side, actually nothing has changed so far – The issue of opening a UN office is still pending, Georgian schools are still locked, in other schools they still are barred from teaching history and geography of Georgia, many other recommendations have not been implemented.

Before 1993 in Abkhazia there were 320 schools in the public education sector; among them: 157 Georgian schools, 33 – Russian schools, with 83 200 students, 48 – Abkhazian schools, 45 – Armenian schools, 68 mixed schools - Georgian-Abkhazian and Georgian-Russian; in Gali before the war there were 59 schools: 1 – Georgian-Abkhazian school, 3 – Russian school, 4 – mixed Georgian-Russian schools, and the rest 51 schools Georgian. Today in Abkhazia there are operating in the public education sector 162 schools, among them 63 Abkhazian schools, 51 Russian schools, 39 Armenian schools, 17 Abkhazian-Russian schools, 1 Russian-Armenian school. As we can see there are no Georgian schools.

The public education schools in exile from Abkhazia (September 1, 2006) in total – 24; among them: 8 in Zugdidi, 1 in Rustavi, 2 in Kutaisi, 1 in Chkhorotsku, 1 primary school in Borjomi, 3 secondary and 6 primary schools in Kodori Gorge and 3 secondary schools in Tbilisi.

Opening of Gali branch of Sukhumi Office for Human Rights Protection recommended by the UN Security Council and earlier permitted by the Sokhumi

regime unreasonably delayed. This factor impedes coordinated fight against the permanent murders, kidnappings and robberies taking place in Gali district.

It is a well-known fact that the uncontrolled territory has become a harbour for the criminal elements wanted by authorities in other places of Georgia. The illegal trade in arms and munition is also taking place there; motor vehicles are hijacked and robbed almost every day; the population is kept under terror and violence; the facts of kidnapping (often with fatal results) for ransom happen systematically.

It is noteworthy, that the local population believes that the Gali law enforcement agencies and the district administration hide behind the mentioned criminal acts. The youth is massively addicted to drugs – the territory of Gali Enguri riverside became a drug production zone.

Another issue I want to dwell on is the UN position and role in Abkhazia, namely in the conflict resolution process.

The United Nations monitoring mission to Georgia started on August 24, 1993 under the Resolution of UN Security Council. The armed phase of the conflict has ended in September 1993 in Abkhazia.

The mandate is still in force.

In 1994 all the basic documents were signed, among them the Moscow agreement “on a Cease-Fire and Separation of Forces” of May 14, 1994 that built the peaceful format of the conflict resolution.

If we try to be impartial concerning the abovementioned provision, we should highlight the fact that during 9 months after the end of the armed conflict, before the CIS (in fact Russian) peacekeeping forces deployed along the Enguri riverside in June of 1994 – no serious counteractions took place between the parties. Therefore, the declarations by the Russian party regarding the endeavors of the peacekeeping forces in terms of peaceful settlement of the conflict is somewhat unrealistic and do not have the objective base underneath. Unfortunately, there is rich evidence to the contrary already mentioned at the conference, namely, during the 12-year presence of Russian Peacekeepers the number of casualties among the peaceful population figures out more than 1700 people.

The peacekeeping forces acting under the CIS mandate either do not fulfill at all any of the tasks assigned to them by the mandate or do it with bias, therefore impeding the confidence building and reconciliation process between Georgians

and Abkhazians and hampering resolution of the conflict in compliance with the international norms and practices.

In this regard, the main directivity of the three resolutions made by the Georgian Parliament in 2006 was that the Georgian government should undertake any adequate steps for withdrawal of peacekeeping forces of Russian Federation acting under the relevant mandate from the Georgian territory as soon as possible within the period pre-arranged by the parliament

The official course of Georgia directed towards the resolution of this very important issue finding an absolute backing both in the society and key political forces and being shaped as a political will of a sovereign state and the civil society, has also gained an entire political support from the international organizations and society.

Georgia should achieve withdrawal of Russian peacekeepers from the conflict zones. However, this should be done in parallel with the armed conflict prevention in the region, as well as development and utilization of the effective mechanisms. Until the Abkhaz population feels unprotected, Russia will find ways to perform its own scenario.

The presence of the Russian contingent in the conflict zone cannot be an end in itself. Their presence in the area will be justified only if Russia supports the steps of the full-scale resolution of the conflict – as seen by the Western partners of Georgia – by the USA and EU.

It is also noteworthy that the UN role has rapidly weakened during the last years in terms of conflict resolution. I emphasize it not from the politician's prospective, but as an expert, who is fully aware of the ongoing facts. The last resolution of UN Security Council, from my point of view, is another proof for the above-discussed idea. We fully understand that UN is not an organization that could talk to the conflict parties in an imperative tone. It just allows giving the parties relevant recommendations based upon the opinions of its member countries and especially upon the views of the Security Council member countries. The latter have the right to veto any issue which they do not favour.

The last Resolution of UN showed us the necessity of a close analysis by the Georgian government of each provision written in the UN Resolutions in order to avoid and prevent the impartiality and discrepancies in future documents.

Moreover, it would be reasonable if implementation of each provision of the UN resolution were accompanied by a rigorous monitoring. However, today the so-called “mediator” – Russia points out to Georgia’s responsibility to implement the paragraph related to withdrawal of military forces from the Kodori Gorge. At the same time, during the last 13 years, from resolution to resolution pass the following provisions as concerning an agreement on the political status of Abkhazia considering territorial integrity of Georgia within the internationally recognized borders; return of the IDPs; adding a policing component to the peacekeeping operations; renewal of Georgian classes at the schools of the district; opening UN Human Rights Mission office in Gali and etc.

We think that the UN mission should pay more attention to the renewal of the negotiations under Geneva format (by the way, it is also a well-known fact that the only party rejecting this format is Russia).

I do not think that the Georgian - Abkhazian Coordination Commission, taking into consideration its content, performance and abilities, is more effective than the Geneva format. Especially keeping in mind that, while the Geneva format is seeking the resolution of political, economical and humanitarian issues, the Coordination Commission is dealing with all the above problems except the political ones.

The last UN Resolution showed to us that it took much time for the new Head of the UN Mission to study the situation in Georgia. His unreasonable absence from Georgia for that time was skillfully used by Russia, which took over the UN Mission function to prepare the draft resolution for the Security Council. As we all know, the report of UN Secretary General is prepared by the representative of UN mission to Georgia who in fact is a focal point of the adopted documents referring to our country.

Indeed the UN is responsible for initiation and preparation of its Resolution. That is why it seems to me somewhat strange that Russia became the author of the last Resolution. Of course, Russia has the right to do so. However, there is another odd fact that the Head of UN Mission has not arrived to Georgia yet. This concern may not have the real ground underneath, but in this particular case all details even the smallest ones have greater meaning.

The governments having conflict regions in their countries need the adequate, timely and pragmatic assistance from their mediators. We should also generate the ideas concerning the conflict resolution keeping in mind the dignity of the parties

involved. We need endeavors from all the parties in order to attain the condition, when all the issues and problems will be addressed based on cooperation.

Willing to solve the problem without others, disrespecting the endeavors and interests of any party will be counterproductive and therefore not leading to positive results.

We should honestly admit that there are two very divergent positions. The parties are not making any efforts to revise them or achieve any compromise. Everything is projected on the third party – Russia. The Abkhazian party is making its plans also looking at Russia.

I believe that the European Union can be helpful for us in this respect. Moreover, since it is engaged with such an unstable zone it has to do it. Some joint project could become the best example of confidence building and communication. Therefore, we have to start talking about the things that are uniting us, that could bring us together.

Some of the experts mention that the document suggested by the Abkhazian party (“Key to Future”) introduces a new addressee – the European Union. This obviously means that the new position appeared there as an answer to the Georgian party who tries to lead them out of the isolation and sooner we manage to identify the mutually acceptable ways to bring the parties together, the better will we come to common ground.

I remember the well-known Belfast Agreement, achieved in the Northern Ireland as a result of multi-party negotiations between the UK and the Northern Ireland Governments in 1998. As the various experts say the document is not a perfect one, but still it is recognized that it presents the outcome of the collective wisdom of the parties. One of the articles therein says: “we recognize significant differences in our permanent and equally legal political efforts; therefore we examine all practical ways that would lead us to reconciliation, bring us about the rapprochement and mutually agreed democratic procedures.”

Finally, the peaceful resolution of the conflicts should guarantee the sustainable multinational. It should consider effective constitutional guarantees for every citizen – members of every community; it should provide real mechanisms for exercising the human rights, among them the right of safe and non-conditional return of IDPs to their homes.

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