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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Joint written statement* submitted by the Human Rights House Foundation, B.a.B.e. - Be Active Be Emancipated, the Helsinki Foundation for Human Rights, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 June 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Concerns about restrictions of freedom of assembly in Georgia*

Georgia will hold its Parliamentary elections in October 2012. We echo the encouragement of Maina Kiai, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, referring to his visit to Georgia in February 2012, stating "With elections planned for this year, Georgia has a wonderful opportunity to enhance the enjoyment of all human rights for all its citizens, and especially the rights to freedom of peaceful assembly and of association, which are the fulcrum for the enjoyment of democracy and economic development."

On one hand, we welcome that on 27 May 2012 about 100 000 people were allowed to gather in a large-scale peaceful political rally in Tbilisi to support one of the opposition leaders. On the other, we remain concerned about the current Law on Assembly and Manifestations that excessively restricts the right to peaceful assembly and challenges Georgia's international human rights obligations. In addition, we worry about the various instances in recent years of violent dispersal of authorised protests.

A recent worrying event showed the problems with exercising the right to hold manifestations on certain issues. During the march organised on 17 May 2012 in Tbilisi in support of LGBT rights, the peaceful demonstrators faced aggressive opposition from protestors. Despite the fact that the organizers notified the police in advance and underlined possible threats to it, the authorities were unable to maintain order and to defend the peaceful participants, many of whom were unfairly detained, though later released.

On 26 May 2011, the police violently cracked down on an anti-government protest of some 1,000 demonstrators calling for the resignation of President Saakashvili. Violent dispersal resulted in the death of at least 4 rally participants and 1 policeman; seventeen journalists were injured and several were detained. According to Georgia's Ministry of Internal Affairs, eight policemen, one journalist and twenty-seven civilians were injured while 105 persons were arrested. The Public Defender Office reported that "the police used disproportionate force [...], the law-enforcement officials damaged the equipment of journalists and verbally and physically assaulted them". The court deliberately sentenced over a hundred demonstrators to up to 90 days imprisonment for resisting the police.

* Azerbaijan Human Rights House: Association for Protection of Women's Rights for D. Aliyeva (APWR), Azerbaijan Human Rights Center, Institute for Reporters' Freedom and Safety (IRFS), Legal Education Society, Society for Humanitarian Research, Women's Association for Rational Development (WARD); Belarusian Human Rights House in exile in Vilnius; Human Rights House Oslo: Human Rights and Health Info, Norwegian Helsinki Committee; Human Rights House Sarajevo: Association of Female Citizens "Renaissance", Foundation CURE, Helsinki Committee for Human Rights in Bosnia and Herzegovina, Regional Co-ordinator for Youth Groups, Serb Civic Council - Movement for Equality - The Council of the Sarajevo Canton, Woman and Society Centre; Human Rights House Tbilisi: Article 42 of the Constitution, Human Rights Centre (HRIDC); Human Rights House Zagreb: APEO/UPIM Association for Promotion of Equal Opportunities for People with Disabilities, CMS - Centre for Peace Studies, Documenta - Centre for Dealing with the Past, GOLJP - Civic Committee for Human Rights, Svitanje - Association for Protection and Promotion of Mental Health; Armenia: Armenian Helsinki Association, Journalists' Club "Asparez" NGO, Helsinki Citizens' Assembly - Vanadzor, Public information and Need of Knowledge NGO, Shahkhatun Women's Democracy Promotion NGO; Azerbaijan: Human Rights Club, Institute for Peace and Democracy, Public Association for Assistance to Free Economy, Public Union of Democracy and Human Rights Resource Centre; Helsinki Committee for Human Rights in Serbia; Ukrainian Helsinki Human Rights Union; UK: Index on Censorship, NGOs without consultative status, also share the views expressed in this statement.

The families of the detainees only learned of their arrest two days later, following inquiries made by the Ombudsperson. Some detainees were reportedly beaten at the moment of detention and while in custody and were denied the rights to have access to a lawyer and to contact a relative. Some were transferred several times to different temporary detention centres without further notice to their respective relatives and lawyers raising fears about their safety. The Ministry of the Interior conducted an internal investigation that resulted in several administrative punishments and dismissal of four police officers for excessive use of force. However, no public, independent investigation was conducted and allegations of ill treatment by police officers were not investigated.

Similarly, other violent dispersal of authorised protests took place in Georgia within the last two years. Amongst them were the violent crackdown on 23 November 2009 during the sit-in of the leaders of the “7 November” movement, the detention of peaceful protestors eager to rename the George Bush Street in Tbilisi to Walt Whitman Street on 14 August 2010, the fierce dismantling on 3 January 2011 of the hunger strike of dozens of war veterans, and the violent dispersion of the peaceful assembly in support of prisoners on 25 March 2011.

The Restrictive legislative amendments to the Law on Assembly and Manifestations adopted in July 2009 increasingly restrict the right to assemble in front of official buildings and set a more burdensome procedure to receive an authorisation. It also increases the force power of the police by allowing it to use special means, including plastic and rubber bullets and pepper gas, to disperse assemblies and raises the sanctions applied for minor hooliganism and defying the police orders from 30 to up to 90 days. Following the critical opinion of the Venice Commission and recommendations of Universal Periodic Review, Georgia addressed several key issues in a new law adopted by the Parliament in 2011, which contained a clearer definition and a fairer burden of responsibility for the organizers. However, the restrictive rule on the ability of using public roads during assemblies remained practically unchanged.

At the conclusion of his visit to the Republic of Georgia on 13 February 2012 and in reference to the provisions in the law that restricts freedom of assembly, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern about the use of these restrictions “[...] to prevent citizens from expressing their views through peaceful protest” and that “Whereas it can be argued that such situations are of an extraordinary nature and public order must be observed, minimum standards facilitating the free enjoyment of this right should also apply”.

While welcoming the 2011 amendments softening the regulations concerning the use of public thoroughfare and the application of the restriction involving a 20 meters radius, we remain concerned about the remaining general prohibitions of similar nature and we strongly support instead a case-by-case approach, particularly in the prohibition of the blocking of railways, highways and entrances of buildings and regarding the distance restrictions around the entrance to public buildings and offices.

We, the undersigned, also call upon Georgia to amend the Law on Assembly and Manifestations to make it comply with Georgia’s international human rights obligations.

Additionally, we urge the State to ensure that the use of force by the police adheres to the principles of necessity and proportionality and to guarantee the duly investigation in the events of excessive use of force and criminal liability of police officers who misconduct, including the events of 26 May 2011.