

*Regional Conference on the Freedom of Religion or Belief*

# Freedom of Religion in Georgia and Armenia



**Conference Report**

**July 2013**

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European Centre for Minority Issues Caucasus



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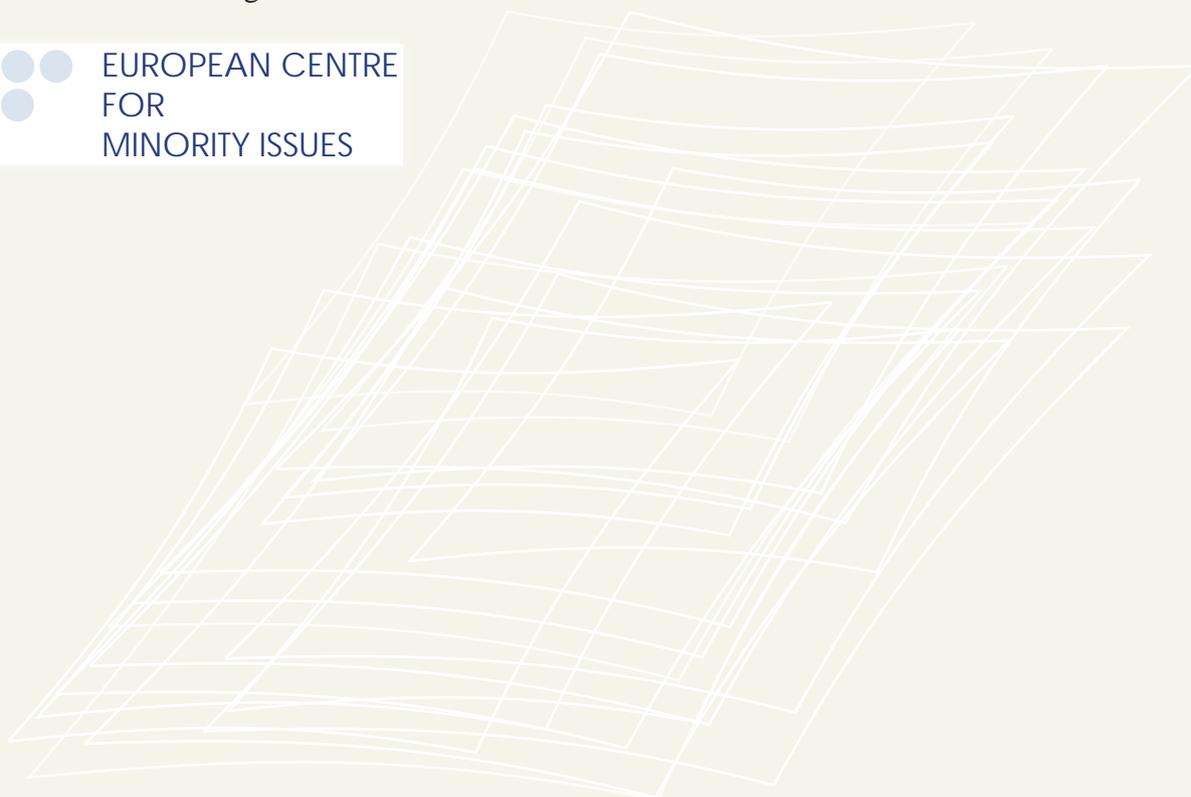
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## Preface

It is with great pleasure that I present this publication. The freedom of religion or belief has always been one of the cornerstones of Dutch Human Rights Policy. We were therefore pleased to support this conference.

Coming from the Netherlands, I am very aware of the important, but at the same time often sensitive, nature of discussions on religious tolerance. In my country, the issue of religious tolerance has been on the forefront of some of our most prominent historical events and political debates. In the 16<sup>th</sup> and 17<sup>th</sup> century for example, the search for religious freedom was one of the most important reasons behind our struggle for independence.

Given this long history, we are thoroughly aware of the continuous nature of these debates. Economic development, globalization, increasing mobility and migration flows between countries; each of these developments will continue to influence and shape debates on religious tolerance in our societies. However, this should not discourage ourselves from having the difficult discussions, from continuously striving to improve religious freedom in our countries.

The freedom of religion applies first and foremost to individual members of society. It guarantees each and every one of us the right to freely practice their religion. But respecting the freedom of religion is equally important for societies as a whole. Limitations to religious freedom contribute to the polarization and exclusion. It encourages extremist views that result in intolerance, even violence. When the governments or religious organizations take the responsibility to actively promote religious freedom, the risk for conflict within the society is reduced.

Open dialogue and cooperation between governments, religious organizations, civil society and other actors play a vital part in promoting religious freedom. This conference was an excellent example of such dialogue.

I would like to take this opportunity to again thank UN Special Rapporteur on Freedom of Religion or Belief Dr Heiner Bielefeldt for his participation in the conference. His ability to connect international standards and practices to local issues and challenges proved to be an invaluable contribution to the discussions. Therefore, I am convinced that the conference, as well as this publication will contribute to furthering the freedom of religion in Georgia and Armenia. ●

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# Introduction

The overall objective of the conference was to assess the status of the freedom of religion and belief in both countries. One of the expected key outcomes was the increased compliance with international standards on freedom of religion and belief by Georgian and Armenian state entities. This includes national human rights institutions, domestic legislation, policies and programs, as well as topics of freedom of religion and its connection with ethno-cultural identity. Another aspect was to provide a forum of discussion on the relationship between traditional churches and non-traditional religions, which are still very sensitive in both countries' context of national and religious identity.

While the conference brought together both state and non-state actors, traditional and non-traditional religious communities, representatives from the Armenian Apostolic Church in Armenia and in Georgia, as well as representatives from the Georgian Orthodox Church, it proved to be a valuable forum for debates on several issues pertaining to freedom of religion in both countries. Topics of the forum included:

- The development of specific recommendations to the two governments to take concrete steps to incorporate further the existing Universal Periodic Report, TB and SP recommendations into national legislation, policy documents and national strategies;
- The proposal of recommendations to independent national human rights institutions working in both countries on the issue in accordance with international standards, such as the free access of various religious denominations and providing religious services in institutions of confinement (prisons, mental hospitals etc.);
- To advocate and to provide recommendations for the freedom of religion and belief equality laws, administrative measures, policies and programs in the region, including national action plans, as well as practices in compliance with international norms and standards;
- To address the outstanding issue of property rights to worship places and possibly establishing a mediation mechanism;
- To encourage both governments' ministries of education to use the OSCE Toledo Guiding Principles as a tool for education on tolerance and about the different religions in the public educational system<sup>1</sup>;
- During the first day, the key speakers and the participants to have an opportunity to exchange information relevant to their experience in incorporating international freedom of religion standards into legislation, policy documents and the national strategies of both countries;
- During the second day, the elaboration of concrete recommendations for Georgia on the further improvement of religious freedoms to serve as a model for similar recommendations for Armenia. ●

1. <http://www.osce.org/odihr/29154>

## FREEDOM OF RELIGION OR BELIEF IN THE SOUTH CAUCASUS

The record of non-discrimination related to freedom of religion and belief in Georgia and Armenia passed through a turbulent time in the 1990s, when many forms of extremism were exhibited and intolerance was frequent. By the end of 1990s, that tendency subsided, yet there are still contested issues.

These improvements are primarily related to the major denominations. Citizens generally do not interfere with traditional (Orthodox, Muslim, or Jewish) religious groups, but suspicion of non-traditional groups is widespread. Sometimes government officials contribute to this negative attitude by making derogatory statements about certain religious minorities. Repeatedly, public opinion polls in both countries indicate that a majority of citizens believe that non-traditional minority religious groups are detrimental to the state and that the prohibition of some of these groups is desirable.

Societal attitude towards religion and the influence of the dominant churches on both countries' policymaking in the field of freedom of religion are to a large extent determined by the historical legacy and role that Orthodox Christianity plays in Georgian and Armenian self-identification as nations.

In addition, discriminatory attitudes within the media can contribute to the problem, as well as to some extent, inadequate efforts to create a tolerant and religious minority-friendly environment can result in the daily discrimination of minority religious congregations.

### Georgia's approach to religious freedom

#### Religions in Georgia

Georgia is one of the oldest Christian countries in the world. Christianity was declared a state religion in the 4<sup>th</sup> century AD. The majority of ethnic Georgians claim to belong to the Orthodox Church of Georgia. The second largest religion in Georgia is Islam and includes followers of Shia Islam, mainly widespread among the Azerbaijani minority, and Sunni Islam, which dominates among ethnic Georgians living in the Adjara region. This branch of Islam is also followed by, Avars, Kists, Chechens, Mesketians and Muslim Kurds. Another traditional religion in Georgia is the Yezidism, followed by Kurds.

The third largest religious group is the Armenian Apostolic Church, the Roman Catholic Church and Judaism, which constitute the core of traditional religions in Georgia. Of other traditional religions there are different directions originating from the Russian Orthodox Church – Old Believers, Molokans and Dukhobors; as well as of various Protestant confessions – Pentecostal Church, Evangelical-Baptist Church, Evangelical-Lutheran Church and the Seventh-Day Adventist Church.

There are also many other non-traditional religious groups such as the Calvinist Church, the New Apostolic Church, the Evangelical Church – “The Word of Life”, the Evangelical Church of Georgia, The Georgian Evangelical-Protestant Church, the Quakers, the Mormons, Jehova's Witnessess, the Bahai's, the Krishnas and the Buddhists.

#### Regulatory framework

The constitution and other laws and policies in Georgia are directed towards a tolerant approach to the freedom of religion and belief, as well as for minority religious denominations. Yet, at the same time, Article 9 of the constitution assigns a special role to the autocephalous (self-governed) Orthodox Church of Georgia.

A separate constitutional agreement of 2002 regulates interactions between different public entities and the Orthodox Church as well as the state, such as the teaching of religion in educational institutions, access to penitentiary institutions and in the military. In that sense there is no state body that is responsible for the confessional diversity and has a regulatory mandate. In practice, the government generally respects religious freedom. The improvements include law amendments, which allow minority religious confessions to register as entities of public law; new legislation also allows members of minority faiths to conscientiously object to military service. The possibilities for alternative civil service are very limited, as public administration units are not prepared to offer such options. The state party should also look into releasing all conscientious objectors imprisoned for refusing to perform military service or the existing alternative to military service. However, the representatives of most religious minorities are not satisfied with the form of registering as a non-profit legal entity and claim recognition of their status as religious organizations. Other denominations are not registered, as the state has indicated that agreements similar to that the Orthodox Church has, may be concluded with other churches, yet it is still pending.

Another pending issue is the property restitution of disputed properties between the Georgian Orthodox Church and other denominations, confiscated during the Soviet period and never returned to their original owner. While the property rights of the Orthodox Church have mostly been restored, minority denominations are still experiencing problems in this regard. Though the Armenian Apostolic Church, the Roman Catholic Church, Judaism and synagogues, and Islam with mosques, have coexisted with Georgian Orthodoxy for centuries, the main concerns refer to the property related disputes. There is no official mechanism that mediates the disputes among the Georgian Orthodox Church, minority religions, and the government. NGOs and members of religious minority groups are also concerned about the maintenance of churches whose title was held by government entities while ownership remained in dispute. Many of the properties have not been maintained and are falling into disrepair.

There is an increasing trend of state funding for the Orthodox Patriarchy<sup>2</sup>. The funding is mainly allocated to the church for Orthodox religious education, and social programs as well as the media – a television channel “Unity” and radio “Iveria”. There is also privileged legal and tax status given to the Georgian Orthodox Church, and the role of this Church in society, including in schools, is increasing in prominence. One of these roles is the Church as a strong supporter of pro-natal demographic policy.

There have been reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Cases reported included religious persecution, interference with the performance of religious rites, and reports of physical assault, harassment, and the vandalism of religious worship sites.

## Armenia’s approach to religious freedom

### Religions in Armenia

The Armenian Apostolic Church is one of six ancient autocephalous Eastern churches. The majority of the population in Armenia and ethnic Armenians outside Armenia identify themselves with this church. There are small communities of other religious groups. These include mainly Roman Catholics, Armenian Uniate (Mekhitarist) Catholics, Orthodox Christians, Armenian Evangelical Christians,

2. <http://transparency.ge/en/blog/overview-public-financing-provided-georgian-patriarchate>

Molokans, Pentecostals, Seventh-Day Adventists, Baptists, various groups of charismatic Christians, Jehovah's Witnesses, members of The Church of Jesus Christ of Latter-day Saints (Mormons), Yezidis, Jews, Sunni Muslim Kurds, Shi'a Muslims, Baha'is, and others.

### Regulatory framework

The Armenian constitution protects religious freedom, and in practice the government generally respects religious freedom. Even though some laws and policies restrict the religious freedom of members of religious groups, the government generally does not enforce these legal restrictions. The government did not demonstrate a trend toward either improvement or deterioration with respect to the protection of the right to religious freedom. However, there have been reports of societal abuses and discrimination based on religious affiliation, belief, or practice. The role of the Armenian Apostolic Church is prominent, though some media occasionally criticize the church. During its Universal Periodic Review, Armenia accepted recommendations related to freedom of religion.

The law prohibits but does not define “soul hunting,” a term used to describe both proselytism and forced conversion. The prohibition applies to all groups, including the Armenian Apostolic Church. In the recent Concluding Observations following the examination of the periodic review of the progress of implementation of the International Covenant for Civil and Political Rights by the Government of Armenia, the UN Committee on Human Rights stated that it is concerned about the limitations and restrictions on freedom of religion and belief, including the criminalization of proselytism (Article 18 ICCPR). It recommended that the State party should amend its legislation in line with the requirements of Article 18 of the Covenant, including the decriminalization of proselytism.<sup>3</sup>

Most registered religious groups reported no significant legal impediments to their activities. However, some religious groups have faced difficulties with registration. This especially concerns those forbidding their members from serving in the military. While the law allows for conscientious objection and leaves opportunities to perform either non-combatant military or labor service rather than serve in the combat units, it is subject to government approval<sup>4</sup>. This has raised concerns among local human rights organizations, as well as among the UN Treaty Bodies. The UN Human Rights Committee expressed concern that the Alternative Military Service Act as amended in 2004 and 2006, still does not guarantee conscientious objectors a genuine option for alternative service of a clearly civilian nature. The committee was also concerned that conscientious objectors, overwhelmingly Jehovah's Witnesses, were still imprisoned when they refused to perform military service and the existing alternative military service. Hence, the committee recommended that Armenia put in place a real alternative to military service, which is genuinely non-military, accessible to all conscientious objectors and neither punitive nor discriminatory in nature, cost or duration. It also recommended that Armenia release all conscientious objectors imprisoned for refusing to perform military service or the existing alternative to military service.<sup>5</sup>

With this unique opportunity, the organizers hope that this publication, which presents various views, issues and approaches, as a result of at times heated discussions during the conference, will benefit the broad range of stakeholders:

3. Para 24, CCPR/C/ARM/CO/2, July 2012

4. Para 25, CCPR/C/ARM/CO/2, July 2012

5. Para 25, CCPR/C/ARM/CO/2, July 2012;

- The civil societies of Georgia and Armenia, who would be advocating further incorporation of international human rights standards on freedom of religion and belief, in the legislation, policy documents and national strategies of Georgia and Armenia and the recommendations provided as an outcome of the conference.
- Georgian and Armenian churches and other officials, including government agencies, ensuring equal treatment for all religious communities and who would be assessing the level of compliance of the relevant legislation, policy documents and national strategies with international freedom of religion standards and will act accordingly;
- Representatives of various relevant International organizations and local organizations who will be fostering and advancing tolerance and compliance with the international standards, and will support the monitoring mechanism involving the state level, the Civil Society Organizations level, particularly affected communities and the Ombudsman's offices.

The participation of the UN Special Rapporteur on Freedom of Religion or Belief created an opportunity for the participants to learn about the international standards, how they can be approached in a concerted way by the states, civil society and the religious communities. Possibilities of personal contacts and discussions outside the conference room have decreased the tensions and created better options for further dialogue.

An active and engaged participation of all during the conference and beyond, left us with a conviction of the importance of such exchanges and a great need for the forums, where a dialogue can be conducted directly, especially addressing difficult issues in a continuous way. ●

*Photo gallery: <http://www.ecmcaucasus.org/gallery.html>*

*[http://www.4shared.com/rar/IPIFupk-/Freedom\\_of\\_Religion\\_conference.html](http://www.4shared.com/rar/IPIFupk-/Freedom_of_Religion_conference.html)*

*The Organizers: The Embassy of The Netherlands to Georgia, the UN Office of The High Commissioner for Human Rights and the European Centre for Minority Issues Caucasus*

*Tbilisi, July 2013*

# International Standards related to Freedom of Religion or Belief - Introductory Remarks

**Dr. Heiner Bielefeldt**  
UN Special Rapporteur on Freedom  
of Religion or Belief



**L**et me first thank the organizers for the opportunity to visit the Caucasus region and to share my thoughts and views on the topic. First, I would like to introduce my mandate.

## **The mandate of the UN Special Rapporteur on freedom of religion or belief**

The Special Rapporteur on freedom of religion or belief is an independent expert appointed by the UN Human Rights Council<sup>6</sup>. The mandate of the Special Rapporteur is:

- to promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;
- to identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles;
- to continue the efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;
- to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

In the discharge of the mandate, the Special Rapporteur applies different working methods, which include:

- a) transmits urgent appeals and letters of allegation to States with regard to cases that represent infringements of or impediments to the exercise of the right to freedom of religion and belief.
- b) undertakes fact-finding country visits.
- c) submits annual reports to the Human Rights Council, and General Assembly, on the activities, trends and methods of work.

6. UN Human Rights Council resolution 6/37

My approach is to provide recommendations concerning legislation, administration, school education and other areas, with the purpose of ensuring respect for the dignity and freedom of all human beings. What are the international standards on freedom of religion or belief that are relevant to the implementation of the mandate?

The primary instruments upon which the Special Rapporteur bases his activities are Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Also relevant articles of the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention relating to the Status of Refugees.

## The elements of freedom of religion or belief

It is important to mention that the UN applies a normative approach to the elements of the right to freedom of religion or belief and the right to manifest one's religion or belief, as it is a part of human rights and human beings are the right holders. Therefore, the Special Rapporteur will intervene in situations where the right to freedom of religion intersects with violations of other human rights, such as the right to freedom of expression and the prohibition on torture and other cruel, inhuman or degrading treatment or punishment. He will also deal with discrimination in relation to the freedom of religion or belief in relation to vulnerable groups, including women, children, refugees, members of minorities and persons deprived of their liberty. A special online digest<sup>7</sup> of the framework for communications addresses several categories of issues related to this:

I. FREEDOM OF RELIGION OR BELIEF includes freedom to adopt, change or renounce a religion or belief; freedom from coercion; the right to manifest one's religion or belief. The latter for example, can be practiced through freedom to worship, to use places of worship and religious symbols, through teaching and disseminating materials, including missionary activities. The parents have a right to ensure the religious education of their children and there should be a free possibility to communicate with individuals and communities on religious matters at the national and international level. It also pertains to the issue of registration of religious organizations, obligatory and voluntary or non-registration option, possibilities of establishing and maintaining charitable and humanitarian institutions such as shelters, hospitals homes for elderly and other institutions. This aspect is often related to apply for and receive funds from other organizations and individuals, also from abroad. One of the most contested issues is conscientious objection to military service.

II. DISCRIMINATION on the basis of religion or belief/inter-religious discrimination/tolerance often involves a relationship with the state religion and with the society at large. Media also play an important role, in particular public media. Legislative provisions for the freedom of religion need to be neutral, allowing all religions and religious organizations to be treated equally.

III. VULNERABLE GROUPS here we are addressing women, children, minorities, persons deprived of liberty that have the right to practice freedom of religion. In addition, such groups as refugees and migrant workers should have their rights respected and it is indeed a large segment of population across the world.

7. <http://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf>

IV. FREEDOM OF RELIGION OR BELIEF AND OTHER HUMAN RIGHTS is very important to be considered. For example, freedom of expression is essential when speaking about openly about religious intolerance, extremism or even religious conflicts. It also intersects the right to liberty or right to life, prohibition on torture, inhuman or degrading treatment. Interdependency of human rights the right to freedom of religion or belief needs other human rights to be fully exercised, including the right to freedom of association or the right to freedom of expression. Competing rights and therefore one has to be very careful not to shrink the borders of freedom of expression or put restrictions and limit freedom of religion and belief itself. One needs to distinguish between the expression of opinions, even if they are perceived as offensive and advocacy of religious hatred that is incitement to discrimination and violence.

V. CROSS-CUTTING ISSUES mainly refer to derogation, limitation, legislation and non-governmental organizations. In recent years the states have been concerned with terrorist activities, attempting to put restrictions on exercising the freedom of religion or belief, but the nature of freedom of religion is non-derogable even in times of emergency, clearly stated in Article 4 of ICCPR.

Limitations on freedom of religion is often referred to the special status of “known religions”. It is mainly put in relation to places of worship or conscientious objection. As there is no legal definition of that concept, it should be either clearly defined in the constitution or in legislation or eliminated altogether.

The legislation needs to be designed in such way that it uses precise terminology and it is interpreted in accordance and consistency with international standards of human rights and the UN Human Rights Committee. One of the contested issues is the announcement of the state of its religion in the constitution, the law in fact no longer reflects the ethnic or religious diversity, opening the way to intolerance and arbitrary actions.

The role of non-governmental organizations cannot be underestimated. They can be NGO who are human rights oriented and those who have a specific mandate on freedom of religion or belief, or are religious organizations. They play a crucial role in communication between religious groups, the society and the state, as well as international organizations, providing information, research and practical assistance. They should not be intimidated, but regarded as cooperation partner that can offer valuable inputs to the improvement of human rights implementation.

## State obligations in relation to freedom of religion or belief

Under international human rights law, States are obliged consistently to **respect, protect and promote** the human right to freedom of religion or belief.

These three layers of state obligation mean that respect for freedom of religion is a respect for the right and not the result of administrative procedures. For example, registration of religious organizations can be useful but the freedom of religion or belief extends also to non-registered entities. The fact of non-registration does not make them illegal. Protection means active involvement by the state in relation to all communities, not only selected ones and in all spheres of the state responsibility. Promotion of existence of religious diversity through public education is one of the obligations. School as an educational institution is a good place to teach diversity and OSCE Toledo guiding principles give a very good framework for preparing adequate school programmes.

Therefore it is very important to urge States to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of religion or belief to all without distinction, by providing access to justice and effective remedies in cases where the right to freedom of religion or belief or the right to freely practice one’s religion, including the right to change one’s religion or belief, is violated.

Members of religious or belief minorities often experience pressure to join a religion or belief deemed more “acceptable” in society. Abuses in this area can be undertaken both by government agencies and by non-State actors. Specific pressure or threats are also experienced by women, sometimes in the context of marriages or marriage negotiations, to convert to the religion of their husbands or prospective husbands. In addition, many States impose tight legislative or administrative restrictions on communicative outreach activities.

Moreover, many such restrictions are conceptualized and implemented in a discriminatory manner, for instance, in the interest of further strengthening the position of the official religion or dominant religion of the country while further marginalizing the situation of minorities. I have also received reports about repressive means targeting children of converts or religious minorities, including with the purpose of exercising pressure on them and their parents to re-convert to their previous religion. Pursuant to article 18 (4) of the ICCPR, States Parties undertake “to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”. At the same time, the Convention on the Rights of the Child (CRC) recalls that parents’ rights must always be seen in conjunction with the human rights of the child.

Freedom of religion or belief is not confined to the dimension of a person’s individual conviction but also includes the freedom to manifest one’s religion or belief in external acts, such as “worship, observance, practice and teaching”. This also covers non-coercive attempts to persuade others, since freedom of religion or belief has a strong communicative dimension. Unlike the personal conviction dimension, manifestations of one’s religion or belief in the public space do not enjoy absolute protection. However, the decisive point in international human rights law is that the burden of proof always falls on those who argue on behalf of restrictions, not on those who defend a right to freedom. Moreover, any restrictions deemed necessary must meet all the criteria laid down in Article 18 (3) of the ICCPR. Accordingly, limitations imposed on the right to try to convert others require a legal basis, they must pursue one of the legitimate aims listed in Article 18 (3), they should be clearly and narrowly defined, they must be proportionate and they should not be implemented in a discriminatory manner. ●

## Discussing norms and standards related to freedom of religion or belief

- Ghia Nodia (Chairman of the Caucasus Institute for Peace, Democracy and Development, Georgia.)



I represent an NGO that has prepared a report on religious minority issues, but a question I would like to ask is rather that of a social scientist or a political analyst with some background in philosophy.

My philosophical or normative side fully agrees with everything you said. I have to acknowledge that those normative statements are really crucial at the political level, and on the governmental level in Georgia. But public debate is another side, and practice is yet another side as well. Still for us it is not the issue that you mentioned regarding traditional churches being legitimate and sects as less legitimate. Of course this has been debated publicly. There were forces that tried to push this decision. Luckily with our legislation we do not have that option, unlike some other post-communist countries and that is good. I think there are other contestations from different kind of normative perspectives, so the clash between the different perceptions of the norms or normatism is more of an issue in Georgia than in some other places, between human rights and democracy. We mentioned that when we speak about human rights, not only you and not only today, but many people mostly appeal to the international norms, sustained by the Council of Europe, or the UN. Also in Georgia, the perception is that human rights are something that the international community demands from us. But there is another norm of democracy which says that government should follow the rules of the people. In countries where we have gone to the churches, historically dominant churches, not only were they historically dominant, but religious communities were dominant with quite a high level of religiosity. Then the government is expected to follow the will of the majority, correct? And this majority is also a religious majority at the same time, so the discourse is basically that the choice of the Georgian government exists but our specific case should follow rather the will of the people here - or yours, meaning the West?

In this case the government is in a difficult position between these two norms or two powers - if they follow the religious majority, they will pay the political price. If they do not, the dominant church will not support the government. Obviously the government does not shape the dominant religious community, especially in countries which do not have very deep liberal traditions. You have a kind of adverse relationship - the more democratic you are the less open to religious pluralism you are. I think that the most obvious example may be the Arab Spring where the countries have become more democratic and at the same time have become less tolerant to minorities. Maybe it is not very dramatic in Georgia, but I think the issue here is how normal democracy, normal human rights can make government accountable to the domestic community on the one hand, and to the international community on the other, who pushes for human rights. How should that work in practice, and on the normative level? There is another contestation on the normative level between the constitution and religious creed, and we have a very deplorable case of religiously motivated mass violence against sexual minorities (LGBT community). We had fought that violence 10 or 15 years ago. But justification, publicly stated justification, repeatedly stated justification, missing in both cases? In fact for a believer, religious creed is more important than the constitution, which says that all minorities have rights. But if I am a believer, what my church says to me is more important, so I can ignore that, correct? And if you respect religion, it

is what religion says to you - attack homosexuals or attack somebody, also physically. So, how can we also resolve those issues on a normative level?

### UN Special Rapporteur Heiner Bielefeldt response

First of all I agree, this fact is a real challenge. I think on the normative level it is rather easy, so I will respond on a normative level. The normative answer is the first step of the answer. The real problem is how to communicate this so that those principles can really take root in the society. Let me say a few words on a normative level, which is actually the easy part and let me start in reverse sequence. The last example, violence perpetrated in the name of religion is not covered by the freedom of belief. That would be a clear case for a limitation. If persons want to try to justify violence by freedom of belief, then the answer would be no - that is not included. And again, it is important to see that my starting point in the description of standards is not religion. It is not a religious command but human beings and of course, all human beings must be protected. If someone involves religion for rudely attacking someone else and uses physical violence, that would be a clear case for a necessary limitation. So I do not see a clash from freedom of religion and belief because freedom of belief has never been the entry point for violence and has never served as an excuse. It must be seen as part of a broader agenda, that is why you should not focus on freedom of religion and belief in isolation, one always has to see the broader picture. There are also criteria about how the various rights fit together, and they do fit together, sometimes not easily, but they do also on the normative level. The second example, actually in reverse sequence is democracy. My answer would be based on an understanding of democracy as a more than just pure majoritarianism. The majority of course plays a role but the majority rule, but the majority principle, in my understanding, is the second principle, not the first of all principles. You said the will of the people - who are the people? For a modern democracy to work in a modern society, the will of the people cannot be a close collective homogeneous entity, but a community of human beings with diverse opinions, diverse positions, with diverse convictions. And so, for a mature democracy, there must be a possibility for voices of the opposition, in a public debate. And that is important: a public debate. The primary principles of democracy are basically the same principles like the principles underneath human rights - freedom and equality. And if you take freedom and equality seriously, you cannot have a situation in which some people have a privileged position. So one person per vote, and of course you have a legitimate diversity and if you combine those three principles, then the majority rule will be the natural rule of making a decision when it comes to establishing a government for instance. In elections of course, the majority rule has an instrumental role to play, but it is not that one can simply equate democracy with majoritarianism. I mean in many countries, that would lead to a civil war, we have to have a more complex understanding of what democracy is, a more complex understanding of what the will of the people is - people in the plural, not in the singular. That's a real challenge to communicate against populist movements. These are real challenges as they come up with the easiest and simplistic answers, the easy understanding of identity, the closed "we" which I think is in the end very negative, and very detrimental to the development of democracy itself. So from the normative view, again I would say that there is no contradiction between human rights and democracy, just the opposite. But technical challenges still exist. ●

- Kristina Mehrabekyan (Ministry of Foreign Affairs, Armenia)



In many countries such events like homosexual parades are regarded as a challenge to public morals and for many not only public morals but that it goes against nature and religious teachings. How would that be put in the context of limitation? The other issue is proselytism, for many it is very offending and often perceived as an attack on person's identity. Should that be regulated?

#### UN Special Rapporteur Heiner Bielefeldt response

Public morality - that may be the most complicated principle mentioned. We also have public order, public health, and we have the freedoms of others, which is at least easy to understand. Human Rights Committee of United Nations which is the expert body that I mentioned earlier working on international governance and on civil and political violence, made a statement about what public morality is. That statement still offers different understandings, but what it says clearly, and which I find crucial, is that public morality itself must be a pluralistic notion. It is not the imposition of one particular understanding of values, but in the understanding of morality it takes into account pluralism also. It is a kind of open notion, yet it simply precludes transferring one set of values as a limitation to freedom of expression onto freedom of religion and belief. There is not a lot of interpretation needed, nevertheless it is important to also read the principle of public morality in the line of a pluralistic modern society. For example, the European Court of Human Rights always uses the notion of a modern democratic society, not in the general sense, but from the perspective of a modern democracy that should have raised pluralism as part of it, that should be always taken into account.

Now, looking at proselytism as a disturbing phenomenon. I can be disturbed by many things that I do not particularly like. Yet, when imposing a restriction on a human right, it is not enough. Since if you say, there is something that irritates me, or that annoys me, it would not suffice as grounds for limiting a human right, that must be the starting point. There are extreme cases that would ask perhaps for limitations as a possibility but the realities in Europe are hardly like that and I know what I am talking about because of cases of Jehovah's Witnesses. Some people might feel annoyed, but this does not justify some prohibitive actions of the state. Normally, what the Jehovah's Witnesses do, is stand there in their watch towers, they stop people and address people but I am not aware of really aggressive cases. So, the first one must be empirical evidence and empirical evidence must go beyond the feelings of a person. ●

- Veronika Danelyants (Analytical Centre on Globalisation and Regional Cooperation, Armenia)



We, who work in the NGO sector speak mainly of human rights as rights of individuals. It is often pointed out when we have advocacy cases. Shall we approach it differently? And also how can we release ourselves from the dominant tradition to experience pluralism?

#### UN Special Rapporteur Heiner Bielefeldt response

Human rights as rights of individuals? Are they just the rights of individuals? The answer is yes and no. There are rights to be respected of every human being prior to any grouping. Let me refer again to the first sentence of the preamble of the Universal Human Rights Declaration. The first sentence starts with "recognition of the inherent dignity of all members of the human family". The notion of human family is quite interesting. Here it is the group that counts, when it comes to recognizing the status of the person and at the same time all the members of the human family. So human rights are not dependant of the passport, of a participant certificate. Prior to any particular grouping, recognition of their dignity must be observed as part of the equal rights of all members of the human family. That is the ideal, and we can say in that specific sense human rights are held by individuals. Let me give you few examples. Freedom of association - how could one do that as an individual? Freedom of speech - how could one do that as an individual? It requires an audience, and people talking and listening. Freedom of religion is also an example. It has a strong community aspect. The wording in the Article 18 of the International Covenant indicates that, as well as the wording of Article 9 of European Convention on



Human Rights. The public is there. So, there are indeed rights held by individuals and by particular groups, exercised in community with others. Also individual situations are potentially facts of a relationship - the right to marry as an individual but also in the community with other individual. At the same time, human rights somehow change communities by providing breathing space to every person. Portraying human rights as being just individualistic, on an individualistic level, it is basically wrong as far as I understand it.

You mentioned whether one can be free from dominant tradition. I would not say that. Why? I am in favor of religion also as a majority aspect. But my interest is the opening up for others to be included in the debate. It is the most natural thing that the majority is leading the debate, but it should also include minorities, and it is something that the state needs to ensure. Here in Georgia, in Armenia, but also in Germany, or in the Netherlands, the opening up should take place, not closing, but having a broad understanding of public life in fairness and in respect to everyone - a meaningful diversity. I think that is basically my response. Restrictions, as I said, I am not in favor of restricting the role of the majority religion, but I am in favor of giving space for others - I think it helpful for the majority as well. If others also have the possibility to speak up in public life, without diminishing the significance of majority, I mean it is not a zero-sum game, where everything else another group can create is lost territory. The public space looks quite different with other denominations, including the majority itself, communicating with people of different denominations, also in public spaces, it is very considerate too. ●



## Commitments of Armenia to Freedom of religion or belief, freedom of expression, participation in public and political life

**Vardan Ascatryan**  
Head of the Department of National Minorities and Religious  
Affairs of the Government of the Republic of Armenia



**I**n the Republic of Armenia, there is a governmental unit, responsible for national minorities and religious denominations.

Until 2002, the State Board of Religious Affairs attached to the Armenian Government was the only state authorized body responsible for this mandate. After its dissolution, this function was transferred directly to the RA Government. Since 2003, it has been called the Department for Ethnic Minorities and Religious Affairs. In addition, other bodies, such as the National Assembly of Armenia and its relevant committees are involved, as well as the institution of the Armenian Human Rights Defender and the Public Council, which has a special sub-committee on the issues of national minorities and religious affairs.

According to the Armenian legislation, the Department of national Minorities and Religious Affairs provides an expertise conclusion to the religious communities who want to obtain official registration. It never hinders the submission process for religious groups applying for state registration. Moreover, the registration process of religious organizations is quite transparent, without unnecessary hindrances and occurs within a reasonable time. Currently, there are 65 religious organizations listed in the state register, representing different religions and religious movements.

Upon the request of religious organizations, the state authorized body also supports obtaining an agreement with the government on particular issues of individual organizations or groups, as well as it acts as a mediator in the solution of issues and disputes arising between religious organizations in Armenia.

For this purpose, the department holds meetings with religious and ethnic minorities, discusses the situation and if necessary, recommends taking the appropriate measures.

The Armenian law “On the Freedom of Conscience and on Religious Organizations” adopted in 1991, was partially amended in 1997 and in 2001. In Armenia, the issues related to religion are regulated by this law. Yet, in recent years, a new reality surrounding religious freedom in Armenia caused the necessity of reforming the law.

In 2010-2011, the Ministry of Justice elaborated and put into circulation the new law pertaining to the sphere of religion, as well as a number of projects envisaging amendments to other laws. These were forwarded to the Venice Commission for opinion.

We have to emphasize, that in all these amendment cases, there was a consultation process organized on open, public and transparent principles, involving all interested parties. At the moment, public discussions are ongoing, and the Ministry of Justice of Armenia coordinates not only all proposals and viewpoints that were presented by Armenian organizations and citizens, but also observations and recommendations from authoritative international institutions.

Alternative military service is another problematic issue. In accordance with the commitments to the Council of Europe, in 2003, Armenia adopted the “Law on Alternative Service”, which provides for two types of service – labor and military. Only one religious congregation– the followers of Jehovah’s Witnesses, are striving to make use of this opportunity, and making an effort to learn about the rights and obligations provided by the law. But four months later, and in an organized manner, they refused to use the offered alternative service and voluntarily abandoned the service area. After that, they did not make use of other opportunities provided by the law, arguing that length-of-service should be reduced, military control should be excluded, and religious freedom should be ensured.

Since 2011, the Armenian Ministry of Defence has been developing several law reforms. Currently, the draft law is in the National Assembly of the Republic of Armenia, and it passed on the first reading.

Nonetheless, Jehovah’s Witnesses still continue to refuse to partake in alternative labor service, thereby not fulfilling their obligation to society, preferring to carry the legal consequences of the refusal as prescribed by law. Meanwhile, the obligation of citizens to perform military or alternative service is enshrined in Article 29 of the Universal Declaration of Human Rights: “*Everyone has duties towards the community, where only the free and full development of the personality is possible*”.

In 2003, a new law “On press and Mass Media” was adopted. Freedom of information and access to it is closely related to the law “On Public Television and Radio Broadcasting” adopted on 9 October 2000. Article 4 of that law stipulates the guarantee of the free choice of TV programs, production and distribution rights, and censorship of TV programs is prohibited.

Another freedom - freedom of assembly and association, is regulated by Armenia’s new Law “On Freedom of Assembly” adopted in 2011, where the requirements of universal human rights protection are taken into account. ●

## Analysis of legal issues related to the Armenian Diocese in Georgia

**Levon Isakhanyan**

Adviser to the Head of the Armenian Diocese in Georgia/  
Head of the Legal Department of the Diocese



The Armenian Apostolic Church has been present in Georgia since the 4th century. Historically, the Armenian Diocese in Georgia has been one of the oldest and most important dioceses of the Armenian Apostolic Church and has played an important role in the history of the Armenian nation, as well as in the history of the Church. According to the last census carried out in 2002, approximately 171,139 citizens of Georgia or 3.9% of the total population, constitute parishioners of the Armenian Diocese. Hence, the Armenian Diocese is the third largest religious organization in the country after the Georgian Orthodox Church and the Muslim community.

On March 12, 2012, the Diocese was registered as a legal entity of public law. There are 16 clergy of varying ranks serving in the 46 Armenian churches of the Diocese in throughout Georgia. The majority of these churches are located in the southern Samtskhe-Javakheti region. Moreover, in 2012, the Armenian Diocese' "Hayartun Centre of Armenian Culture" was established and the "Vernatun Culture Centre" will be inaugurated in the near future.

The Armenian Diocese is a member of the Council of Interreligious Cooperation at the Patriarchate of the Georgian Orthodox Church, where representatives of various religious organizations discuss social issues. The Diocese is also a member of the Council of Religions at the Office of the Ombudsman of Georgia, where various issues on the Diocese' agenda are put forward and discussed.

The centuries-old history of the Armenian Diocese in Georgia and the peaceful coexistence of various religious organizations in Georgia prove society's tolerance. This is well illustrated by the fact that according to 1914 historical accounts, there were 26 acting Armenian churches in the Georgian capital of Tbilisi.

At the same time it should be mentioned that notwithstanding its centuries-old glorious history in Georgia, the Diocese, as well as other religious organizations, have become subject to discrimination and face problems that negatively affect the daily activities of the Diocese.

First of all, attention should be drawn to the problem of the restitution of churches and other property confiscated from the Armenian Diocese during the Soviet-era. According to Article 11 of the Constitutional Agreement between the State of Georgia and the Georgian Autocephalous Orthodox Church, the State acknowledged material and moral damage to that Church as a result of losing state independence in the 19<sup>th</sup> and 20<sup>th</sup> centuries. As a *de facto* owner of a part of the

confiscated property, the state took responsibility to partly compensate this material damage. We do not have doubts that the Georgian Orthodox Church suffered disenfranchisement, and we are not against compensation of any material damage by the state. However, we believe that the state, whose constitution affirms in Article 38, that the ‘*citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging*’, should develop a mechanism of compensation for damages caused to other religious minorities as well, including the Armenian Diocese. The state permitted the dominant Georgian Orthodox Church to carry out restitution of churches and other property confiscated during the Soviet-era, and promoted and facilitated the process. Moreover, after restoration of Georgia’s independence in the early 1990s, representatives of the Georgian Orthodox Church, with the tacit permission of state bodies, “Orthodoxized” a number of Armenian churches, having changed their appearance, erased Armenian inscriptions from frescoes and tomb-stones, and destroyed the elements of Armenian ecclesiastical architecture, including the altar and font. Just within the territory of Tbilisi, seven Armenian churches were “modified” in such way.

The Armenian Diocese, notwithstanding the numerous attempts to resolve the restitution problem pertaining to the Norashen, Surb Nshan, Mughnetsots Surb Gevorg, Shamkhoretsots Surb Astvatsatsin and Surb Minas churches in Tbilisi and the Surb Nshan church in Akhaltsikhe, has been unable to re-assert control over them because the Georgian Orthodox Church claims ownership of these churches as well. Unfortunately, due to the insolubility of the issue of restitution of these confiscated churches to their historic and legitimate owner, on November 18, 2009, the 14<sup>th</sup> century Mughnetsots Surb Gevorg Armenian church collapsed, and on May 14, 2012, the bell-tower of the 18<sup>th</sup> century Surb Nshan Armenian church collapsed as well. Both of these churches are situated in central Tbilisi. Unfortunately, because of the neglect and decay of these churches, Georgia has lost an important part of its historic-cultural heritage.

In this regard it should be mentioned that the current government made a political decision to restore the so-called disputed churches, and in January of this year at the Ministry of Culture and Monument Protection, a group to monitor the reconstruction activities was established. The group includes representatives of the Ministry, the Georgian Orthodox Church and the Armenian Diocese. We hope that in the near future the actual process of reconstruction will begin.

In 2012, the Norashen, Surb Nshan and Mughnetsots Surb Gevorg churches were officially recognized as Armenian churches by the Georgian Government. The second periodic report of the Government of Georgia on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities presented on May 30, 2012, mentions that “*project documentation for restoration of the Armenian Moghnisi Church, Surbnishani and Norasheni Churches in Tbilisi were finalized in 2011*”.<sup>8</sup>

The necessity of the restitution of property confiscated from religious minorities during the Soviet-era, including the Armenian Diocese, was highlighted by a number of international organizations. Hence, the Council of Europe Advisory Committee of the Framework Convention for the Protection of National Minorities mentioned that “*generally speaking, while the properties of the Georgian Orthodox Church have been, or are being, returned, the return process has been delayed for the other churches. Strong tensions were reported in relation to, inter alia, the return of Armenian*

8. Second Report Submitted by Georgia Pursuant to Article 25, Paragraph 2 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2012)001, 30 May 2012, para. 109, available at: [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_SR\\_Georgia\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_SR_Georgia_en.pdf)

*churches and the attempts of the Georgian Orthodox Church to take over some of these buildings (as in the case of several churches in Tbilisi, including the Surb Norashen church used by the Armenian community since the 15<sup>th</sup> century).”<sup>9</sup>*

This problem was also highlighted by the UN Human Rights Committee, which stated that “*the Committee regrets that problems related to the restitution of places of worship and related properties of religious minorities confiscated during the Communist era have not been solved (Article 18). The State party should address the problems related to the confiscation of places of worship and related properties of religious minorities*”.<sup>10</sup>

Moreover, the issue of restitution of property confiscated from religious minorities was the focus of a number of delegations during the interactive dialogue with the Georgian delegation that took place on January 28, 2011 and within the framework of the Universal Periodic Review. As such, the delegation of Italy asked for an update on the measures addressing the ownership and maintenance of places of worship and related properties claimed by religious minorities;<sup>11</sup> Slovakia noted the concerns expressed by the Human Rights Committee over the discrimination of religious groups;<sup>12</sup> Bulgaria recommended taking steps to ensure equal enjoyment of the freedom of religion or belief;<sup>13</sup> Denmark recommended to ensure equal enjoyment of the freedom of religion or belief, both *de jure* and *de facto*;<sup>14</sup> the Holy See recommended addressing the problem regarding the confiscation of places of worship and related properties of religious minorities<sup>15</sup> and Ecuador recommended promoting respect for social, cultural and political rights, as well as tolerance with regard to religious minorities. In this regard, Ecuador agreed with the views of the Human Rights Committee about the need to take steps to ensure equal enjoyment of the freedom of religion or belief and to address the problems related to the confiscation of places of worship and related properties of religious minorities.<sup>16</sup>

Another issue of crucial importance is the state funding of religious organizations. The Georgian Orthodox Church is the only religious organization that receives state funding derived from the budget. Hence, in the 2013, 25 million GEL from the state budget (\$15 million USD) was allocated to the Georgian Orthodox Church. We are not against state support extended to legal entities acting within the jurisdiction of the state. However, taking into account Article 38 of the Georgian Constitution and the provisions of Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, we believe that the state should finance all religious organizations proportionally, as from a human rights standpoint, all religious organizations stand on equal ground with the Georgian Orthodox Church. Additionally, funds acquired by the state come from taxes paid by all Georgian citizens, including those who represent parishioners of religious minority organizations.

9. Opinion on Georgia, ACFC/OP/I(2009)001, 10 October 2009, para. 96, 27, available at: [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_1st\\_OP\\_Georgia\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_1st_OP_Georgia_en.pdf)

10. Concluding observations of the Human Rights Committee on Georgia concerning the third periodic report, номер документа CCPR/C/GEO/CO/3, 15 November 2007, параграф 15, доступен на: <http://www2.ohchr.org/english/bodies/hrc/hracs91.htm>

11. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 35.

12. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 51.

13. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 105.60.

14. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 105.62.

15. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 106.48.

16. Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/17/11, 2011, para. 106.49.

Taking the above-mentioned into account, we ask the Georgian Government to ensure timely restitution of Armenian churches confiscated during the Soviet regime, and to create a mechanism to facilitate the proportional state funding of all religious organizations operating within the jurisdiction of Georgia. We believe that these problems require a prompt and fair resolution and that the state should play the role of independent arbiter in the matter, guaranteeing rule of law equal for all, and observing fundamental human rights without any discrimination or prejudice whatsoever. We believe that such an approach from the state will contribute to the further democratic consolidation of the country, which will act as a basis for the long-term development of a multi-national and multi-confessional Georgia. ●



## Concerns of religious organizations in Georgia: places of worship and the discrimination of the right to freedom of religion of Muslim Georgians (Cases: The villages of Nigvziani, Tsinstkaro, Samtstksaro)

**Tariel Nakaidze**

Representative of the Adjara Union of Georgian Muslims



In Georgia, the violation of religious rights can also be looked at as a type of xenophobia. In addition, orthodox ecclesiastics (clergymen) exhibit open aggression to other religious confessions in the country. Facts of total estrangement with other religions– Islam and Catholicism for example– is very common in Georgia. In almost all official statements made by the Patriarch’s office regarding the construction of a mosque, the following rhetoric is always put forward: “More than 200 mosques function in Georgia when no Orthodox churches are active in Turkey”. With this kind of approach, the Orthodox Church attempts to marginalize the Georgian Muslim community by exercising psychological pressure on them. The recital of a liturgy in the form of a protest against building a mosque in Batumi took place on March 4, 2011, and can be interpreted in the religious context as an act of discrimination. This event was certainly perceived as encouragement to Orthodox parishioners on behalf of Georgian Orthodox clergy. As such, it triggered a wave of xenophobic expressions in the form of graffiti written on walls in Batumi that include things like “Batumi without Turks” and “Adjara region without Hojas<sup>17</sup>”.

In October-November 2012, religious intolerance assumed more of an open character. Orthodox parish members acted against the Muslim community of the village of Tsintskaro and the village Nigvziani in the Lantchuti district. In the village Nigvziani, some local residents, with the active engagement of orthodox clergymen, protested against the gathering of the Muslim population in the village for their traditional Friday prayers in the mosque. On October 26 and December 2 of 2012, orthodox parishioners, with extreme intolerance and in a heavily insulting manner, acted to keep Muslims from gathering to pray in a private house, which functions as a meeting house/mosque. They tried to forcefully enter the house and called for the gathering to disperse, threatening to otherwise set the premise on fire and put the Muslims’ lives in danger. Some threats were even made against Muslim children in public schools. One of the leaders of the Muslim community, Mufti Jemal Paksadze, together with others in the Muslim community, was refused access to the village mosque. On May 24, 2013, the same act of intolerance was committed in the village of Samtatskaro in the Dedoplistskaro district. Local Muslims gathered in a house, where the traditional Friday prayer should have been conducted. The Orthodox parishioners led by the village head (public employee) Ms. Gulo Nadirashvili, attacked the Muslims and forced them out of the meeting house. All religious literature and praying rugs were removed from

17. Hoja is a honorific title in Islamic learning – “authority in Islam”

the house. The local Muslim population and community representatives were prevented from attending the following Friday's prayers session as well.

While the activists in previous cases were more religiously-driven individuals such as orthodox leaders, the latter case shows involvement of some activists who representing public structures. The governor of Dedoplistskaro ascertained: "Since the majority of this village's population are Christian, there is no need for a mosque to be build here. I will not dare to go against the people's will, as the people's will is superior." The public figure's statement and attitude make the current situation more dramatic. It is hoped that the government will assess the incidents adequately and local Muslims will be given the chance to practice their religion there.

These problems in the villages of Nigvziani and Tsintskaro were solved through negotiations held between two parties. However, the government did not make any legal evaluations of these incidents even though a few individuals did undergo questioning. However, nobody was charged or convicted for making threatening statements or for exhibiting intolerant attitudes towards the Muslim community. It can be assumed that a sense of impunity motivated the other cases of assault and violence that took place in April this year, when the police got in on the action against the Muslim population. During the incident, the policemen were asking passers-by whether they were Christians or Muslims, and whether they carried a cross. Those that did not were physically assaulted.

Another emerging problem is related to the hijab (headscarf) the Muslim women must wear. Two incidents happened in May. One of which took place at a checkpoint at the Georgian-Turkish border where a border police officer requested that Georgian Muslim women take off their headscarves, threatening to deny entrance to the country if they did not comply. This dispute was settled by help of another police officer. A similar case was document at a private company, where a young Georgian Muslim woman works. She maintains the company's dress-code during regular working hours, but after leaving the workplace she covers herself according to Muslim tradition. In May of 2013, a manager asked her to return while she was about to leave and forcefully removed her scarf, threatening her with a dismissal if she continued to wear the scarf.

There are also many problems in public schools in Georgia. In schools, a majority of teachers put those children who are not of the Georgian Orthodox faith, under physical and emotional pressure. In one of the schools in Akhaltsikhe, a teacher almost ripped a Catholic student's ear off in a rage of religious intolerance. A child from the Seventh-Day Adventist's confession was physically assaulted in one of the public schools in Batumi. Muslim children are called 'Tatars' (Turks), they call other Christian confessions 'sects' and call them other derogatory names. The teachers also exercise pressure on schoolchildren when talking about other religions. For example, some teachers have said that "Islam is a forcefully proselytized religion", or point out that "A Georgian cannot be a Muslim." ●

## The situation of religious organizations in Armenia

**Davit Mikaelyan**

Expert of the Department of National Minorities and Religious Affairs, Government of Armenia



**B**efore discussing the religious organizations registered in Armenia and the religious groups that do not have state registration, I would like to reflect on the general processes, which have an international context.

One should consider the fact that on the global level – especially in the last decade, political, economic, and other secular institutions and systems, have been in a constant crisis. In these circumstances, by assessment of specialists and experts all over the world, a mass flow of various layers of society to religious institutions and religious ideology have been observed. Contrary to the 1990s trends of being secular, today we can already see a reverse process – all sectors of society have shown an increased interest in religious institutions. In particular, these trends are clearly visible in post-Soviet states. One reason behind this phenomenon can be explained by the negative attitudes and politics towards religion that existed during the Soviet era. Such an environment persistent for many decades, has generated new challenges in post-Soviet societies, where the integration process of religious organizations and groups acquired a specificity, significantly different from Western European, as well as the American environment of religious associations’ peculiarities.

It seems that the functions and experiences of the regulation of religious issues in Georgia and Armenia have some commonalities in the sense that both are carriers of post-Soviet society’s heritage as it relates to religious tolerance and religious freedom. But these experiences are also essentially different, because the two countries have a different demographic composition and palette of other religious organizations.

It is worth mentioning however, that in the state register of Armenia there are 65 religious organizations. However, apart from the registered organizations, numerous religious groups operate without state registration and are not incorporated in the Armenian official structures. This fact is conditioned by regulatory legislation in Armenia on freedom of religion and belief, liberal enough that it does not create additional barriers for the free operation of religious groups and does not set mandatory registration requirement for the de facto activities of religious groups. Despite the diversity of religious organizations and groups, some, especially unregistered religious groups, often meet some barriers. Thus, followers of some religious structures simply lack clear standards of religious self-identification. For example, a representative of the community has an active religious practice, and



attends religious gatherings, meetings and rituals, but does not always know what religious or church direction he belongs to or adjoins within his own community. I particularly stress this circumstance in order to make it clear to all conference participants, how much effort is required from the state or organizations operating in public, to raise the consciousness of the citizens who do not fully perceive the distinctive features of their religion.

In addition, the media play a key role in the smooth integration of religious groups into society - the promotion of religious tolerance, as well as providing coverage of the positive and negative aspects of religious organizations. Media can perform an important function in deepening the knowledge of large segments of society by presenting information about the history of Armenia's religious organizations, beliefs, the structure of organizations and the peculiarities of their activity, national and international legislation and legal framework in the field of religion. Unfortunately, the media do not have in-depth analytical and investigative materials, which could have potentially contributed to raising the level of awareness of religious congregations within society. ●



# Discussing implementation of freedom of religion or belief standards in Georgia and Armenia

- Liana Mkrtychyan (Legal Department, Ombudsman Office, Armenia.)

I would like to clarify international standards in relation to the legal content the term “improper”. What does it constitute and what represents the border line between improper and non-coercive? Is there a somehow universal definition of “improper facilities” used in legislations of different countries?



## UN Special Rapporteur Heiner Bielefeldt response

My response to this would be clear: any forms of forced conversion are not acceptable. It is important to have very clear and strict terminology. To my knowledge there is no universal definition in this case. I devoted my second to last report presented at the General Assembly of the United Nations last October to the question of conversion, to the right to change, and the right to invite others to change the religion. There one can find some standards, as it is the main document, but we don't have any definition of that. I know that other agencies like the Council of Europe or the OSCE would rather recommend replacing the term “proselytism” by “conversion”, especially when it comes to criminal law, to prohibitions. But it is a totally different topic of discussion, when discussed between the religious communities themselves, which is also important to keep in mind.

Voluntary or not voluntary, the conversion discussion is difficult but important, so that religious communities themselves must approach it in a sensitive way. That is something I would very much encourage, but it has a different function, that is not something that should be approached according to criminal legislation. When it comes to a state's approach, there is a very strict, precise language with a set of keywords to assist in the understanding. I would recommend to replace “improper facilities” by “conversion”, which is more appropriate. ●

- Isabella Sargsyan (Eurasia Partnership Foundation, Armenia)

My question is about moderate culture. I am continuing with what Mr Nodia has said. Because we do not live in a vacuum, we are not in a place where there is no culture, or no pre-established traditions. We can see there is a big difference between East and West with respect to the role of a church. The Eastern Church traditions and Western Church traditions have completely different rules, and therefore their collaboration with the state is different, because of their traditions, and because of their history. In the Christian East, where we are now, in Georgia and Armenia, we have this tradition of church and the state being together. In the case of the Armenian Church it had to some extent replace the state as well, during the absence of statehood. Now, we have this normative framework, and in the case of Armenia, I think the situation is a bit better. There are still a couple of legal issues like the proselytism term, and religion in schools, but these are few and can be resolved. Then we have the societal problem. Society is discriminatory and uneducated, and in this case it is not a matter of state, but it is a matter of society. We still have this nationalistic attitude, growing every day. We have to do much more with the society than with the state. Of course the state plays its role too. Through the state there is the control of media and TV and propaganda. But if you look into the religious views in Armenia, it is much more on the level of society than on the level of the church or the state.



First of all, my question to you is - how all these international documents and standards take into consideration the cultural environment of each particular country where all these standards should work? Secondly, except for these declarative norms like protection and promotion, how do the state and the international community have to work on the society level to change these nationalistic trends and to give more space for tolerance and freedom everywhere?

### UN Special Rapporteur Heiner Bielefeldt response

I appreciate what you said at the beginning, we do not live in a cultural vacuum. This is something I do not want to change. I am not suggesting replacing our diverse landscape by first of all focusing on an individual. No, it is really about pluralism, opening up the society by starting a debate. Of course every society has its history. And so pluralism in Armenia may look different than pluralism in Germany, and that is a good thing! It is not that all the states should in the end look the same by respecting human beings. Human beings have different biographies, the more you respect the different biographies of human beings, the more you will feel that diversity matters, and not just individual aspect of diversity, but also the community aspect of diversity. So it is not about replacing this by an open society that should be all the same. No, definitely not. In fact, that would lead to a public law of a church. The only thing I find then problematic is if the church has a monopoly and is very powerful. Why not also open up there? Even if you respect human rights, equality and non-discrimination, it will not wipe out all the differences, and that is not the purpose of it. But it means that more communication, also in the public sphere, may sometimes lead to contestation. It is good when it comes up in the public rather than being pushed back in the private sphere. This is in response to many fears that sometimes exist that human rights may make the world uniform. On the other hand, we need minimum standards to shape our world in peaceful and meaningful ways. All the different experiences, such as historic experiences, they will continue to remain – that is part of it. When I think nationalism, I would like to also see more criticism maybe from the side of the churches, which are sometimes instrumentalized for the purposes of national identity politics. In my understanding, that is a form of instrumentalization, which very often undermines the credibility of the message of the church, if questions of spiritual heritage of religious convictions bear special national loyalty. This restricts the inner freedom, and the breathing space that is needed. Overcoming nationalism, that narrow understanding of “we” as a closed identity, fearful of any diversity, I think is the major challenge, and I would like to see the churches, also the majority churches as an open space. ●

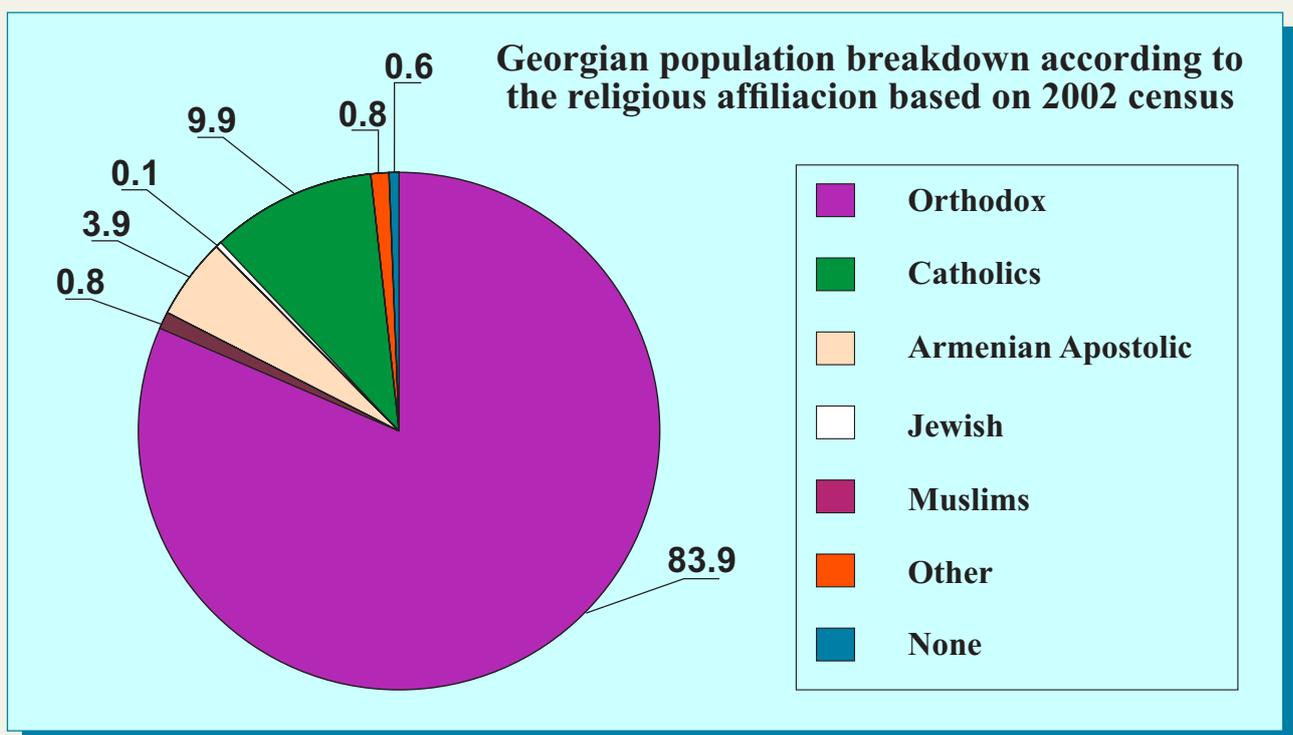
## The “but” Policy of the Georgian state

**Rusudan Gotsiridze**  
Bishop of Evangelical Baptist Church of Georgia



The notion of Georgian tolerance is little bit confusing. Every time you begin talking about the issue, the peculiar image of Meidani District architecture in Old Tbilisi comes to mind. This serves as the most vivid illustration of Georgian tolerance. In fact, the Georgian Orthodox Church, the Armenian Apostolic Church and the Roman Catholic Church all stand next to a mosque and a synagogue. However, if you take into consideration that Tbilisi itself was not much larger than Meidani square itself when all these churches were constructed, or if you visit any of the old European cities, you quickly discover that there is nothing unique about having different religious buildings next to each other.

In order to measure the level of our tolerance, it is important to go beyond the architecture. The results of the 2002 population census may come as a handy instrument for this purpose. There is hardly any



need to remind you that this was a time of religious extremism and almost every evening there was a news story shown on TV about a raid on one or the other religious group (as a rule the video material was provided by the raiders). Therefore, the results of the census are not really relevant because the census registrars would register people as Orthodox without even daring to “insult” them with a question inquiring about their religion.

On the other hand, the irrelevance of the figures is not the only problem with the census data. Those who administered the survey did not care about the correct names of the religious communities: the Armenian Apostolic Church is referred to as Gregorian; and those in the Muslim Community are referred to as Muhammedans. In addition, the 0.8% listed as “others”, comprise almost 20 different religious communities.

As such, I think the best approach to take towards religious minorities is what I would like to call “**The “but” Policy**” or “**The Policy of “however”**”. These two terms will be used interchangeably.

I always believed that the world is not just black and white and the linguistic phenomena of “but” and “however” act as very useful instruments in revealing diversity and depth. For example, “white is white and black may be black, **but**, there is a wonderful spectrum of colors that lie in between them...” or “one may be guilty, **however**, there must have been good reasons for someone to commit something...” So this magic word “**but**” has helped me to see the world not just as flat.

The “**but**” sentences have specific characteristics. For instance, when parents are told by the school teacher, that their child is “very talented, **but** very lazy”, everybody gets their message: The child is happy because s/he is called talented and the parents hear that their child is lazy.

In order to avoid the ambivalence of the message, let me share with you my observation on the “**but**” sentences. The first part of the sentence serves as a prelude to the main message. For example, if your fiancé says: “I love you, **but** I cannot marry you”, the main message of the sentence is that he cannot marry you. But if we rearrange the sentence and present it as: “I cannot marry you, **but** I love you” here we have a very emotional and dramatic scenario and the main message is that your fiancé loves you. In the following, let me use the above mentioned formula in order to read the main message of politicians:

*“Of course the Muslims have the right to practice their religion, pray and build a mosque in Batumi (especially if they really need it), **but***

- a) we will not allow them to call it Azzizi;*
- b) it is inadmissible to let them use Turkish financial support,*
- c) we cannot be so tolerant towards Muslims while Georgian churches are being destroyed on Turkish territory.”*

*“Of course Muslims in the village of Nigvziani have the right to pray, **but***

- a) it is not acceptable to have Muslim prayer houses built on Christian land, let them pray privately at their homes or go to Batumi Mosque;*
- b) the Muslims from the other villages are not allowed to come to Nigvziani.”*

*“Of course Muslims in the village Tsintskaro have the right to pray, **but***

- a) we cannot tolerate mosques in the Christian villages where our children are being brought up;*
- b) we will not allow them to remove the crosses from the grave stones, even if those graves belong to Muslims and the crosses were not even erected by them.”*

*“Of course, Muslims in the village Samtatskaro have the right to pray, **but***

- a) first we need to estimate how necessary it is to build the prayer house and how many Muslims there are in the village;*
- b) if the majority of the village population is against this, then there will be no mosque in the village.”*

*“Of course, there is freedom of expression in Georgia and everybody has the right to protest against homophobia; homosexuality is not criminalized according to our legislation and nobody attacks them while they are in their bedrooms, **but***

- a) they have to respect the moral values of the majority;*
- b) they have to respect the memory of the Georgian soldiers killed in Afghanistan ...”*

*“We are building a democratic state where supreme value is placed on the rule of law, **but** we need not forget that one of the bright spots in our lives is the Patriarch and we have to keep in mind his age.”*

*“We will protect the rights of minorities, **but** not at the expense of majority rights”*

The **“but”** policy has a very interesting majority-minority concept. When the Azizi Mosque in Batumi became an issue, it was thought by some that one of the ways out of the situation was to take a survey of the population and to decide according to the majority’s will (fortunately this advice was not taken seriously). The same happened in Samtatskaro when the village governor said: “If 95% of the village population does not want to have a non-Orthodox Church, then there will not be any, as **this is the will of the people.**” In Khashuri, a group of people initiated an attempt to remove the Protestant community from the town. They started collecting signatures as a justification for their decision, saying that the **“people’s will is supreme.”** When a high official was informed about the physical abuse of Jehovah’s Witnesses, the response was: “The minorities have to be very careful not to irritate the majority, **or they may deserve the aggressive response.**”

However, there is a large volume of scholarly literature, which says that public support towards an action does not necessarily mean that an action taken or about to be taken can be characterized as ‘democratic’. If 90% of the Georgian population all of a sudden decides that the time is ripe for executing all females with nose piercing as witches, does popular support make this decision a democratic one? No, it does not. Again, a high level of participation and popular support does not equal democracy. The Nazi regime was quite participatory...

**“The People’s Will is Supreme!”** - this phrase speeds-up your heart beat. How can you argue with the Samtatskaro governor, especially when she is entrusted with a high level of responsibility to represent the government on a local level and especially, when decentralization is the main approach of the central government? I have much doubt that she has any clue what the **people’s will** means. In

general, I do not think many people at central or local government level, have a clear vision what the **people's will** really means and what kind of country they are serving. I am afraid not many people understand or remember the very first sentence of our constitution:

*The citizens of Georgia, whose firm will is to establish a democratic social order, economic freedom, [and] a rule-of-law based social State, to secure universally recognized human rights and freedoms, to enhance the state independence and peaceful relations with other people, bearing in mind the centuries-old traditions of the Statehood of the Georgian Nation and the basic principles of the Constitution of Georgia of 1921, proclaim nation-wide the present Constitution.*

I cannot find any “**but**” or “**however**” here. Why do we not just say NO to those vague messages and declare clearly what kind of state are we building?

As a conclusion, and as a Baptist minister, I believe that “everything happens for our own good”. I believe every negative experience can act as a resource to be converted into something great and positive. To prove this, I can speak about the raised sense of solidarity and sense of citizenship after the unprecedented expressions of Islamophobia. Quite a number of people came out of their narrow shells and stood next to the Muslim believers to protect their right to pray.

I have found it very difficult to find anything positive in the terrible events of May 17 (IDAHO Day<sup>18</sup>).

Still, if it were not for those experiences that took place during the anti-homophobia demonstrations this year and the year before, nobody could have imagined sexual minorities, religious and ethnic minority groups being heard. Before now, and out of polite correctness, none of the local or international organizations would have dared bring us together.

The maturity of the society is gauged not according to the mistakes that are avoided, but the way it deals with the mistakes that are made. In this regard, I think we are not in a poor situation now.

“What shall we say then? Shall we continue in sin, that grace may abound?” asked Apostle Paul the Romans. This question came to my mind while thinking about all these. And here is Paul’s answer: “God forbid”! I hope all the positive developments are not left up to the resources of negative experience. ●

18. IDAHO means “International Day against Homophobia” celebrated in Georgia on 17 May 2013 with violent attacks on the demonstrating groups, with passive police attendance

## Identity, Ignorance and Fear

Isabella Sargsyan  
Eurasian Partnership Foundation – Armenia



I would like to address some of the comments that Mr. Mikaelyan raised yesterday, about the exaggeration of NGOs on the situation of religious organisations, as well as the non-evidence based statements. I will refer to two research projects<sup>19</sup> that the Eurasian Partnership Foundation conducted with the support of the Embassy of The Netherlands, and then most up to date research that has been conducted in Armenia in this sphere.

The two research projects, one on public perceptions of religious tolerance and another one on media monitoring, have been conducted by scholars from Yerevan State University and by the Yerevan Press Club. The media monitoring by the Yerevan Press Club is not only on these issues, but also on relations Armenia – Azerbaijan, Armenia - Turkey. This is a professional organization that does this kind of research.

The research on public perceptions was conducted on the basis of in-depth interviews with representatives of all religious communities, as well as experts and scholars. It focused on groups in four big cities - Yerevan, Gegharkunik, Shirak, and Lori region. My title for that will be: *Identity, Ignorance and Fear*. Let me summarize those issues step by step.

**Issues of identity.** Probably I should provide a small historical review, for the Georgian friends, on this topic, although not new, yet interesting and we can discuss it later.

Although Armenians is one of the oldest nation in the world, as Georgians like to say as well, but in the modern sense of the nation-state, it is a young nation, as Armenia only got its independence 1991. Unfortunately we did not have statehood for centuries prior to this date. During the Ottoman Empire, lives of the Armenian people were managed by the Armenian Apostolic Church. Unfortunately or fortunately, Armenian Catholics and Armenian Protestants were not part of the Armenian dominant church, and were often not considered as Armenians by the Armenian Apostolic Church, please correct me if I am wrong. In Turkish eyes however during the genocide, there was no difference whether they were Catholics or Protestants, they were deported, and if not killed on the same basis as those belonging to the Armenian Apostolic Church. But for many, being Armenian Apostolic was an important part of identity, for many centuries. And this is a historical reality.

19. [http://www.epfound.am/files/06\\_religious\\_tolerance\\_ex\\_sum\\_\\_1\\_.pdf](http://www.epfound.am/files/06_religious_tolerance_ex_sum__1_.pdf)

Again, unfortunately, the Republic of Armenia is a new entity, and this identity is still very much tied to the Armenian Apostolic Church. This is the cultural reality that we live in. We do not have the experience of statehood and modern realities, where you have all kind of diversity. This is a challenge for all of us, for all citizens of Armenia, for the followers of Armenian Apostolic Church, for other denominations and confessions existent in Armenia. This is an issue of identity.

I would like to quote the part from the research that says that the teachings of many clerics of the Armenian Apostolic Church are based on the Church's perception of Armenian identity according to which, an Armenian is follower of the Armenian Apostolic Church only. This is an unfortunate statement

The second issue is the *ignorance*. Fortunately, or unfortunately, the Armenian society is quite ignorant about all kinds of religious issues. Even those who in the abovementioned surveys stated that they belong to Armenian Apostolic Church, were hardly able to answer couple of very simple questions on religious or dogmatic issues. This is a heritage of Soviet Union times, when the atheism was a the norm, but also a heritage of overall ignorance on many other problems, including the lack of interest in many social issues, maybe, because people had to face many problems every day. This ignorance also has to do with the church itself, and with ignorance towards religious minorities. At the same time the research I have mentioned, showed that, that the word believer has a negative connotation. Many people think that the word believer is considered equivalent to the term sectarian, and believers are usually considered to be those belonging to evangelical denominations.

Followers of the Armenian Apostolic Church avoid identifying themselves as believers, in order not to be associated with the sectarians. That is an interesting observation, and it also shows the real situation on the ground. On one hand, different surveys demonstrate that religion plays an important part in their life. About 85% of those surveyed stated that recently, but at the same time to be a believer is considered as something negative.

*Security, insecurity or fear*, is the major issue related to the religious diversity in the country. And it is very much based on mythology. The perception is that there are so many denominations, but in reality, in the latest census results from 2011, we have 2.8 millions who stated they are Armenian Apostolic, about 14.000 Catholic, about 8.000 Orthodox, 8.600 Jehovah Witnesses, about 30.000 Evangelical, 241 Mormons, 3.000 Molokans and so on. The numbers are quite small, from my point of view, maybe other people find these numbers significant. But the mythology around even in fact very small communities, is creating a fear which may translate into conflicts, such as unresolved conflict over Nagorno Karabakh, and contributing to a tense relationship with Turkey.

People are intolerant towards those who have different religious views, not just because they consider those views wrong from the religious point of view, but also based on their perceptions, those views are a betrayal of the national religion and ethnicity - the nature of unity.

Thus, accepting such approach, allowing the existence of other religious thinking, it is to automatically treat diversity as an issue of national security or treason. That is a common view much more pertaining to the nature of security, nature of unity creating an atmosphere that enemies are surrounding us. In that context, the denominational or dogmatic differences between Evangelic church and Catholic church, Protestant church, or Armenian Apostolic Church which many people simply do not know, are not so important.

There is still an image of a priest, who has sworn on the cross, and who is quite dogmatic like as we were in medieval times, and again, tightly linked to Karabach. This mythology is still persistent in the society.

Now briefly coming to conclusions and recommendations, I think that tolerance education is very important, including the school education. I also think that OSEC Toledo guiding principles are useful. For the Armenian Apostolic Church and for us living in Armenia, it is also useful to see modernization as a way how to live in the secular state, and as a nation that has statehood. We must learn that we are living not in diaspora anymore, and it is no longer an imperative to preserve of our identity, we already do have an identity, we have a nation state. Now we must learn how to live in the nation state and how to face various challenges. ●



## Conditions related to the protection of religious freedom in Georgia

**Beka Mindiashvili**

Head of the Tolerance Centre under Public Defender's Office in Georgia



**T**here are several important issues that can be pointed out with regard to the protection of tolerance and religious freedoms in Georgia:

- **Legislative challenges** – all religious unions, excluding the Orthodox Church, are under a tax regime that requires the payment of taxes and VAT; property restitution; prevention of criminal acts of religious intolerance; hate speech and tendentious approach of public media; education in public institutions
- **Subsidies issues** – only the Orthodox Church is subsidized by the state in Georgia. It means that the Orthodox Church is also financed by those tax-payers who are not orthodox Christians and belong to other denominations, such as Muslims, Catholics or Armenian Apostolics.

The state, based on a Constitutional Agreement<sup>20</sup>, assumed responsibility for returning and restituting all possessions of the Orthodox Church of Georgia confiscated during the Soviet times. The same is not applied to other religious unions present in the country. For many years, the Armenian Apostolic Church, the Catholic Church, the Lutheran Church, and the Muslim and Judaic communities have all been futilely trying to reclaim the property (churches) that had been misappropriated by the state. This represents one of the possible causes of conflict between Georgia's various religious and ethnic groups. In addition, due to this pending problem, those church buildings that are registered as historical monuments are gradually falling in disrepair or their appearances are being altered purposefully. Out of the six Armenian Apostolic Churches to be reclaimed, three are in dire condition and the others require immediate rehabilitation. Other disputed Catholic Churches face problems of alteration. Orthodox clergy have attempted to establish themselves in Lutheran churches and the majority of mosques in Georgia are presently in very poor condition.

Georgian law enforcement agencies have not provided an adequate response to criminal acts that have been committed on grounds of religious intolerance in the country. Many investigations either have not been initiated or are slow to be undertaken. The investigations that have been launched have yielded no relevant or definitive results so far. In fact, in the last several years, no individual has been brought

20. A special arrangement between State of Georgia and Georgian Apostolic Autocephaly Orthodox Church, providing for a number of privileges; [http://www.patriarchate.ge/\\_en/?action=eklesia-saxelmcifo](http://www.patriarchate.ge/_en/?action=eklesia-saxelmcifo)

to justice for crimes committed on religious grounds. This issue has emerged as an acute problem and has been further aggravated by recent attacks and pursuits against the Muslim community in various regions of Georgia, leading to repeated criminal behavior committed on religious grounds under the condition of impunity.

The Law on General Education prohibits discrimination, proselytism, indoctrination and the exhibition of religious symbols for non-academic reasons. However, public schools are beyond any criticism in this regard. The law is not enforced and therefore discrimination on religious grounds is taking place in great numbers and religious neutrality is not observed.

One of the most acute problems is the intolerance demonstrated by public figures, clergymen and politicians in the media. Activities of the religious unions are broadcast either stereotypically or no problematic issues are broadcast at all. This trend is more or less characteristic of the national public media, especially the TV in Georgia. ●



## Rights and opportunities of religious organizations in Armenia

**Anush Margaryan**  
Legal Analysis Department, Ombudsman's  
Office of Armenia



**W**hile preparing this presentation, it is of pivotal importance to outline the current Armenian legislative framework, legislative developments and specific provisions related to freedom of religion or belief. A special emphasis has been placed on the rights of religious organizations and the presentation of discrimination cases based on religion or belief that the Republic of Armenia Human Rights Defender's Staff has encountered, as well as the legislative initiatives it has undertaken to prevent such cases. Obviously, every aspect of this broad sphere cannot be covered, however the most basic, interesting and problematic aspects of the area considered will be presented.

Freedom of religion or belief is guaranteed by the Constitution of Armenia, by international documents such as the ICCPR and the European Convention on Human Rights. Armenia is party to all of these and accordingly, has international obligations to fulfill them.

Other Armenian laws that are directly or indirectly related to the Freedom of Conscience and Religion, include the Republic of Armenia Law On the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church; On the Rights of the Child and On Television and Radio Broadcasting, which prohibits the preaching of religious hatred and intolerance; the Armenian Labor Code, which stipulates in Article 132 that “the employer has no right to obtain or hold information about the employee’s political or religious convictions, or any other views or his/her personal life”, and also by the current law On the Freedom of Conscience and on Religious Organizations, which addresses many issues. Particularly, the guarantee of the rights on Freedom of Conscience and Religion set forth in the Article 1 of this law refers only to the citizens of Armenia, whereas the Article 26 of the Armenian Constitution stipulates that “everyone shall have the right to freedom of thought, conscience and religion”, therefore a problem of compliance of the provisions of the current law with the Constitution as well as article 9 of the ECHR, Article 18 of the ICCPR arises.

Another issue to be addressed refers to the need to define “*religious groups*” and “*religious organizations*”. For the sake of clarification, these rights are applicable to all religious associations and which rights only refer to **registered** religious organizations. Based on this, the Armenian Ministry of Justice has prepared an entirely new draft law On the Freedom of Conscience and Religions, changes and amendments to the Law on Relations between the Republic of Armenia and Armenian Apostolic Holy Church; “Changes and amendments to the Code of Administrative Offences; and changes and amendments in the Criminal

Code. As a result, positive changes have been made in the law according to which the freedom of religion, conscience or belief is guaranteed **to everyone** and not only to Armenian citizens. Furthermore, a more liberal definition of religious associations is introduced in compliance with international standards. The Draft Law sets forth that religious associations are classified into religious groups, consisting of up to 25 adult followers and operating without state registration and religious organizations, which comprise at least 25 adult members and are subject to obligatory state registration as legal entities.

On the one hand, religious associations (groups of up to 25 adult followers) can operate without registration in Armenia, which has been absent from the current law and this is an issue that has been raised by the Venice Commission. On the other hand, complications might occur with respect to the administrative methods of controlling the number of members of religious associations in order to meet this obligatory registration requirement. By the Draft Law there are a number of rights enumerated for the religious associations, such as:

- to disseminate information about its activities,
- to represent and defend rights of its members and legitimate interests vis-a-vis other organizations, courts, state bodies and bodies of local self-governance,
- to collaborate with other non-profit organizations,
- to perform religious services, rites, and ceremonies in sanctuaries and buildings belonging to them, in places of pilgrimage, and other places for their performance, as well as cemeteries.

It is noteworthy that in the previous version of the Draft Law, it was unclear whether the list of rights for religious associations enumerated in the corresponding provision was exhaustive or not, which could entail an unnecessary restriction of their rights. However, the provision was subsequently supplemented with an additional clause stating that religious associations can carry out other activities not prohibited by law.

The above stated draft law was considered by the Venice Commission and the OSCE/ODHR Joint Opinion (Strasbourg, 17 October 2011) to be fully in line with international standards and marking improvements compared to the current law, despite the fact that there are still additional changes to be made. Subsequently, the recommendations of the Venice Commission were generally taken into account. For example, one of the remarkable changes is that the term “proselytism” – an integral part of the fundamental freedom to conscience and religion, be it exercised individually or through a religious organization and prohibited by the current law - was changed into “improper proselytism”, although the definition itself should have been given a more clear legal formulation in order to avoid arbitrary interpretation in the future.

The blanket ban on the foreign financing of religious organizations in the initial version of the Draft Law was also reconsidered. The Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief indicate that “states have a variety of legitimate reasons for regulating fund transfers of various types.” However, such a blanket prohibition on all foreign funding (especially by foreign natural persons) is arguably unreasonable, and not “necessary in a democratic society”, as is required by Article 4 of the Draft Law, and Article 9, paragraph 2 of the ECHR, so all the participating OSCE States have to respect the right of religious communities to “solicit and receive voluntary financial and other contributions.” As for now, the blanket ban has been removed and according to the latest version of the draft law, religious organizations are entitled to be financed by foreign states and legal and natural persons in the amount less than 10 percent of their annual taxable profit, otherwise a fine will be imposed on them in the amount of 700-1000 times the minimum wage rate.

Taking into account the importance of the above-stated draft laws, it is important to stress that Armenia's Human Rights Defender initiated a round-table discussion on the above mentioned draft laws on the "Freedom of Conscience and Religion". The discussion was attended by representatives of the Armenian Apostolic Church, 9 churches of the Armenian Evangelical Family, the Church of Jesus Christ of Latter Day Saints, and other churches as well as outstanding public activists and experts like Hranush Kharatyan, Vardan Khachatryan, Stepan Danielyan, Hovhannes Hovhannisyan and others. Furthermore, representatives from the Armenian Government, Ministry of Education and Science, as well as delegates from non-governmental organizations such as the Helsinki Committee of Armenia, Open Society Foundation – Armenia and the NGO Collaboration for Democracy attended the meeting. During the discussion, participants exchanged ideas and observations about the law and its positive and negative modifications. The participants were then asked to present their amendments and recommendations, which were later summarized and analyzed by the respective staff of the human rights defender. Summarizing the results of the September 19th discussion, the human rights defender presented a number of recommendations and suggestions concerning the draft law to the Republic of Armenia Ministry of Justice, which was aimed at promoting religious freedoms and removing all forms of restrictions on the activities of religious organizations in Armenia for further presentation to the relevant state body. Currently, based on the latest version of the Draft Law on Freedom of Religion and Conscience, Armenia's human rights defender's staff is finalizing a new set of recommendations for the latest draft law. For example, we think that it is absolutely necessary to foresee a separate article on the definitions of the main concepts used in this law within the general provisions chapter, in order to provide the basic concepts used in the law with clear legal content and to avoid future ambiguity.

Within the scope of the theme considered, I think it is highly important to refer to discrimination cases, because basically the freedom of religion or belief, particularly the rights of religious minorities and the prohibition of discrimination are closely intertwined. It should be noted that the Armenia's human rights defender is dealing with all complaints based on all forms of discrimination, including those that are submitted by religious minorities. There have been several complaints addressed to the human rights defender's staff concerning the alternative service by Jehovah's Witnesses. Most male Jehovah's Witnesses refuse to participate in alternative military service because it is not under civilian control. It is a positive improvement that steps have been taken to review the Law on Alternative Service. However, the law has not yet been amended, which has resulted in the fact that there are currently more than 50 people imprisoned for evasion of regular military service. Concerning the Draft Law on Alternative Service, the Venice Commission stated the opinion that if the amendments and supplements to the law are adopted by the National Assembly, that should be considered a step in the right direction and would be an attempt to extend the law's conformity with international standards relating to conscientious objection to military service. However, the Venice Commission stressed its concern about the duration of the alternative labor service that lasts 42 months compared to 24 months of military service, which is not in conformity with international standards as it relates to conscientious objection to military service. The fact that the ECHR had expressed its position that immediate changes have to be made in that law, only after which it will be in accordance with the Convention, is highly disturbing (*The case of Bayatyan v. Armenia*, 7 July, 2011). In October of 2012 the Ministry of Justice prepared "The Changes and Amendments in the RA Law on the Alternative Military Service" and "The Amendments to the Law on Putting in Force the RA Criminal Code". The draft laws were aimed at providing solutions regarding the above stated issue. Due to the reason that certain issues nevertheless, were present in the draft laws, Armenia's human rights defender provided his recommendations.

I would like to present one of them. Article 3 of the Draft Law on the Amendments and Changes in Armenian Law on Alternative Military Service envisages changes in the periods of alternative labor and military service, defining the period of alternative labor service of 36 months, and the period of alternative military service as 30 months. According to the Venice Commission conclusion of December 16-17, 2011, with regard to Armenia's Law on Amendments and Changes to the Law "On Alternative Service", defining different periods for alternative labor and military service is not grounded and may lead to discrimination. In accordance with the No. R (87)8 recommendation of the Council of Europe, in cases when there is a difference in duration between alternative civil service and military service, the duration difference must be reasonable. Such an opinion about the duration of the alternative service was also expressed by the UN Human Rights Committee. The reduction of duration prescribed by the present law is encouraged. However, defining different periods for the same alternative service is not in conformity with the Venice Commission approach, the positions of the Council of Europe, or the positions of the UN Human Rights Committee. It also creates the risk of discrimination. Hence, we suggested envisaging a 30 month period for both types of the alternative service. Nevertheless, it should be considered a positive improvement that the law is already at the Armenian National Assembly and has been presented there.

Additionally, discrimination, is prohibited by Armenian legislation, namely in the Armenian Constitution, the Criminal Code, the Labor Code, and the Family Code of Armenia. On the other hand, there are still cases of discrimination and there have been complaints to the country's human rights defenders staff concerning discrimination cases based on the grounds of religion or belief like presented above. At present, there is no separate discrimination law in Armenia protecting the rights of women, the elderly, persons with disabilities, ethnic, national and religious minorities, children and other people, and we are still lacking an effective legal, comprehensive and clear mechanisms for the prevention and combating of discrimination. The need for adoption of the comprehensive anti-discrimination legislation was mentioned in the ENP Armenia Country Report 2011 as a component of consistent implementation of the ENP Action Plan 2012. And we, the RA Human Rights Defender's Staff, with the help of experts of the European Commission against Racism and Intolerance (ECRI), OSCE, OSCE/ODHR, the EU Advisory Group to Armenia, initiated the drafting of the Anti-discrimination Law.

In the Republic of Armenia, according to the aforementioned law, the main aspects of the state anti-discrimination policy must be:

- 1) Ensuring the rights and freedoms of a person and/or a group of persons;
- 2) Equality of a person and/or a group of persons before law;
- 3) Respect for the dignity of any person;
- 4) Ensuring equal opportunities for a person and/or a group of persons before law;
- 5) Provision of clear and efficient means for prevention and combating discrimination;
- 6) Holding responsible persons for discriminative treatment as defined by law.

The law prescribes the definition of the main concepts such as direct and indirect discrimination and other forms of discrimination within the context of freedom of religion or belief. It also provides effective protection for underrepresented groups and minorities that are vulnerable. And, most importantly, it establishes an anti-discrimination body, the need of which was highlighted by the European Commission against Racism and Intolerance, which stated that the only authority separate from the executive that can play a role of a specialized body in Armenia is the Human Rights Defender. Therefore, in accordance with the Anti-Discrimination Draft Law, the functions of the anti-

discrimination body will be carried out by the Armenian Human Rights Defender and it will become an alternative means for protecting the rights of victims of discrimination and prosecution of the perpetrators based on the standard of proof.

In summary, the above mentioned is a brief word with regard to the rights and opportunities of religious organizations, pending issues and the legislative situation in Armenia, which repeatedly convinces us that not only is a comprehensive legislative framework required for the regulation of the sphere in accordance with international standards, but clear and effective mechanisms of enforcement of the rights of religious organizations and protection of freedom of religion or belief are needed. Therefore, what is prescribed by the law must be utterly practical and implementable. ●



# Discussing relationship between religious minorities and the Georgian Orthodox Church

- Giorgi Zviadadze (Rector of the Orthodox Church Theological Academy, Georgia)

One of the reasons the Orthodox Church is not involved in the activities of the Georgian Public Defender's Tolerance Center is the existence of the Interreligious Council, which functions under the Patriarch's Office and it is open for everyone. The intention of the Patriarch's Office is that every organization should participate in activities undertaken by this group. In fact, if some organizations were not actually invited to join they should be invited and involved in the Council's activities. Our position is to discuss every issue through a dialogue— including some very acute issues as well. For example, when a draft text was prepared for the constitutional agreement between the Georgian state and the Orthodox Church, it was sent to all organizations for their comments including religious groups.



The second reason the Orthodox Church is not involved in the Tolerance Centre's activities is that we have observed some one-sided discreditable conduct by the head of the Tolerance Center towards the Orthodox Church, as well as some one-sided criticism of the existing issues. ●

- Beka Mindiashvili (Head of the Tolerance Centre, Public Defender Office, Georgia)

I presume that we have to discuss all problematic issues together. I would like to bring up an example of a fact considered as 'discreditable' by the Orthodox Church. In 2006, the Public Defender presented a report to the Parliament of Georgia, where he underlined that the constitutional agreement creates a discriminatory environment for other religious groups in the country. In the official reply statement of the Patriarch's office, this fact was imputed as being discreditable towards the Orthodox Church. ●



- Davit Chikvaidze (Professor of Canonic Law, Tbilisi State University)

I would like to emphasize one thing, that Public Defender's reports have never mentioned any issues related to the Orthodox Church that needed to be defended. For example, after the events of May 17, I wonder if all those waves of aggression against the Orthodox Church, as well as objective analysis of these events, including the behavior of the clergymen, would be well-analyzed in the following Public Defender's report. I would like to underline the fact that the Public Defender's reports have never counted in the issues related to conditions/statuses of certain churches and attacks on nuns. This fact is a violation of rights as well, as it is for any other religious groups.



When we discuss the issue of returning historical monuments to the Armenian Church in Georgia, we have to consider one thing: the Armenian Church in Georgia is subordinated to Etchmiadzin and the direct transfer of Armenian churches would mean to transfer them under control of Etchmiadzin, which at least would raise an issue of reciprocity and that has a certain legal aspect. ●

- Levon Isakhanyan (Adviser to the Head of the Armenian Diocese in Georgia/Head of the Legal Department of the Diocese )

**A**rmenian eparchy in Georgia is a legal entity created in the state jurisdiction of Georgia. Therefore the Church law has no legal power in this country. The transfer of the Armenian churches within Georgia would mean one thing only that the parish here, a union of Georgian citizens, would gain their historical heritage back. Otherwise it is considered to be a discriminative approach. ●



- Giorgi Zviadadze (Rector of the Orthodox Church Theological Academy, Georgia)

**I**would like to underline that representatives of the Armenian Apostolic Church in Georgia have not talked about claims toward the Orthodox Church, but have raised issues toward the Georgian state. I had hoped for you could discuss the assistance your eparchy receives from the Orthodox Church. I wish we once again could show the constructive attitude that exists between our churches. We have agreed not to hold any worship services in all those disputed churches before settling this issue. A joint commission was created and we, first of all, are working on issues related to reconstruction. I am certain that there are no problems between our churches. ●



## Recommendations of the Council of Religions to the Georgian government on respecting freedom of religion or belief

**Lela Khonelidze**

Member of the Tolerance Centre under Public  
Defender's Office in Georgia



**T**he Council of Religions, functioning under the Public Defender's Office, counts 8 years in existence. Together with the Tolerance Centre, 24 religious unions that are members of the Council of Religions have managed to accomplish a few very important goals. Therefore, I would like to use this opportunity and express my thanks to Beka Mindiashvili, Head of the Tolerance Center and his group. Up until today, the Tolerance Center has assumed the role of minority defender numerous times, acting as a mediator for establishing harmonious relations between different religious groups, as well as a supporter for developing tolerant attitudes in the country in general.

In 2012, religious unions affiliated with the Council of Religions, under the Tolerance Center's active support and involvement, have managed to develop some recommendations for several state agencies in the country for higher educational institutions and media organizations.

Before I begin discussing each one separately, I would like to briefly outline that during the process of developing those recommendations, which took approximately one year, on behalf of the Council, we have approached each other's opinions with the utmost respect, and have considered the views of everyone in the final outlines of those recommendations. I can say it with a relief that these recommendations were all approved and supported by each member of the Council of Religions. The recommendations presented here precede some others, which the Council of Religions will continue working on further.

The first recommendation is addressed to the Parliament of Georgia. We intend to have an amendment made to the tax legislation of Georgia that will ensure establishment of a tax-legal regime that will be equal for every religious union, and one that will be in full compliance with Article 14 of the Constitution of Georgia.

We address the Prosecutor General of Georgia with our recommendations pertaining to several facts of the violence against persons out of religious grounds. We feel that the relevant investigative agencies should act on these incidents in a timely manner and investigate all offences committed under such motives.

Certain religious groups, such as Catholics, Baptists and the Salvation Army, run charity centers. The utility tariffs set for water/community services are the same for them as for commercial legal entities. This is a heavy burden for such organizations. We refer to the National Commission of Energy and Water Supply of Georgia to take the relevant measures in setting up a non-commercial, preferential

tariff for religious organizations and their respective charity centers.

Our next recommendation is addressed to the Ministry of Education and Science of Georgia. The number one problem we refer to are the school books in use today. Many are full of stereotypical tendencies, where other religious and ethnic groups are badly portrayed. In our recommendation, we emphasized the importance of using school books that instill a non-stereotypical, diversified mindset in young students. We also recommend that the school books reflect ethnic and religious diversity of school children in Georgia according to their race, skin color, language, gender and religion. A group of experts from the Tolerance Center of the Public Defender's office should also be involved in the preparation, evaluation and endorsement of such books. All recommendations presented at various stages, should be reflected in the following editions.

Another problem is the absence of religious neutrality at schools. This is reflected in religious rituals conducted during regular classes, visits paid by Orthodox clergymen during academic hours, the abundance of religious premises and praying corners present on school grounds, the non-academic application of religious symbols and the distribution of such literature.

We have addressed the Ministry of Education and Science with our recommendations on how to develop some guidelines for school headmasters on the basis of the Law of Georgia on Education and Teachers' Code of Conduct, and on how to make the school environment more neutral from the religious standpoint. Headmasters must also upgrade their general knowledge of the management of diversity and intercultural education. During the process of accreditation of private and public schools, the National Centre for Educational Enhancement of Georgia should include non-class activities as one of the selection criteria for their curriculum that will help children enhance their tolerance level and respect for diversity among them. Professional development programs for teachers should include a special course on inter-confessional/intercultural educational methods and strategy.

The next recommendation is about a calendar and while preparing it the religious interests of the pupils and students should be taken into account

We have three recommendations for higher learning institutions: 1) to include an intercultural educational course as a core in teacher educational programs; 2) to organize internships for students in diverse cultural environments; 3) and to retrain faculty members in the preparation and implementation of intercultural educational programs/courses.

We will address the Ministry of Culture and Monument Protection of Georgia with the follow-up recommendation that we have prepared. Until now, some issues are still pending regarding buildings and places of public worship that were confiscated during Soviet times from some confessions and religious unions that still need to be returned to their historical proprietors. For many years, this has hindered the harmonious cohabitation of the various confessions and the restoration of historical justice in the country. We call on the the government to present in the shortest possible time a comprehensive action plan for rehabilitating and restoring the historical ownership of disputed churches and places of worship confiscated during Soviet times. The government needs to equally regard the rehabilitation and preservation needs of religious monuments and churches for every religious organization and confession throughout the country.

There are some cases where interiors and exteriors of certain disputed places of worship have undergone alterations. In many instances, those changes have caused the architectural and religious appearance of the buildings to fade away. The government should prevent such incidents. In cases where the building or premise is one hundred years-old and does not enjoy cultural heritage status,

the government should classify and grant them that status under certain criteria without altering their original religious outlook.

Our last recommendation refers to the media outlets in the country.

To address the media coverage that is relevant to the minorities in the country is not an easy task. The Council of Religions recommends that media outlets establish constructive relations between themselves and the religious unions. We are ready to support this by a) assisting in the research on religions and religious denominations by providing information, and b) by finding, formulating and presenting relevant historical data from the past and present on the churches and religious unions.

The emergence of xenophobic attitudes and unfair stereotyping within the broader public and society are mainly conditioned by insufficient and sometimes even misleading information about religious issues in the country. The Public Broadcaster should periodically dedicate more time to informational programs about history of religions and their roles in the world's cultural development, the roles and directions of contemporary religions, as well as the past and present religious unions in Georgia, as prescribed under Article 11 of the Law of Georgia on the "Public Broadcaster".

Members of a supervisory board at the Public Broadcaster should learn more about the activities carried out by the Public "Religions Council" subordinated to the Public Broadcaster, as well as assist the Council in strengthening its future efforts.

Public opinion or scientific research on religious discrimination, intolerance, xenophobia and expressions of hatred are not discussed enough in the Georgian media nowadays.

One could suggest the Public Broadcaster to use its own funds for a grant competition for online media outlets to carry out academic research and to monitor instances of religious discrimination, xenophobia, expressions of hatred and intolerance.

We hope that the implementation of the recommendations prepared by the Council of Religions will greatly contribute to the elimination of discrimination in the country, as well as will help to build tolerance and civil integration. ●

## The way forward - concluding remarks

**Dr Heiner Bielefeldt**  
UN Special Rapporteur



**P**resenting a conclusion is not only a difficult task, but I would say, it is almost a “mission impossible”. Nevertheless, I will try. I have to say that I have more questions now than had before, less answers than I would wish to be able to provide. But that was expected, that was clear.

What I appreciate was the open atmosphere, the honest and, at the same time, direct, controversial discussion that we experienced here - very frank, many conflicting issues, many also conflicting views on issues, and I think it is a purpose in itself to have this sort of communication. Even though, in the end the issues remain accepted, the conflicts remain. Nevertheless, to have this sort of open conflict – face to face can clear the atmosphere.

One of the specific features of this conference was that we focused on two countries, and from the bird’s eye view, one might think those countries are very similar, but when the bird comes down, then of course the differences come into play.

From the bird’s point of view, one might think that Armenia and Georgia have the same geography - they are in the South Caucasus, are surrounded by complicated neighbors and, partially very complicated neighbors. They both have Soviet legacy, and are both still working to overcome many problematic features arising from that legacy. And they are old nations, but young states. The nation state is a young phenomenon, but the nations themselves of course are very old, and in both cases religion plays an enormous role in defining the issue of national identity, and in particular in both cases, one church defining the national identity.

At the same time, both countries are now members of the Council of Europe, less surprisingly also members of the United Nations.

And now, when the bird lands, all the differences come into play, and these differences are relevant ones, maybe they are more relevant than the similarities. But I am not so sure about that.

The history of both countries is different, both countries have their martyrologies, but they are different martyrologies. The millet system for instance was mentioned as something that is specific to Armenian history, the Armenian genocide. So we have different martyrologies, different tragedies, different historical legacies, but also of course historic wealth, not only tragedies, the wealth, richness, but then different theological traditions, different histories.

Now I am observing the discussion and mark differences in the issues that we have discussed. The participants from Armenia basically addressed different issues than the participants from Georgia. For instance, questions like proselytism and conscientious objection are still things that concern Armenia much more than Georgia. Unresolved property issues, concern Georgia more than Armenia - that is at least the impression I have gained. And also the compete approaches to the interreligious side, also something basically concerns the Georgian participants.

And then there is the state of legal reforms what we have heard from Armenian perspective. There is , now a new draft law, still pending and still under discussion. Some of those issues are covered in the law passed in Georgia in the autumn of 2011, definitely not the same laws, but different stages of legal reform.

Some small specific observations - please, receive them in the spirit of what I have said in the beginning - I have more questions than answers, I would like to present them, though inevitably some will be repetitions of those already discussed, but at the end of the day, maybe it is useful to mention them once again.

Legislation – we have discussed this in some detail yesterday. That is why I can be very short now.

We heard from the Armenian ombudsman institution, that now the new draft law has elements of progress, by lowering the threshold. One thing I still find worrisome is that registration of religious organizations seems to be obligatory. I would still insist it must be made as an offer. There must be the possibility for some religious communities to say “no, we don’t want to have registration”. This is because, freedom of religion or belief has the status prior to any administrative procedures or recognitions, so that the element of voluntary offer, something offered by the state but it is left to the communities to decide on whether or not they will make use of it. I think that still remains an important issue that we should continue to exercise.

The issue of proselytism, again more concerning now in Armenia than in Georgia. And also to repeat what I said yesterday, proselytism, on the one hand, it must be made very clear that it is part of the freedom of religion or belief. You cannot even imagine religion, or religions, beliefs without that component bear witness, to communicate. In that broad understanding is included, and if the state deems limitations necessary, they must be precisely defined. And the notion of improper proselytism strikes me as too broad, too vague. I would rather prefer a formulation like a *coercive proselytism*, because the element of non-coerciveness, no force being used, is an important element. In all these subjects of criminal legislation, I am personally very hesitant to adopt a concept like *psychological force*. That can become the entry point for many restrictions, so let us remain very precise.

The third component is anti-discrimination legislation. It is important to have independent bodies, that can also investigate, because I can say from my experience in Germany where I used to be a director of German Institute for Human Rights, which is in the same family as the ombudsman institutions. Germany is a country that tries itself to have strong anti-discrimination legislation. Nevertheless, if you really go into the issues, you discover phenomena that you have not been aware of. This includes indirect discrimination and even structural discrimination. Yet, some of those phenomena are less clear, so they require low complaint mechanisms threshold, but also an independent investigation mandate.

There are several discrimination aspects in the intersection of different norms, sometimes religion in combination with ethnicity, sometimes religion in combination with gender. It is very complicated, but it must be taken up – it belongs to a comprehensive anti-discrimination agenda, and the gender issues nowadays also involve variety of controversial aspects to gender identity. I know it is very delicate, but there is no way of avoiding these complicated discussions.

The next issue is education. I would of course always appreciate the necessity, not only legitimacy, of providing information about the history and the history of religions (in plural), but also focusing

on the specific provisions that shapes a nation, and the specific contributions that certain religious communities - the Armenian Apostolic Church, the Georgian Orthodox Church – have made to this history, doing the justice to the facts.

Religion of course is part of a school education, must be part of school education. But then the differentiation remains important whether it is information about religion, or it is instruction within the religion. There I see still a grey zone.

Yesterday when we discussed this, for me it remained a little bit unclear how a discipline taught in school is supposedly a secular discipline in the sense that while providing information, at the same time, it needs the approval by the Armenian Apostolic Church. I mean there is still room for questions.

The situation in Georgia seems to be a different one. Nevertheless, I got the sense that there are also gray zones here. It is important to make sure that, if it is the case - then school education is used also for the purposes of promoting religious values.

Then children from minority backgrounds must have a low threshold exit option - that is really important.

The different forms of religious education - informing about religions, instructions within the religions, these require different safeguards. I think there is still room for further clarification, as many things are not totally clear to me, and I would like to also refer once again to the Toledo principles, elaborated by the OSCE which tends to really serve as a guiding principle in this entire sphere.

The next topic is prejudices. Many of the problems that still exist in both countries seem to stem from society at large, not violations directly perpetrated by state agencies. So, from the society at large, from the existing prejudices, stereotypes, from a climate of hostility, distrust and of suspicion, and maybe there are also (historic) legacies.

It is important that states take their role actively, because freedom of religion or belief does not only imply a state obligation to respect this, but to also provide active protection and promotional protective activities in the broader understanding. It is important that when a real act of violence occurs, the state sends a very clear signal of non-impunity. Impunity means that members of targeted groups become totally vulnerable, the (promotional) activities have to play an important role, which again relates to the question of education, media, public perceptions, and developing a culture of communication.

That takes me to the issue of dialogue, communication and interreligious dialogue. I was a bit baffled to see the discussion taking place primarily between Georgian participants. There are two different approaches to organize interreligious communication, two different approaches that somehow do not come together. I am not in the position to make do any analysis - I am just observing that this seems to be the case. I very much hope that there will be a way to come together, because it is very important to have this dialogue, face to face communication; probably in different circumstances, different footing. Respect and honesty are the most important elements in overcoming prejudices, and stereotypes, and sometimes this can be a painful and long process.

The pre-last point concerns statehood. As it was said, we have old nations, but young states; old nations which only in recent times were able to regain their statehood, to regain some independence. A statehood means a new challenge but also new opportunities - what the state can provide is more than just a nation, the state can provide a public space accessible to everyone. That is not something that a nation can provide, and it is not only something that the state can provide. The state, under the auspices of the res publica, has to provide public institutions operating in the interest of everyone,

opening up a new space for diversity to unfold. “We” - the people, in a modern democracy, are never just a collective close entity, so diversity becomes part of the more (inclusive) and more comprehensive, and also more rich “we”.

The public space is not something that we should ever take for granted. It is a huge accomplishment - public space facilitated by public institutions. Public space is a place where one can experience pluralism, not in the zero-sum fashion, meaning, once another group comes in, it will be lost territory for myself. No, it is public, it is open, accessible for everyone, and should allow the expression of diversity. My mandate has focus on the freedom of religion or belief – so religious diversity, belief diversity – but I would also underline what was said earlier, that freedom of association which is the integral, inherent right in this context of opening up the public space, must also facilitate public manifestations, public discussions, or other aspects of diversity, including gender diversity.

The modern state is also responsible for developing independent institutions, including the judiciary. All the property claims - of course, must be resolved in legal terms and it is important to have a fair and transparent procedure.

My last point, the freedom of religion, is as an international human right, guaranteed both in the framework of the Council of Europe, as well as in the framework of the ICCPR, so the UN framework.

What you can facilitate in this context is standards not imposed unilaterally. And that is very important to understand. We have standards that apply to everyone, standards that apply to all states.

There are also challenging issues that not only concern the region, it equally concerns the region I come from, Germany, Netherlands as well, or neighbouring countries. We also have different challenges, but nevertheless, there are challenges, where religious diversity sometimes intersects with other diversities, and can be treated in fair manner, respecting everyone’s human dignity because that is the principle.

Not an imposition of standards, but standards that the international community has agreed upon, and that now become a reference point, also for internal discussions. It becomes a reference point In particular for minorities. Freedom of religion or belief is a human right, empowering members of minorities, but an interesting point is that the majority should not feel that the empowerment of minorities means to be disempowered. That would be exactly the zero-sum understanding, so the more the others gave, the more we use. I think by having the public space accessible to all means that we can understand and experience pluralism in a new way, not in the zero-sum way. Empowering members of minorities under no means should be perceived as simply a loss for the majority. More contextual understanding of identity or identities can also give more status, maybe for recapturing the heritage of majority religions. I know this is a possibility, and I know there is a reality also.

It can be healthy also for the majority religion to overcome too tight connection between national identity and religious identity. I am not saying this should be simply dissolved, but having a more comprehensive, contextual understanding of how those two come together; it can be also a quite healthy experience for the majority religions.

My observations are not the final words, as I am not in the position to give any final observations. Just from observing what I saw here, I hope this sort of communication, complicated as it may be, will continue in the future. And I wish all the best to both countries and for the healthy development of mutual relations. ●

**Annex 1****Agenda****Day 1 | 29 May 2013**

- 10.00 Welcome and opening of the conference by the Embassy of the Netherlands, the United Nations Office of the High Commissioner for Human Rights and the European Centre for Minority Issues Caucasus
- 10.15 Opening statement by the State Minister for Re-integration of Georgia - Mr. Paata Zakareishvili
- 10.30 Presentation of participants
- 10.45 International Standards and good practices on Freedom of Religion or Belief - Introduction Dr. Heiner Bielefeldt, UN Special Rapporteur on Freedom of Religion or Belief
- 11.00 Discussion
- 12.00 Coffee break
- 12.30 Discussion (continuation)
- 13.00 Outline of Armenia's commitments to freedom of religion - Mr. Vardan Ascatryan, Head of the Department of National Minorities and Religious Affairs of the Government of Armenia
- 13.30 Lunch
- 15.00 Analysis of legal issues related to the Armenian Diocese in Georgia - Mr Levon Isakhanyan, Head of the Legal Department of the Diocese, Armenian Apostolic Church Georgia
- 15.45 Concerns of religious organizations in Georgia: places of worship and the discrimination of the right to freedom of religion of Muslim Georgians - Mr. Tariel Nakaidze, Union of Adjara Muslims
- 16.00 The situation - Mr. Davit Mikaelyan, Expert on National Minorities and Religious Affairs
- 16.30 Discussion on the implementation of freedom of religion in Georgia and Armenia, moderated by UN Special Rapporteur Bielefeldt
- 17.30 Closing of Day 1
- 18:00 Dinner

**Day 2 | 30 May 2013**

- 10.00 Rights and opportunities for religious organizations in Georgia - Mr. Beka Mindiashvili, Head of the Tolerance Centre, Ombudsman's Office of Georgia
- 10.30 Rights and opportunities for religious organizations in Armenia - Ms Anush Margaryan, Ombudsman's Office of Armenia
- 11.00 Discussion
- 12.00 Coffee break
- 12.30 Elaboration and presentation of recommendations on the freedom of religion by the Council of Religions under the auspices of the Public Defender of Georgia - Ms. Lela Khonelidze
- 13.45 Concluding remarks by UN Special Rapporteur Dr. Heiner Bielefeldt
- 14:00 Closing of the conference
- 14.30 Lunch



Annex 2

## List of Participants

### Government Officials

Georgia	Armenia
1. <b>Mr Paata Zakareishvili</b> , State Minister on Reintegration Issues	4. <b>Mr. Vardan Ascatryan</b> , Head of the Department of National Minorities and Religious Affairs of the Government of the Republic of Armenia
2. <b>Ms Tamara Kintsurashvili</b> , Deputy Secretary, National Security Council	5. <b>Mr. Davit Mikaelyan</b> , Expert of the Department of National Minorities and Religious Affairs of the Government of the Republic of Armenia
3. <b>Mr. David Zurabishvili</b> , Deputy Minister, Ministry on Education and Science	6. <b>Ms Kristina Mehrabekyan</b> , Ministry of Foreign Affairs
	7. <b>Mr Sargis Torosyan</b> , Ministry of Foreign Affairs

### Ombudsman's office

Georgia	Armenia
8. <b>Mr. Beka Mindiashvili</b> , Head of the Tolerance Centre, Ombudsman's Office of Georgia	9. <b>Ms Anush Margaryan</b> – Legal Department Ombudsman's Office of Armenia
10. <b>Ms Mariam Gavtadze</b> - Tolerance Centre, Ombudsman's Office of Georgia	11. <b>Ms Liana Mkrтчyan</b> – Legal Department Ombudsman's Office of Armenia

**Council of Religions under the auspices of the  
Public Defender of Georgia**

<b>13. Mr Vagif Aksperov</b> ( Sheikh) – Georgian Muslim Union
<b>14. Mr Jemal Paksadze</b> (Mufti) – Adjarian Muslim Mufties
<b>15. Mr Tariel Nakaidze</b> – Union of Adjara Muslim
<b>16. Mr Vazgen Mirzakhanyan</b> (Bishop) – Armenian Orthodox Church
<b>17. Mr Abi-Melik Rosenblatt</b> – (Rabbi) – Jewish Community
<b>18. Mr Giuseppe Pezzotti</b> (Bishop) – Roman Catholic Church
<b>19. Fr. Mikhael Khachkalyan</b> – Armenian Catholic Church
<b>20. Mr Dimitri Pirbari</b> – (Phir)– Yezidi Council
<b>21. Ms Rusudan Gotsiridze</b> –(Bishop)- Baptist -Evangelistic Church
<b>22. Mr Zaal Tkeshelashvili</b> – (Pastor) – Evangelic Church
<b>23. Mr Giorgi Tskhomelidze</b> – Roman Catholic Church
<b>24. Ms Ketevan Ramishvili</b> – Evangelic Church
<b>25. Mr Varlam Ramishvili</b> (Pastor) – Saint Trinity Protestant Church
<b>26. Mr Boris Charaia</b> – (Pastor) – Seventh Day Adventist Church
<b>27. Mr Shmagi Chankvetadze</b> (Pastor) – Evangelistic-Protestant Church
<b>28. Mr Merab Oragvelidze</b> – Baptist’s Church “Madli”
<b>29. Mr Bradley Caldwell</b> – International Charity Organization “ Khsnis Armia”
<b>30. Mr. Oleg Khubashvili</b> – Seventh Day Adventist Church
<b>31. Ms Lela Khonelidze</b> - Seventh Day Adventist Church
<b>32. Mr Mikheil Elizbarashvili</b> – “Friend’s Community- Kvakerebi”
<b>33. Mr Bagrati Mamasakhlisi</b> – Svedenborgian Church

**Churches**

Georgia	Armenia
<b>34. Bishop Vazgen Mirzakhanyan</b> , Head of the Diocese, Armenian Apostolic Church Georgia	<b>35. Archimandrite Shahe Ananian</b> - Mother See of Holy Etchmiadzin
<b>36. Mr Levon Isakhanyan</b> , Head of the Legal Department of the Diocese, Armenian Apostolic Church Georgia	

<b>37. Ms Nina Ter- Saakova - Armenian</b> Apostolic Church Georgia	
<b>38. Mr. Giorgi Zviadadze ,</b> Rector of the Theological Academy of the Orthodox Church of Georgia	
<b>39. Ms Tea Gogotishvili ,</b> Orthodox Church of Georgia	
<b>40. Mr. Andria Jagmaidze,</b> Orthodox Church of Georgia	
<b>41. Mr Bidzina Gunia,</b> Orthodox Church of Georgia	

### Civil Society Representatives

Georgia	Armenia
<b>42. Mr Giorgi Mshvenieradze - Georgian</b> Democracy Initiative	<b>43. Mr. Gevorg Mkrtchian -</b> Chairman of the NGO “Youth”
<b>44. Mr Ghia Nodia -</b> Chairman, Caucasus Institute for Peace, Democracy and Development	<b>45. Ms Isabella Sargsyan -</b> Eurasia Partnership Foundation, Communications Officer/Project Manager
<b>46. Ms Elene Nodia -</b> Project Manager, Caucasus Institute for Peace, Democracy and Development	<b>47. Ms Veronika Danielyants –</b> Analytical Centre on Globalization and Regional Cooperation
<b>48. Mr Paata Gachechiladze -</b> Chairman, Union “21 <sup>st</sup> Century”	
<b>49. Ms Tamara Aleksidze –</b> Union „21 <sup>st</sup> Century”	
<b>50. Mr Arnold Stepanyan –</b> Public Movement “Multinational Georgia”	
<b>51. Mr Davit Chikvaidze –</b> Profesor in Canonic Law, Tbilisi State University	
<b>52. Mr Irakli Artmeladze –</b> Turkey Friendship Association	
<b>53. Mr Emin Eckerci-</b> Turkey Friendship Association	
<b>54. Mr Giorgi Keburis –</b> Association “ People for People”	
<b>55. Mr Will a Vander Wade -</b> Association “ People for People”	

### International Organizations/Embassies

<b>56. Ms Angele Samura</b> – Deputy Head of Mission, Embassy of the Kingdom of the Netherlands in Tbilisi, Georgia
<b>57. Mr Mark van Embden Andres</b> – Political Officer, Embassy of the Kingdom of the Netherlands in Tbilisi, Georgia
<b>58. Mr Maurice Paulussen</b> – Policy Officer, Ministry of Foreign Affairs of the Netherlands
<b>59. Mr Heiner Bielefeldt</b> – UN Special Rapporteur on Freedom of Religion or Belief
<b>60. Mr Vladimir Shkolnikov</b> - Senior Human Rights Adviser for the South Caucasus the United Nations Office of the High Commissioner for Human Rights
<b>61. Mr. Jamie McGoldrick</b> - UN Resident Coordinator, Georgia
<b>62. Ms Caterina Bolognese</b> - Head of Delegation, Council of Europe Delegation to Georgia
<b>63. Ms Ewa Chylinski</b> – Regional Director, European Centre for Minority Issues (ECMI) - Caucasus
<b>64. Ms Denola Chkhartishvili</b> – Project Associate, European Centre for Minority Issues (ECMI) - Caucasus
<b>65. Mr Giorgi Sordia</b> – Researcher, European Centre for Minority Issues (ECMI) - Caucasus
<b>66. Mr Joseph Maramreddy</b> – Embassy of the Holy See (Vatican) in Georgia

### Interpreters

Georgia	Armenia
<b>67. Mr Ivane Menteshashili</b> – Geo/En/Rus	<b>68. Mr. Aram Ohanian</b> – Arm/En
<b>69. Mr Mikheil Avakian</b> – Geo/Arm	

Annex 3

## List of Conference Materials

### UN SR and UPR Georgia

[http://ap.ohchr.org/Documents/R/HRC/resolutions/A\\_HRC\\_RES\\_6\\_37.pdf](http://ap.ohchr.org/Documents/R/HRC/resolutions/A_HRC_RES_6_37.pdf)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/177/93/PDF/G1017793.pdf?OpenElement>

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/172/02/PDF/G1017202.pdf?OpenElement>

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/175/83/PDF/G1017583.pdf?OpenElement>

[http://www.upr-info.org/IMG/pdf/recommendations\\_to\\_georgia\\_2011.pdf](http://www.upr-info.org/IMG/pdf/recommendations_to_georgia_2011.pdf)

<http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/121/45/PDF/G1212145.pdf?OpenElement>

### US State Dept. Country Report – Georgia

<http://www.state.gov/documents/organization/193023.pdf>

### US Department of State, Georgia Human Rights Report 2012

<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dclid=208316>

<http://www.state.gov/documents/organization/204499.pdf>

### Situation of Human Rights and Freedoms in Georgia 2012, PDO Parliamentary Report

Pages - 519- 531

<http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

### Recommendations elaborated by the Religious Council functioning under Public Defender's Office

### UN SR and UPR Armenia

[http://www.legislationline.org/download/action/download/id/4329/file/ECHR\\_case\\_%20Bayatyan%20v.%20Armenia%2007.07.11\\_en.pdf](http://www.legislationline.org/download/action/download/id/4329/file/ECHR_case_%20Bayatyan%20v.%20Armenia%2007.07.11_en.pdf)

### Religious Tolerance in Armenia

<http://www.osce.org/yerevan/74894>

US Department of State Report on Religious freedom , Armenia 2012 <http://www.state.gov/j/drl/rls/irf/2012/eur/208286.htm>

### General

### State and Church in EU Member Countries –Gerhard Robers

### CoE/PACE

<http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19695&Language=EN>

### Handbook

[http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/documentation/hb09\\_rightfreedom\\_en.pdf](http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/documentation/hb09_rightfreedom_en.pdf)

### OSCE

[http://www.legislationline.org/download/action/download/id/3463/file/OSCE\\_commitments\\_on\\_for\\_1975-1999\\_en.pdf](http://www.legislationline.org/download/action/download/id/3463/file/OSCE_commitments_on_for_1975-1999_en.pdf)

<http://www.legislationline.org/documents/action/popup/id/16515>

<http://www.legislationline.org/documents/action/popup/id/16077>

### Toledo Guiding Principles

<http://tolerance.research.uj.edu.pl>

### OSCE ODIHR's Tolerance and Non-Discrimination Information System (TANDIS)

<http://tandis.odihhr.pl>



