

Sergey Minasyan

FROM
POLITICAL RALLIES
TO CONVENTIONS

POLITICAL AND LEGAL ASPECTS OF PROTECTING
THE RIGHTS OF THE ARMENIAN ETHNIC MINORITY
IN GEORGIA AS EXEMPLIFIED BY THE
SAMTSKHE-JAVAKHETI REGION



Yerevan 2007

Սերգեյ Մինասյան

ՔԱՂԱՔԱԿԱՆ ՅՈՒՅՅԵՐԻՅ ԴԵՊԻ ՀԱՄԱԶԱՅՆԱԳՐԵՐ

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The volume analyses the situation with human and minority rights in Georgia and suggests ways of integrating minorities in the social, political and cultural life of the country. The author looks at the legal framework for minority issues, focusing on Georgia's international legal obligations and their political implementation practices. In a case study of the Armenian-populated region of Samtskhe-Javakheti, the author proposes mechanisms and recommendations for achieving a compromise between minorities' needs to preserve their identity, language and culture, and to achieve factual political rights, on one hand, and their profound civil integration, on the other.

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EDITOR'S NOTE

The book we offer to the reader here is an abridged edition of the full version that appeared in Russian and Armenian. The abridged version in English is identical to the one in Georgian. The reasons this book was published in a number of formats are purely technical; this is fortunately not an insurmountable obstacle for experts: those who are interested have an option of reading the full text in Russian or Armenian.

In fact, the book is aimed not only, and perhaps not so much, at those who specialize in affairs of South Caucasus or post-Soviet space and can read in Russian or Armenian. It is devoted to problems that plague Javakheti, one of the regions of South Georgia. The majority of the population of this territory, one of the economically least developed in Georgia, are ethnic Armenians. Problems that are common for the entire Georgian state – lame and stuttering system of administration, corruption, separation from the system of decision making etc – get even more complicated in Javakheti because representatives of an ethnic minority form compact settlement in the region. Problems with linguistic and cultural policies, local self-governance, political and civil rights, resistance to facilitation of contacts with Armenia that has common borders with this region etc, generate resentment and discontent in the local population which looks through the “lens of ethnicity” on practically every problem in the region, and produce a feeling of discrimination. The Georgian authorities, in their turn, respond with extreme apprehension to the autonomy demands that reach them from Javakheti and from public figures in Armenia who are often emigrants from Javakheti. This tangle of contradictions creates an almost classic model situation of a latent ethnic conflict in the making for the post-Soviet space and breeds mistrust between the ethnic majority and ethnic minorities in Georgia.

At the same time, it is our good fortune that these contradictions and differing approaches to assessing the future of the region do not lead to an open confrontation. The country that lived through two really bloody conflicts (one in Abkhazia and another in South Ossetia) and is still unable to pacify and control them, does try to build its statehood in accordance with the standards accepted in the international community such as signing the appropriate documents and attempting to implement them, albeit not always successfully. We thus face an exceedingly interesting situation in which the apparent conflict of interest not only refuses to flare up into a war (like the widely known Karabakh- or Abkhazia-type military collisions) but does not even bring about consequences that are typical of similar types of conflicts in the West, like the Corsican or Basque confrontations.

Nevertheless, the discourse in the two communities remains as torn apart

and as politicized and ethnicized as before, and in this form is often found in Western publications. It is common to both discourses (the Armenian and the Georgian) dealing with this problem that alarmism became a cliché of articles on the region published outside its borders. Both “pro-Armenian” and “pro-Georgian” versions appear in the West in special papers and in newspaper articles devoted to Javakheti. The book offered here to the reader is an attempt to avoid this mistake. To what extent the author succeeded in this is for his readers to decide.

FOREWORD

It was another semi-crisis centering on the Russian military base at Akhalkalaki when I went to a conference concerning something very different and met there a colleague from Georgia – an excellent professional and an old acquaintance. The conversation flowed smoothly and switched in a most natural manner to problems of Armenian-populated territories within Georgia. “You should understand once and for all” – said my friend – “that no one will ever gift you any autonomy. We know only too well what autonomy means to Armenians: a flag, an anthem, a President, and Nagorno-Karabakh the next morning. Ergo: forget it, the Georgian side would not even speak about it, ever”. My colleague’s remark lumped together the entire gamut of problems that inform the situation in the region which is known in Georgian as Javakheti and in Armenian as Javakhk.

First, it is so typical to see a dichotomy of “you” (Armenians) and “us” (Georgians). While problems flaring up between Tbilisi and Georgian-populated territories of Georgia are swept under the rug as being caused by unskilled elites, or corruption, or general havoc with management in the Georgian state that is still in its infancy, in Javakheti these problems immediately translate into ethnic terms and are interpreted along the “Georgians vs. Armenians” line. In this context Armenians are not merely one of the ethnic minorities of Georgia whose members live not only in Javakheti but also in other regions of Georgia and in its capital. No: Armenians also live in the neighboring Armenia that has a border with Georgia right along the territory of Javakheti. As a result, this “you” lumps together all Armenians – Armenians in Javakheti, Armenians of the entire Georgia, Armenians in Armenia, Armenians of the Armenian diaspora, and all of them are “you Armenians”, not “us Georgians”.

Second, the history of Georgia of recent years provides explanations to the idiosyncratic response to the term “autonomy” as such. The experience of the autonomies that Georgia inherited from the USSR gave it plenty of reasons for fearing this phenomenon. On top of it, the obvious threatening factor is that Armenians (different Armenians of course in a different context but that’s secondary) already had some experience of seceding from the “mother country” and achieving a de-facto independence in Karabakh.

This mutual anxiety was accumulating around the Javakheti problem all these recent years. Two incompatible discourses took shape in the tension area: one “Georgian” and one “Armenian”. The Georgian discourse stems from the fear of the Armenian “separatism” and the “conspiracy” to rob Georgia of Javakheti; the Armenian discourse is permeated with a dread of enforced assimilation and “de-Armenization” of Javakhk by Georgian authorities. Data fields turn into mine

fields: choosing a specific linguistic form of a name or toponym for the region (Javakheti or Javakhk) or even the last syllable in the name of an interlocutor trigger rejection and protest. This situation, which is exasperatingly irritating for scholars and outside observers, provokes all participants into further radicalization of at least their rhetoric, and this factor sends another stimulus for further separation of discourses and for intensification of fears.

The surname of the author of the study we offer to the reader ends with “yan”. Moreover, he has roots in Javakheti and I suspect that outside the professional context he refers to his smaller motherland only as Javakhk (you have no linguistic alternative to it in Armenian!). However, in this work the author attempts to break out of the fear and confrontation paradigm. Addressing the Georgian establishment, he demonstrates very conclusively that the frightening word “autonomy” may hide inside not the separatism – far from it – but a simple need for citizens of the country to make use of this or that right they have, and that this need can be satisfied in terms of today’s legal instruments. Addressing the Armenians who live outside Georgia, the author demonstrates that the interpretation of the situation in Javakheti as a “struggle for unification with Armenia” is counterproductive, first of all for Armenian citizens of Georgia; that instead of facilitating the road to a resolution of the paramount problems of the inhabitants of Javakhk it does push it away even further. Addressing Europeans and, beyond them, outside observers, the author remarks that one of the reasons why Switzerland is not infested with “aggressive separatism” and why Bern is not afraid of Paris is because inhabitants of Geneva have such rights and possibilities to act of which inhabitants of Akhalkalaki cannot even dream. Note also that sounds of German speech are hardly more frequent in Geneva than sounds of Georgian speech are in Akhalkalaki. Finally, addressing the inhabitants of Javakheti, the author shows that their main weapons in fighting for their rights must be not protest meetings or demonstrations but international agreements signed by Georgia and the internal law of the Georgian state.

The most important goal at this moment in the problem of Javakhk is to transform the Georgian and Armenian discourses from the phase of the war of names and toponyms to the phase of a quest for solutions. To achieve this, both discourses need to be translated into a different language – the language of cooperation and analysis, the language of legal standards and international experience. We may have a chance then that the war of toponyms will peter out – as there is indeed no war between two countries which are called “Sakartvelo” and “Sasomkheti” in the language of one of them and “Vrastan” and “Hayastan” in the language of the other: a fact that never makes these two countries refrain from using the foreign-language names “Georgia” and “Armenia” in communications between them.

The title of the study carried out by Sergey Minasyan is “From Political Rallies to Conventions: Political and Legal Aspects of Protecting the Rights of the

Armenian Ethnic Minority in Georgia as Exemplified by the Samtskhe-Javakheti Region¹. This formulation of the problem is well justified; indeed, the problem of Javakheti is perhaps the most difficult one for the ethnic minorities of Georgia (excluding of course the conflicts that went through the hot stage and ceased to be strictly interethnic in nature). In a certain sense the problem of Javakheti reflects most vividly many problems that are typical of today's Georgia. Unfortunately, there are practically no truly scientific publications in the literature on this subject and the discussion unfolds almost exclusively in the daily press and in the framework of polarized politicized discourses. The author of this study attempted to turn the context of discussion on its head. To begin with, he tried to systematize those legal standards of Georgia that regulate the situation with ethnic minorities, to outline the most pressing problems concerning Javakheti and to determine in what way these problems could be resolved within the existing legal field (or within the one in the process of preparation).

There is no doubt that many of Sergey Minasyan's suggestions and conclusions should prompt more questions from all concerned than answers. I think nevertheless that this is nothing to be apprehensive about: a debate generated by this study could play an extremely important role in overcoming the fears, and may help with a gradual rapprochement and merger of the "Armenian" and "Georgian" discourses on Javakheti wherever they occur – in Armenia or in Georgia, or in an international environment.

In that conversation with my colleague I retorted that after all "autonomy" is merely a word. People read a specific content into it and it may well happen that this content hides no dangers for the Georgian statehood. After that we can quietly drop the scare word. Then we remarked that football clubs also have flags and seals and anthems, and that it is not yet an established fact that the events in Nagorno-Karabakh were caused by excessive autonomy, perhaps rather the other way around. Both of us were aware that those who live in the Swiss canton Ticino write their applications to their house manager in Italian – with no dire consequences for the foundations of the Swiss nation. We agreed at the time that it would be worth a try to redirect the Javakheti debate into the channel of searching for – so to speak – "technical" solutions, and that it would be by far a better option than sniffing out which of the ethnoses was the first to settle in this or that valley or where state borders were traced in the 4th century BC. Not too much water had gone under the bridge after that chance encounter and I am happy to be able to offer for your attention a book which invites us to just this type of exchange.

Alexander Iskandaryan,
Director, Caucasus Media Institute

1 The foreword was written for the full Russian-language version.

INTRODUCTION

The problem of protecting human rights of individuals and ethnic² minorities in Georgia is desperately entangled. Policies aimed at dealing with ethnic minorities call for integrated approaches because they must be directed, on one hand, at protecting the ethnic and cultural identity of these minorities and at creating for them the conditions of dignified life and social and economic development, but on the other hand, at their integration into the social and political environment of the country, at their involvement in the processes of democratization and formation of a civil society. Georgia had in the past issued a number of declarations on adhering to these principles but on a practical level the policies that Georgia implements regarding its minorities remain utterly ineffective.

The inability of the post-Soviet Georgia to make even the tiniest steps towards solving the problem of ethnic minorities stems to a large extent from factors beyond the control of the authorities, such as the heritage of the communist past. Conflicts in South Ossetia and Abkhazia, the civil war and domestic mutinies of the 1990s, as well as the hardships of the resulting social and economic situation could only worsen the plight of the minorities. Subjective factors have, beyond any doubt, played a role here, first of all the absence in Georgia of the political will and determination to decisively reconsider the attitude to problems of minorities. Despite the ethnic and religious pluralism that was a traditional feature of Georgia, nationalistic tendencies and even xenophobia that is discernible in certain segments of the current Georgian society affect the policies towards the ethnic minorities in Georgia. Furthermore, the attitude of the Georgian state and the Georgian society to minorities that live in Georgia are influenced by the characteristics of relations between Georgia and the states that are “ethnic motherlands” to some of the minorities on the Georgian territory (Armenians, Azerbaijanis, Russians). Finally, the problems that plague the country as a whole, such as corruption and violation of human rights, hit minorities with amplified effect since these groups of citizens are often the least protected members of the now evolving civil society in Georgia.

The policies pursued in post-Soviet Georgia not only failed to stimulate

2 The current trend is to distinguish between the terms “nation” and “ethnos”. The terms “nation” and “national” are applied to the entire population of a state (British nation, national project), while the terms “ethnicity” and “ethnic” – to groups that used to be designated in the past by the terms “nationalities” and “nations” (Georgian ethnos, ethnic minority). This terminology has not yet finalized; thus the terms “national” and “ethnic” are used interchangeably in a number of international documents enacted in the 20th century. To avoid confusion, in this work we follow the current trend and refer to “ethnic minorities” and “ethnic policies”, with exceptions made in the cases where we refer to specific documents in which the usage is different.

the integration of ethnic minorities but in fact amplified the negative potential of interethnic friction. Some minorities distance themselves more and more from the Georgian state and show no willingness to integrate into the social and cultural life of the country.

International experience shows, however, that such problems arise in many countries and are far from unsolvable; nevertheless, their resolution (especially in the areas of compact settlement of ethnic minorities) in Georgia will require modification and liberalization of the policies of all state structures at all levels, as well as drastic transformation of the attitude of the Georgian society. Minorities need to start feeling that they are members of society, are endowed with full rights and have the possibility of assuming their share of responsibility for the fate of the Georgian state. This will only be feasible when the Georgian state and society stop regarding these ethnic minorities as “aliens” or “undesirable elements” and start working to create realistic perspectives for non-discriminatory professional and social promotion of representatives of the minorities resident in the country. Among other factors, the introduction of real self-governance in the regions of compact settlement of minorities, and measures aimed at sustaining their ethnic identity, may work as important stimuli for the integration of ethnic minorities. Under these conditions the minorities can perceive themselves as real and welcome participants of the process of building the civil society in Georgia.

The emerging signs of willingness of the state structures, elites and social organisms in Georgia are in themselves insufficient for this. Many European states faced similar problems in the course of their evolution even not long ago and have recently achieved significant progress in the integration of minorities; their examples show that in Georgia this process will demand a more active participation of the international community and much help from it, as well as the implementation of fundamental international legal standards and conventions in the domestic Georgian legislation and the establishment in Georgia of the rule of law and of protection of human rights regardless to the ethnic, religious or racial origins of its citizens.

Georgia is traditionally a multiethnic country. For centuries it was the area of habitation for various peoples who all contributed greatly to the evolution of the Georgian culture and the building of the Georgian statehood. The percentage of ethnic Georgians in Georgia began to rise at the end of the 19th and the beginning of the 20th century. This dynamics continued through the years of the first independent Georgian Democratic Republic (1918-1921) and became even stronger in the Soviet period when the percentage of the Georgian ethnic group in the population of the Soviet Georgia grew steadily (against the background of the largely stable dynamics of its ethnic composition). Among other factors that are

common for the entire migration situation in the former USSR, this was assisted by such processes as permanent outflow of mostly Armenian and Azerbaijani population from Georgia to the neighbouring Armenia and Azerbaijan, the deportation of Meskheta Turks and Hamsheni Armenians (Hamshenis) to Central Asia in 1944, reactivation of assimilation processes etc.

Table 1. Dynamics of ethnic composition of the population of the Georgian Soviet Socialist Republic in the years 1926 – 1979³

Ethnicity	1926		1939		1959		1979	
	thousands	%	thousands	%	thousands	%	thousands	%
Georgian	1 788.2	66.8	2 173.5	61.4	2 600.5	64.3	3 433.0	68.8
Abkhazian	56.8	2.1	56.6	1.6	62.9	1.5	85.3	1.7
Ossetian	113.3	4.2	148.7	4.2	141.2	3.5	160.5	3.2
Armenian	307.0	11.5	414.2	11.7	442.9	11.0	448.0	9
Russian	96.1	3.6	30.8	8.7	407.9	10.1	371.6	7.4
Ukrainian	14.4	0.5	46.0	1.3	52.2	1.3	45.0	0.9
Azerbaijani ⁴	143.9	5.4	187.6	5.3	153.6	3.8	255.7	5.1
Greek	54.06	2.0	84.9	2.4	72.9	1.8	95.1	1.9
Jewish	30.2	1.1	42.5	1.2	51.6	1.3	28.3	0.6
Other	73.1	2.8	77.9	2.2	58.1	1.4	76.0	2.0

The ethnodemographic map of Georgia has essentially changed after the country gained independence in 1991. Zviad Gamsakhurdia, the first President elected by an overwhelming majority of the population of Georgia, chose to launch radical policies with regard to the minorities in Georgia. This period in the history of post-Soviet Georgia was not only characterized by manifestation of extremes of nationalistic tendencies in the actions and statements of the Georgian leaders and political groups but it also coincided with the initial stages of a profound political and economic crisis, the civil war and the conflicts in Abkhazia and South Ossetia. It was in the 1990s that Ossetians were deported from villages in the Borzhomi district and from some townships in Shida Kartli, and Azerbaijanis – from a number of villages in the district Kvemo Kartli⁵. This triggered an outflow of the

3 *Dzhaoshvili, V. Sh.* The Population of Georgia: Economic and Geographical Analysis. Tbilisi, 1968, p. 48 (in Russian); Official Data of the USSR Population Census in 1926-1979.

4 During censuses of 1926 and 1939, Azerbaijanis (classified earlier as “Caucasian Tatars”) were merged into one group with Persians and peoples of Turkic ethnicities (Turks, Turkmen, Meskheta Turks etc.).

5 Kvemo Kartli is one of the territorial administrative divisions of Georgia at the south-east of the country. It comprises several districts in which ethnic minorities make up a significant portion of the population, mostly Azerbaijanis, Armenians and Greeks.

Russian-speaking population, mostly from Tbilisi (and of Doukhobors from the Ninotsminda district in Samtskhe-Javakheti⁶), of Greeks from the Tsalki district of Kvemo Kartli, and of Armenians from Tbilisi and from Samtskhe-Javakheti. In almost all these areas, central authorities took measures to repopulate the vacated villages and townships with migrants from Ajaria, from inner and Western areas of Georgia and partly by refugees from Abkhazia, which only intensified tensions between minorities and the Georgian authorities⁷.

With the arrival of Eduard Shevardnadze as President of Georgia, the outflow of representatives of non-titular ethnic groups continued; at the same time, the confrontation of the central authorities and the minorities somewhat relaxed. A new situation regarding the protection of human rights and ethnic minorities began to form in Georgia in the period that followed the Rose Revolution of 2003. On one hand, state mechanisms grew more efficient, especially in the social and economics spheres. On the other hand, statements made by many representatives of the authorities began to display signs of aggressive nationalistic rhetoric.

We need to remark here that the increased activity of the European and Euro-Atlantic directions in the Georgian foreign policy after the Rose Revolution of 2003 resulted in certain corrections to some approaches of Georgian political elite to pluralism and human rights, to citizen equality regardless of religious and ethnic origins, and to the protection of ethnic minorities. This change in the attitudes of the political elite of the country to the protection of minorities' rights manifested itself in the first steps, albeit incomplete and inconsistent, towards the implementation of certain international and European mandatory legal standards and mechanisms in the domestic Georgian law.

In reality, though, so far the changes are only noticeable at the declarations level and failed to produce any practical results. In reality, Georgian authorities chose to accelerate and enforce their policies directed at ethnic minorities, especially in the field of linguistic and educational aspects, which only caused opposite

6 Samtskhe-Javakheti is one of the territorial administrative divisions of Georgia in the South of the country (it includes 6 districts) and has common borders with Turkey and Armenia. The majority of the population in this region are Armenians, while in the two Eastern districts – Akhalkalaki and Ninotsminda – they make up the absolute majority (approximately 94-95%). These two geographically merged districts are known as Javakheti in the Georgian transliteration but the Armenians themselves refer to them as Javakhk. As topographical names may often betray political bias, we tried to help the objectivity of our effort and so alternate these two names stemming from a common root, and use them interchangeably. The official designation of the territorial administrative division as Samtskhe-Javakheti is given in the text exclusively in its official Georgian transliteration.

7 For more on the political processes and the current economic situation in the Samtskhe-Javakheti region see: *Minasian S. From Political Rallies to Conventions: Political and Legal Aspects of Protecting the Rights of the Armenian Ethnic Minority in Georgia as Exemplified by the Samtskhe-Javakheti Region*. Yerevan: CMI, 2006 (in Russian and in Armenian).

consequences – in recent years ethnic minorities were distancing themselves more and more from the Georgian state and Georgian society. Under these conditions, tensions continue to rise, especially in regions of compact settlement of the minorities; in the foreseeable future this may bring about a negative political outcome both for Georgia itself and for Caucasus as a whole.

Table 2. The data of official censuses in Georgia in 1989 – 2002

Ethnic group	1989		2002		Increment in 1989-2002 thousands
	thousands	%	thousands	%	
Georgian	3 784.4	70.1	3 661.2	83.8	-126.2
Abkhaz	95.9	1.8	3.5	0.1	-92.3
Ossetian	164.1	3	38.0	0.9	-126.0
Armenian	437.2	8.1	248.9	5.7	-188.2
Russian	341.2	6.3	67.7	1.5	-273.5
Ukrainian	52.4	1.0	7.0	0.2	-45.4
Azerbaijani	307.6	5.7	284.8	6.5	-22.8
Greek	100.3	1.9	15.2	0.3	-85.1
Jewish	24.8	0.5	3.8	0.1	-20.9
Kurdish	33.3	0.6	2.5	-	-30.8
Total population	5 400.8	100	4 371.5	100	-1 029

As we see from these statistics, the population of Georgia as reflected in the data of the latest census of 2002 was (with the exception of the territories of Abkhazia and South Ossetia that are beyond control of the Georgian government) 4 mln 371.5 thousand. The drop in population in comparison with the Soviet period by 1 mln 29.3 thousand was mostly caused by emigration. Most of those who left the country in the post-Soviet period were ethnic minorities: Russians, Ukrainians, Armenians and Greeks. During these years the total number of minority residents in Georgia decreased from 1 mln 613 thousand to 710 thousand, i.e. it dropped by 56% of the total population while the number of ethnic Georgians decreased by only 3%.

Consequently, the ethnic and demographic situation in today's Georgia have significantly changed. By the data of the 2002 census, ethnic Georgians compose now 83% of the country's population while in 1989 their share was 70.1%. During these years the number of representatives of ethnic minorities in Georgia has dropped from 29.9% to 16.2%. One exception among the larger minority groups in Georgia are Azerbaijanis: their number fell in the post-Soviet period by only 7% (by 22.8 thousand) while their percentage relative to the rest of the population in Georgia rose from 5.7% to 6.5%.

CHAPTER 1.

GEORGIA IN THE LIGHT OF COMPLIANCE WITH INTERNATIONAL LEGAL NORMS AND MECHANISMS IN THE FIELD OF HUMAN RIGHTS, AND THE RIGHTS OF ETHNIC MINORITIES

Today's international confrontations often reach a conflict stage because the ethnic groups that form the minorities in a country have not received the rights and freedoms corresponding to their status of ethnic minorities, or these rights and freedoms were not supported by consistent domestic legislative means. The world community gradually matures to understanding that a domestic conflict caused by violations of individual and collective rights of ethnic minorities may evolve to a qualitatively different (from the standpoint of international law and international relations) conflict of international or interstate nature when minorities appeal to the right of nations for self-determination outside the boundaries of the culprit state.

Georgia is a member of a number of various international and intergovernmental organizations and as such it took on itself legal obligations of protecting human rights and the rights of ethnic minorities. At the same time, the amount of obligations assumed by Georgia in this area and the level of implementation are insufficient, which manifests itself especially starkly in problems with languages and with regard to minorities' rights of self-governance.

The difficult social, economic and political predicament of ethnic and religious minorities in Georgia results from, among other factors, the policies of the central authorities and the suspicions of the Georgian society towards representatives of non-titular ethnic groups and non-orthodox-Christian religions. For this reason resolution of selected problems cannot improve the overall situation that possesses a considerable conflict potential. An integrated approach to the problem is required, stressing the compliance with international legal obligations that must frame and dictate the policies with regard to ethnic minorities.

In order to delineate the legal field in which Georgia needs to resolve the outstanding issues concerning minorities, it is necessary to single out the specific international legal obligations that Georgia assumed in this area, and those it will have to assume in the future.

1.1. International legal standards in the UN framework

Georgia joined the UN on July 31, 1992. The UN as an international body is specific in that it is the only international intergovernmental organization

that covers every state as a subject of international law but at the same time the international acts passed by the UN are not necessarily legally binding for its member states.

The approach to protection of the rights of ethnic minorities in the framework of the UN is wide and fundamental. Most of the declarations and conventions covering this aspect contain the general standard of the inadmissibility of discrimination but refrain from specifically listing the rights of ethnic minorities or guarantees on the observance of these rights by the states involved. The one exception from this rule is the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 which does give a certain list of rights and at the same time outlines the mechanism of controlling their observance vested in the Committee on the Elimination of Racial Discrimination. The discrepancy between the domestic legislations and the main requirements contained in the Convention of 1965 and the violations of these requirements by Georgian authorities were cited by this Committee on a number of occasions.⁸

Another efficient mechanism of the UN in this sphere is the work of the UN Commission on Human Rights (UNCHR) which acts as an auxiliary arm of the UN Economic and Social Council (ECOSOC) and is empowered to submit proposals, recommendations and reports for the consideration of the ECOSOC. The UN Commission on Human Rights has an auxiliary organ created according to a resolution passed by the ECOSOC, namely the Sub-Commission on the Promotion and Protection of Human Rights. Within the Sub-Commission we find a Working Group on Minorities. The international legal document that created the judicial foundation for the activities of this working group is the **Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities 1992**.

On the whole Georgia signed and adopted practically every UN document (see **Appendix**) created in the field of protection of human rights and ethnic and religious minorities and elimination of various forms of discrimination.

1.2. International legal standards in the OSCE framework

The Organization for Security and Cooperation in Europe (OSCE)⁹ also possesses a number of mechanisms that are directly related to the sphere of protection of the rights of ethnic minorities. As matters stand, the effectiveness of the OSCE in the protection of the rights of ethnic minorities is felt more at

8 For details see: Report of the Committee on the Elimination of Racial Discrimination. Fifty-eighth session (6-23 March 2001). Fifty-ninth session (30 July-17 August 2001). General Assembly Official Records, Fifty-sixth Session Supplement No. 18 (A/56/18). New York, 2001, p. 26-27.

9 Until 1994 this organization was officially known as the "Conference on Security and Cooperation in Europe" (CSCE).

the political than the legal level. At the same time, however, the **Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990**, fundamental for the OSCE in all aspects of the rights and freedoms of individuals, is of utmost importance both in political and in legal contexts as it was signed with the consensus of the OSCE member states. The very concept of the Human Dimension includes “respect for human rights, fundamental freedoms, democracy and the rule of law” (item 1 of the **Document of the Moscow Conference on the Human Dimension of the OSCE, 1991**) which automatically raises the significance of the political liabilities of the member states. Therefore, to quote the OSCE, “a violation of political liabilities is as inadmissible as any violation of international laws”. We should not forget that the **Declaration of Principles Guiding Relations Between Participating States of The Final Act of the CSCE, Helsinki 1975** as the underlying fundamental document of this organization forms the basis for generating the most important principles of modern international law.

The fundamental document of the OSCE in the area of protection of the rights of ethnic minorities is **The Final Act of the CSCE, Helsinki, 1975**. Another document of highest importance in this sphere is the **Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990**, in which Part IV contains clearly formulated statements (articles 30-40) on the inadmissibility of discrimination with regard to ethnic, religious, linguistic and cultural minorities.

The Office of the High Commissioner on National Minorities formulated documents classified as Recommendations on the protection of the rights of ethnic minorities: the **Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 1998**, the **Hague Recommendations Regarding the Educational Rights of National Minorities, 1996**, the **Guidelines on the use of minority languages in the broadcast media, 2003** and the **Lund Recommendations on the Effective Participation of National Minorities in Public Life, 1999**. Using the **Lund Recommendations** as a basis, in 2001 the OSCE Office for Democratic Institutions and Human Rights (ODIHR) also formulated its **Guidelines to Assist National Minority Participation in the Electoral Process, Warsaw, 2001**. In February 2006 the OSCE Office of the High Commissioner on National Minorities also prepared **Recommendations on Policing in Multinational Societies**.

By virtue of its membership in the OSCE, Georgia is obliged to take into account the recommendations and other documents pertaining to the protection of the rights of minorities as promulgated by the OSCE, to work for their implementation into practical policies and to synchronize the Georgian law with these recommendations.

1.3. International legal standards in the framework of the Council of Europe

The goal pursued by the Council of Europe is to promote closer ties between member states by helping to strengthen democracy and protection of human rights. Perhaps the most active body of the Council of Europe is its Parliamentary Assembly (PACE). The importance of this body manifests itself on a clear-cut legal field of protection of human rights and freedoms. The Council of Europe dictates a fairly demanding legal framework for member states.

The most important mandatory legal acts and mechanisms of the Council of Europe in the area of protection of the rights of ethnic minorities are:

- **The European Convention on Human Rights and Fundamental Freedoms, 1950**
- **The Framework Convention of the Council of Europe for the Protection of National Minorities, 1995 (FCPNM). European Charter for Regional or Minority Languages (ECRML), 1992**
- **European Social Charter, 1961 (revised in 1996)**
- **European Charter of Local Self-Government, 1985**
- **European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, 1980, as well as the Additional Protocol of 1995 and the 1998 Protocol No.2 to The European Outline Convention On Transfrontier Co-Operation Between Territorial Communities Or Authorities Concerning Interterritorial Co-Operation**

In addition to the mechanisms specifically established in the framework of the Council of Europe in the field of the rights of minorities, their protection constitutes an important component in the work of such institutions as the Parliamentary Assembly of the Council of Europe, the European Commission against Racism and Intolerance, the Congress of Local and Regional Authorities of Europe, the Venice Commission (The European Commission for Democracy through Law) and the European Committee of Social Rights of the European Social Charter.

While the former republics of the USSR did not need to accept strictly formulated legal obligations when joining the UN or CSCE/OSCE¹⁰, this definitely cannot be stated with regard to the membership in the Council of Europe. States acceding to the Council of Europe were required to assume the obligations specified in **The European Convention on Human Rights and Fundamental Freedoms,**

10 For instance, Georgia became a member of the UN and CSCE in 1992. However, it signed the **Final Act of the CSCE of 1975** only after joining the CSCE in March 1992, namely in July 1992, and it signed the **Charter of Paris for a New Europe of 1990** only in January 1994. In other words, post-Soviet republics acceded to membership of the UN and CSCE/OSCE by following the inertia of the international juridical entity of the USSR.

1950 and to accept the totality of its control mechanisms.

Georgia signed the **Framework Convention of the Council of Europe for the Protection of National Minorities of 1995** as it joined the Council of Europe¹¹. However, the ratification of the Convention was interminably delayed so that it was ratified by the Parliament of Georgia only by the end of 2005. Many experts expressed the opinion that this was caused by the considerable politicization of the problem of minorities in Georgia and by the rejection by most of the Georgian society. The **Framework Convention of 1995** is strictly binding in regard of the states that sign it. The statements contained in the Convention are legally precise and clear and leave no space for ambiguous interpretations. The Convention installs a mechanism for monitoring the implementation of the obligations imposed on the states by the act of acceding (Articles 24-26). The mechanism employed by the FCPNM for monitoring is in operation since 1998; it combines conclusions arrived at by independent experts of the Advisory Committee for the FCPNM with the political clout of the Committee of Ministers of the Council of Europe. The work of the monitoring mechanism of the FCPNM results in the Opinions of the Advisory Committee and Resolutions of the Committee of Ministers which are implemented via constructive recommendations and instructions for the practical measures to be taken by the member states. The Convention came into force on the territory of Georgia on April 1, 2006. In recognition of its obligations regarding the ratification of the FCPNM, the government of Georgia is already preparing its first report at the state level for the Council of Europe that outlines the degree of adherence in the country to the requirements of the Convention and the current status of the protection of ethnic minorities. Georgia is to submit the report by April 1, 2007.¹²

We need to point out here that in its **Resolution on the Ratification of the Framework Convention for the Protection of National Minorities** on October 13, 2005 the Parliament of Georgia made an attempt to evade as much as possible a genuine implementation of the FCPNM requirements (see **Appendix**). Thus the Resolution passed by the Georgian parliamentarians declares that the provisions of the Framework Convention cover only those representatives of ethnic minorities that “live in compact settlements on the Georgian territory”. It might seem therefore that nearly one half of all representatives of ethnic minorities in Georgia (who are scattered over the country, i.e. do not live in areas of territorially concentrated habitation) are taken out of the jurisdiction of this

11 A country is regarded as having joined the Council of Europe on the day when the **Statutes of the Council of Europe of 1949** come into force on its territory, which for Georgia is April 27, 1999, and the day of signing (but not that of coming into force) of the **Convention on Human Rights and Fundamental Freedoms, 1950** – the same date, April 27, 1999.

12 The Government of Georgia is Preparing its First Report to the **Framework European Convention for the Protection of National Minorities** // IA «Novosti – Gruziya», www.newsgeorgia.ru, 16.06.2006 (in Russian).

document¹³. This part of the **Resolution** of the Georgian Parliament contradicts the fundamental international legal standards; indeed, both the international and the European laws defining the rights of minorities interpret them first of all as the rights of individual representatives of ethnic minorities. The entire integrated system of instruments and standards for the protection of persons belonging to ethnic minorities constitutes first and foremost the mechanisms of guaranteeing and ensuring certain individual rights to specific persons who decide individually whether they belong to this ethnic group, regardless of whether they live singly or in compact settlement in any of the regions¹⁴.

Further in the same document, the Parliament of Georgia also attempted to constrain Article 10 of the FCPNM (on the possibility of using the languages of the minorities within territories of compact settlement in judicial procedure and in relations with administrative authorities) by introducing a corrective formulation that state only “assumes the obligation to guarantee to persons belonging to a national minority the assistance of a translator in relations with administrative organs and in legal proceedings”.

Georgian parliamentarians also attempted to dampen the effect of article 16 of the FCPNM that prescribes to governments to “refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities”. A qualification was introduced stating that on the territory of Georgia this article is not relevant in cases of “settlement processes that may take place after resettlement of victims of ecological or technical catastrophes on the territory of the country, and of persons living in zones considered dangerous for their life and health. In addition the above-mentioned article shall not concern temporary or permanent settlement of refugees and displaced persons”. We need to remind the reader here that attempts to change the demographic pattern in areas of compact settlement of ethnic minorities (e.g. in the Tsalki district of Kvemo Kartli and in Javakheti¹⁵) are launched by the government of Georgia with precisely this motivation of the need to relocate the victims of “ecological catastrophes and

13 In fact this is not the first attempt by certain Georgian experts and political groups to redefine the term “ethnic minority” in their subjective way so as to avoid the need to implement international legal and political obligations of Georgia regarding the minorities. For details see: *Minasian S. Commentary on the Policy Paper Distribution of State Powers between Central and Local Levels // Constitutional/Political Reform Process in Georgia, Armenia and Azerbaijan: the Political Elite and the Voices of the People*. International IDEA & CIPDD: Tbilisi, 2005, p. 85-90.

14 This concept is clearly formulated in Article 3.2 of the FCPNM, and in Article 3 of the **UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992** and the **Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990** (item 32.6).

15 For details see: *Ethnic Minorities in Georgia // International Fact-finding Mission Report № 412/2*. FIDH: Paris, April 2005 (available on www.fidh.org), p. 13-14.

natural disasters” from Ajaria and Svanetia, as well as to create living conditions for refugees from Abkhazia.

The apprehensiveness that exists in Georgian society and its political elite with regard to minorities could be clearly read in those declarations of the Resolution of the Georgian Parliament on ratification of the FCPNM which spelled out that Georgia “considers it inappropriate to sign further international treaties on the above-mentioned issue”. In this case the reference is to Article 18 of the Framework Convention where it is pointed out that states “the Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned”.

However, it was pointed out by many high-echelon officials in Georgia’s administration (e.g. the ombudsman S. Subari) as well as by the PACE rapporteurs who in January 2006 compiled the report on how Georgia honours its obligations and commitments vis-à-vis the Council of Europe¹⁶, that Georgian parliamentarians assured them in November 2005 that, in spite of these qualifications in the Resolution, this qualification was meant “for internal use only” and “was not a formal reservation or declaration that would be appended to the official ratification instrument”¹⁷. Despite these complications, Georgia’s ratification of the FCPNM was the first serious step of the authorities in Georgia towards the incorporation of European legal norms and standards in the area of protection of the rights of minorities into the body of laws of the country.

Another very important mechanism used by the Council of Europe in the area of protection of the rights of ethnic minorities is the **European Charter for Regional or Minority Languages, 1992**. Georgia signed this Charter but it delays ratifying it for a long time now. Some Georgian parliamentarians express the opinion that “...the debate on the ratification of the Charter is not based on sound knowledge of the situation and many of those who oppose the Charter are not

16 Implementation of Resolution 1415 (2005) on the Honoring of Obligations and Commitments by Georgia. Report, Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). Co-rapporteurs: Mr Mátyás Eörsi, Hungary, Alliance of Liberals and Democrats for Europe and Mr Evgeni Kirilov, Bulgaria, Socialist Group. Parliamentary Assembly of the Council of Europe, Doc.107795, 05.01.2006. (available on www.coe.int).

17 European experts stress the following with regard to declarations with qualifications in the above-mentioned Resolution of the Parliament of Georgia: “Although these were not submitted as a part of the instrument of ratification that was deposited with the Council of Europe and therefore do not have force in international law, they are symptomatic of the concerns that remain within government (and popular) circles about the implementation of the FCNM”. - *Wheatley, J.* Implementation the Framework Convention of National Minorities in Georgia: A Feasibility Study // ECMI Working Paper #28, Flensburg, October 2006, p. 14-15.

really familiar with the document. Opposition is strongly based on the... belief, that one state can only have one language and that multilingualism is an obstacle to integration¹⁸. The problem nevertheless continues to be the focus of attention of European structures and it is to be hoped that the Charter will finally be ratified and thus become the basis for a non-biased approach to the language rights of ethnic minorities in Georgia.

Georgia ratified the **European Charter of Local Self-Government, 1985** by the end of 2004, and the **European Social Charter (with Additional Protocols)** and the **Appendix** to it in July 2005. Ratification of some other existing mechanisms and standards in the CE framework, such as the **European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities of 1980**, the **Additional Protocol of 1995**, the **Protocol No 2 of 1998** for this **Convention** and some other CE documents that Georgia has not yet joined, will improve the legislative guarantees of protection of human rights and the rights of minorities.

18 Quoted from: *Korth B., Stepanyan A., Muskhelishvili M.* Language Policy in Georgia. Policy Paper. CIMERA: April, 2005, p. 27-28.

CHAPTER 2.

NORMS OF THE GEORGIAN LAW WITH REGARD TO PROTECTION OF HUMAN RIGHTS AND THE RIGHTS OF ETHNIC MINORITIES, AND THEIR POLITICAL IMPLEMENTATION

2.1. General

Despite the introduction of a large number of general and declarative statements, the legislation in Georgia concerning the protection of human rights and ethnic minorities is still characterized by distancing itself from democratic law enforcement and efficient practical implementation. Even though the fundamental principles of protection of ethnic minorities were incorporated in the Constitution of Georgia of 1995 and in the derivative laws, there is still no law enacted in the country that would directly and justly regulate the rights of minorities and define their status. In view of the importance of the problems involved in ethnic and religious minorities, the unwillingness of the political forces in Georgia to finalize the legal status that would practically guarantee the protection of the rights of minorities in this country is an indication of the absence of political will and/or rejection of this outcome by the Georgian society. Efforts made by a number of NGOs in Georgia resulted in preparing a draft law regulating the status of ethnic and religious minorities which would make it possible to work out details of the available legal basis in terms of the political realities of the country. A number of international organizations also recommended adoption of this law but so far most of the parliamentarians as well as the government maintain a rather critical stance towards this step.

Nevertheless, the Committee for Human Rights and Civil Integration of the Parliament of Georgia considers it as one of its tasks to work out the legal framework that would regulate the status of minorities. Thus a document was drafted, “The Concept of the Policy Regarding the Protection and Integration of National Minorities”¹⁹. An analysis of the draft project of this Concept and of comment to it by experts permit us to express the opinion that voting this document into law would signify an important step towards the formulation of common legislative frameworks of protection for minorities²⁰. We need to remark

19 ‘Towards Ratification’: The Conference on the Framework Convention for the Protection of National Minorities. Report on the International Conference, 19 September 2005 in Tbilisi // ECMI Report #57, December 2005, p. 20-21.

20 For details see: *Svanidze, G.* Concept on the Policy Regarding the Protection and Integration of Persons Belonging to National Minorities in Georgia // ECMI Georgia Occasional Paper #2, Tbilisi, June 2006.

at the same time that this draft law fails to provide clear-cut legal solutions to the most important problems faced by minorities in the areas of language use and education, as well as to the creation of favorable conditions for greater involvement of minorities in the social and political processes, in the cultural and economic life of the country. Furthermore, the draft law leaves practically unanswered the questions concerning local self-governance on the territories of compact settlement by minorities.

As for defining the term “ethnic (national) minorities”, the above-mentioned draft Concept gives the following definition based on the **Resolution No 1938-I of the Parliament of Georgia on the ratification of the Framework Convention for the Protection of National Minorities** of October 13, 2005 (see **Appendix**): “...a group of persons can be granted the status of a national minority only in the case that:

- Its members are citizens of Georgia;
- They differ from the majority of the population in linguistic, cultural and ethnic identity;
- They have lived on the territory of Georgia for a long period of time;
- They reside compactly on the territory of Georgia” (Article 1.3).

At the same time, the authors of the draft law attempted to somewhat dilute and soften those provisions of Article 1.4 that addressed extending the ethnic minority status to persons not living in compact settlements in the country. This qualification is all the more significant since in Georgia nearly one half of all people belonging to ethnic minorities live in mixed settlements or are dispersed through the country.

The segment of the draft law which refers to the linguistic aspects mentions, in addition to the fundamental language rights of minorities, also the right to display shop signs and the like, advertising and other information of private nature in the languages of ethnic minorities in the regions of their compact settlement (Article 5.5). It also points out that “In areas and regions compactly inhabited by national minorities, the names of settlements and streets, as well as other toponymic designations can be expressed both in Georgian (also Abkhazian on the territory of the Abkhaz Autonomous Republic) and in local national minority languages whenever possible and necessary” (Article 5.6).

The section dealing with questions of religion seems to be deliberately avoiding the requirement of providing the adequate legal status and registration of religious associations of minorities and limits itself to a fairly imprecise formulation: “Persons belonging to national minorities have the right to establish religious institutions, organizations and associations in compliance with the law” (Article 6.2).

The section addressing education says this, among other things: “In

regions compactly inhabited by national minorities, the state provides inclusion of the minority language in the curriculum of the local schools. The state shall provide adequate opportunities for teacher professional training and access to textbooks” (Article 7.2). Drawing curricula aimed at minorities should involve the participation of representatives of ethnic minorities (Article 7.3); setting up of private educational establishments in the languages of national minorities is also allowed (Articles 7.4 and 7.5). We note at the same time that for schools of ethnic minorities to function normally, it is necessary to write into the law that in such schools (there are approximately 450 of them in Georgia at the moment) the language of the minority must be the main language of education. The increased number of hours assigned in minority-language schools to studying the Georgian language is undoubtedly a must but this should not be done at the expense of the hours for the Armenian, Azerbaijani, Russian or any other language of the ethnic minorities. *The entire post-Soviet experience of how the education system functions in Georgia showed that increasing automatically the proportion of time allotted to studying the Georgian language (at the expense of other subjects) never produced positive results – the knowledge of the Georgian language among pupils of Armenian and Azerbaijani schools failed to improve – and may even have had a detrimental effect.*

A factor of great importance for the efficiency of application of the proposed law (assuming it will pass through the Parliament) is the degree to which the problem of involving representatives of ethnic minorities in the social and political life of the country corresponds to political realities and is reflected in the law. The proposed text of the draft Concept places considerable importance on the creation, by persons belonging to ethnic minorities, of NGOs and other associations (Article 10.2) but says nothing about the participation of minorities in the formation of political unions. It only mentions the possibility of forming some sort of consultative bodies controlled by local authorities in areas of compact settlements of minorities in which representatives of these minorities would participate and take part in discussions of problems concerning them (Article 10.7). Setting up organs with only consultative rights would have only very limited influence on decision making and is not conducive to efficient resolution of problems related to ethnic minorities. The experience of the leading European countries shows that one of the preconditions for functioning of an efficient system of safeguarding the rights of minorities in Georgia may be the creation of a special highly competent independent body (e.g. the Office of an Ombudsperson on the Rights of Ethnic and Religious Minorities) at the comprehensive state level. Quite obviously, this organ is not to duplicate the functions of the Ombudsperson for Georgia and should specialize precisely in specific rights of ethnic and religious minorities. This happens to be the insistent recommendation by the leading international organizations engaged

in problems of tolerance and protection of the rights of minorities, such as the European Commission against Racism and Intolerance (ECRI) (see the ECRI General Policy Recommendation No 2: Specialised Bodies to Combat Racism, Xenophobia, Antisemitism and Intolerance at National Level, 13 June 1997). Very efficient examples of functioning of similar bodies in many European countries can be quoted²¹.

Despite the progress in democratization processes in Georgia, governmental officials (of councillor or minister rank) who are directly responsible for problems concerning ethnic minorities and civil integration cannot be sufficiently efficient in this field owing to their official representation of the executive branch, so that in view of their status, they cannot enjoy complete independence and impartiality. Furthermore, the Parliamentary Committee for Civil Integration, whose members face certain political problems in their work and are often obliged to take into account the electoral bias of the majority in regard of minorities, does not meet the requirements of efficiency under the conditions of poorly evolved parliamentarianism in Georgia of today. Therefore, drawing lessons from the experience of the leading European states, the above organ must be given a certain degree of independence from the executive branch and needs to include more representatives of ethnic minorities as members, preferably chosen by elections, and must be based on an adequate legal framework. The European Commission against Racism and Intolerance emphasized in its Special Report on Georgia that "...ECRI believes that these issues cannot be adequately addressed without legislation setting out a comprehensive framework within which it is possible for individuals to pursue legitimate complaints against illegal acts of discrimination. In the context of the possible adoption of a comprehensive framework of anti-discrimination legislation, ECRI feels that consideration should be given to the establishment of a specialized body with specific responsibility, *inter alia*, for supervising the implementation and for providing an effective means of redress for individual complaints"²².

What also surprises in this section of the Concept (Article 10) is another important omission in the draft – the absence of a legal framework and of mechanisms for registering political parties and associations that would represent the interests of ethnic minorities. This omission is a grave restricting factor for the integration of minorities into the social and political life of Georgia (for details, see below).

21 Examples of Good Practice: Specialised Bodies to Combat Racism, Xenophobia, Antisemitism and Intolerance at National Level // European Commission against Racism and Intolerance, CRI (2006)5. Strasbourg, January 2006 (available at www.coe.int/ecri).

22 Report on Georgia. European Commission against Racism and Intolerance, CRI (2002)2, Adopted on 22 June 2001. Strasbourg, 23 April 2002, p. 11.

The draft Concept also mentions formally the guarantees of the participation of representatives of ethnic minorities in state bodies. Members of the Parliamentary Committee were stating initially that the languages of minorities were to be used in administrative bodies in regions of compact settlement of minorities only in the course of “public debates”: “...the use of minority language in public debates will be guaranteed; however, the written documentation related to those debates will be translated into the State’s official language”²³. This approach conflicts with minorities’ interests in regions of compact settlement, that is, in conditions when the absolute majority of the local population is unable to communicate in the Georgian language, no integration of people belonging to minorities into the processes of self-government is physically possible if the language in which the internal documentation is written is not understood by the inhabitants. Obviously, the entire documentation submitted to the central authorities of Georgia at and above the level of province governor (e.g. of Samtskhe-Javakheti) must definitely be in Georgian.

It must be recognized though that to a certain extent Article 10.6 as formulated in the latest version of the draft Concept implies this possibility: “In areas compactly inhabited by national minorities the minority language can be used in local self-governance institutions for internal purposes together with the Georgian language”. Most of the conflicts and misunderstanding in this sphere between representatives of minorities and Georgian authorities could hopefully be eliminated by using the domestic Georgian law and even injunctions by governmental offices. Similar conditions must be created in the judicial and penitentiary branches although the contents of Article 11 of the draft do not adequately correspond to the realities of protecting the rights of minorities.

This version of Concept was presented to the Parliament of Georgia already by the end of December 2005²⁴. It is not clear, however, when this draft law could reach the voting stage. The problems involved in protecting the fundamental human rights and freedoms, and the rights and freedoms of ethnic minorities in Georgia are also reflected in derivative laws and legal standards that will be discussed later in this document.

2.2. Freedom of speech and of using the mother tongue

According to Article 8 of the Constitution of Georgia of 1995, the official language of the country is the Georgian language. The Constitution of Georgia guarantees that the Abkhazian language is also an official language on the territory of Abkhazia, alongside with the Georgian language. Likewise, the use of

23 ‘Towards Ratification’: The Conference on the Framework Convention for the Protection of National Minorities. Report on the International Conference, p. 24.

24 *ibid.* p. 26.

languages in the administrative proceedings is regulated in Articles 14 and 73 of the Administrative Code of 1999 (it came into force in 2000). Note that according to Article 73.4, if an application or any other document is submitted by one of the parties to proceedings not in the official language, this party must also submit a notarized translation of this document.

The use of the Georgian language in the system of state and local government is also regulated by the Law on Public Service, 1998. According to Article 12 of this law the government of Georgia operates in the Georgian language, with the exception of Abkhazia where the Abkhaz language can also be used. However, according to Article 98.1 inability to communicate in the Georgian language may be a legitimate basis for dismissing a state employee. This law states that anyone applying for a position with civil service (Article 15) or with local self-government (Article 16) must have command of the Georgian language. Article 16 is based on the new Organic Law of Georgia on Local Self-Government of 2005, in which Article 10 declares that the working language of the administration and local self-government bodies is the state language of Georgia.

The Law on Common Courts, 1997 regulates the use of the language in the judicial system of Georgia. This law (namely, Article 10) also declares that court proceedings are to be run in the Georgian language with the exception of the territory of Abkhazia. At the same time this Article stipulates that should a person not be conversant in the official language, that person will have in the course of court proceedings the services of an interpreter at the state's expense²⁵.

The Unified Election Code of Georgia (as amended in August 2003) contains a partial permission to use languages of minorities in the course of the electoral process. According to Article 51.1, “[a] ballot paper shall be printed... in the Georgian language, and in Abkhazia – in the Abkhazian language, and if necessary – in any other language understandable for the local population”. And at the same time the Election Code holds that the knowledge of the Georgian language is obligatory for persons elected to the Parliament (Article 92.1). This provision was to come into force as of January 1, 2005 and will therefore be applied during the next elections to the Parliament of Georgia in 2008 (Article 129.1). Moreover, according to the amendment to the Unified Election Code of Georgia adopted in April 2005 (Articles 27.4 and 33(B).5) all candidates to the Central Electoral Commission and district Electoral Commissions must also be able to speak fluent Georgian²⁶.

Even before the “Rose Revolution” the *Chamber of the State Language* prepared a draft Language Law but as it caused widespread rejection, especially by

25 Wheatley J. The Status of Minority Languages in Georgia and the Relevance of Models from Other European States. ECMI Working Paper #26, Flensburg, March 2006, p. 8-9.

26 *ibid.*, p. 10.

certain NGOs and also representatives of ethnic minorities (e.g. the organization calling itself “Multinational Georgia”, an association of several NGOs), it was sent back to be revised. The opinion was that the draft contained a number of provisions that were either blatantly discriminating ethnic minorities or unacceptable to them for other reasons. Thus in the introductory part of the first draft of the law all languages but the Georgian were put together in a group classified as “foreign languages”. The introduction of this term caused serious discomfort for representatives of ethnic minorities who saw in this a precondition for treating minorities as “foreigners” or potential emigrants. The term “foreign languages” was replaced in the amended version of the draft law by the term *non-state languages*. In fact, neither is this term adequate but those who insist on this formulation seemed to try to avoid the use of the terms “regional languages” or “languages of ethnic minorities”.

The authors of the report “Language Policy in Georgia”, among others, point to this approach being fairly popular among certain Parliamentarians and representatives of the political elite in Georgia²⁷: “In particular the notion that minorities are immigrants is expressed among those who oppose giving more linguistic autonomy to the Armenian speaking population in Samtskhe-Javakheti and the Azeri speaking population in Kvemo Kartli. For example, Nodar Grigalashvili, head of the *Parliamentary Committee on Education*, dismisses the possibility of a federal approach or a territorial bi- or trilingual solution for certain areas with reference to European monolingual nation states”²⁸.

The second item of the draft language law that caused debates is found in Article 11 which says that “every citizen of Georgia should have command of the Georgian language”. Opponents argue that there can be no factual obligation for those who live in areas where Georgian is not spoken. A law, they argue, can require and encourage people to learn the language, but it cannot legally impose language competence... Furthermore, the law does not say anything about the legal consequences for those who do not know Georgian. Do they lose citizenship? Do they become second-class citizens? These are fears expressed by those who do not master Georgian... Furthermore, the law did not specify how language competence should be measured and what level of competence is accepted as “knowledge of Georgian”²⁹.

This on the whole is the main legal basis meant to regulate the use of language in Georgia (we will characterize language aspects in education and culture later in this article).

The protection of linguistic rights of ethnic minorities is based on two

27 Korth B., Stepanyan A., Muskhelishvili M. Language Policy in Georgia.

28 *ibid*, p. 26-27.

29 *ibid*.

fundamental principles incorporated in major international documents: *the right of non-discriminated intercommunications* involved in implementing all human rights and *the right of promotion of personal development* through the freedom of using the language, culture and religion inherent in each specific minority. The former of the two principles is contained, for example, in the **Copenhagen Document of the CSCE, 1990** (item 31), the **International Covenant on Civil and Political Rights, 1966** (Articles 2 (1) and 26), the **European Convention on Human Rights and Fundamental Freedoms, 1950** (Article 4), the **European Framework Convention for the Protection of National Minorities, 1995** (Article 4) and other international legal instruments. The latter fundamental principle is formulated in the **Copenhagen Document of the CSCE, 1990** (item 32), the **International Covenant on Civil and Political Rights, 1966** (Article 27), and the **European Framework Convention for the Protection of National Minorities, 1995** (Article 5).

It appears that the strongest rejection and greatest apprehension is caused in the Georgian society and its elites precisely by the fact that the majority of the people belonging to ethnic minorities do not master the official language. The language is indeed one of the most painful problems in the relations between the state and ethnic minorities. Experts noted that “Although the Georgian society is composed of countless linguistic groups, which have maintained their linguistic heritage over centuries, the policy towards its minorities is one of neglect and obvious “Georgification”. Although minority languages are tolerated they are nevertheless perceived as a problem in the creation of a monolingual Georgian society. Integration into Georgian society is generally understood as assimilation towards the titular ethnicity³⁰. Furthermore, the fact that Armenians and Azerbaijanis do not speak the Georgian language is often perceived as a manifestation of disrespect or disloyalty³¹.

In spite of all the steps made both by the Georgian government and by international donor organizations, practically no appreciable results or shifts of attitude in the problem of knowledge (or rather ignorance) of the state language by persons belonging to ethnic minorities were observed over the entire post-Soviet period. As a matter of fact, only about 30-40% of the entire Armenian community in Georgia is unable to communicate in the official language (i.e. practically only the population of Javakheti) but the general negative attitude of the Georgian society and political elite toward the Armenian minority extends to practically every representative of this community³².

30 Korth B., Stepanyan A., Muskhelishvili M. Language Policy in Georgia, p. 25.

31 *ibid.* p. 29-30.

32 There is a popular well-rooted misconception that the suspicion displayed by the Georgian majority towards the Armenian minority living in the country mostly results from the deteriorating situation

One of the better informed surveys of the political landscape of Georgia³³ points to the following language-related problems:

- Intercommunications between representatives of ethnic minorities and the state become more difficult. Minorities often have to converse with state organizations at different levels only through interpreters and translators;
- Complications arise also in communications between citizens of different ethnic groups inside the country, especially between the ethnic Georgian population and ethnic minorities. The problem becomes more acute against the background of deteriorating level of knowledge of the Russian language (which still plays the role of the main language of interethnic communication) by the younger generations and hardly concealed negative attitude of Georgians towards the Russian language;
- Minorities are very scantily informed by Georgian media on the social and political developments in the country. Several large-scale projects financed by international organizations that envisage translation of some country-wide Georgian TV channels and central newspapers into the languages of ethnic minorities have been implemented recently in regions of their compact settlement. Alas, none of these projects achieved the goals formulated, despite the fact that international organizations allotted very substantial sums to put them in place. As a rule minorities mistrust the information provided by Georgian media or are plainly indifferent to social and political processes in Georgia regardless of the language in which they get that information.
- The mandatory prerequisite of the knowledge of the Georgian language and the need to pass a unified exam for enrolling in higher education establishments of the country produce the situation when practically no-one belonging to minorities will ever get higher education in Georgia owing to insufficient knowledge of the official language, and this would constitute a stark violation of the fundamental right of children to receive full-fledged education³⁴.

and permanent collisions in Javakheti or is caused by the fact that people in this area speak virtually no Georgian. We need to point out however, that in addition to these two factors the population of Javakheti became rather a “hostage” to negative historical associations in the mental perception by Georgians of the Armenian community in Tbilisi, which can be traced back to the end of the 19th - the beginning of the 20th century and having largely socio-economic underpinnings. The problem of Javakheti became relevant in the intra-Georgian political discourse only in the first half of the 1980s as nationalistic and anti-Soviet tendencies grew stronger in Soviet Georgia.

33 *Nodia G., Scholtbach A.P.* The Political Landscape of Georgia. Political Parties: Achievement, Challenges and Prospects. IMD, ODIHR, CIPDD: Eburon Delft, 2006.

34 *Nodia G., Scholtbach A.P.* The Political Landscape of Georgia. Political Parties: Achievement, Challenges and Prospects, p. 72-73.

Georgian experts often refer to the inability to communicate in the official language as the main cause of ethnic minorities being poorly represented in legislative and other types of authorities in Georgia. In fact, only one person³⁵ coming from the Armenian community of Tbilisi now counting 100-120 thousand people and where virtually everyone is fluent in the official language, occupied an important position in state hierarchy in all the years since Georgia became independent. True, an Ossetian, Zinaida Bestaeva was appointed to a relatively high administrative post in the government. It appears, however, that this appointment was stimulated by reasons of political expediency: the government was anxious to somehow show to the international community after the events in South Ossetia in summer 2004 that its attitude to Ossetians has changed.

G. Nodia, a well known Georgian scholar, remarked that dispersed modality of habitation fails to neutralize the political and civil indifference of ethnic minorities³⁶. This points once again to a lack of a well-balanced program or political will in the highest echelons of central administration or in the political elite in Georgia in the matter of integration of Georgian citizens of non-titular ethnic origin through introducing some sort of liberalization of the attitudes towards the more significant linguistic, cultural and political interests of the representatives of the minorities that live in the country.

Even though some Georgian political analysts insist that aggressive nationalism and negative rhetoric in relation to minorities do not have much weight in the Georgian society and politics, the data of sociological surveys and results of research by highly respected Georgian and international organizations show that in reality such feelings are widespread in society. Thus the Georgian Association of Regional Press published at the beginning of 2006, in the framework of the project "Time for Reforms", the results of sociological survey on the policies with

35 G.Muradyan – one of the leaders of the Armenian community in Tbilisi, deputy Minister of Economic Development of Georgia. At the same time, not a single Armenian works in the administration of the President of Georgia, only two Armenians work in the Prime Minister's office, three in the Ministry of Interior, two in the Energy Ministry, and one each in the Ministries of Finances and Protection of the Environment. In the region of Samtskhe-Javakheti, with its Armenian population composing more than 50% of the total, no Armenian was ever nominated to the post of Governor, and the only Armenian in the administration there, the deputy governor, has only declarative responsibilities; and only three ethnic Armenians out of the staff of 26 work in Governor's office (11%). The situation is similar in other branches of administration in Samtskhe-Javakheti. E.g. only 16 out of the staff of 82 in the regional Department of Taxes of Samtskhe-Javakheti (19.5%) are Armenians. Among 63 patrol police officers in the region of Samtskhe-Javakheti only 6 (9.5%) are Armenians and in the Aspindi and Tsalk districts with considerable Armenian population there are no ethnic Armenian policemen. - Georgia's Armenian and Azeri Minorities // International Crisis Group, Europe Report No 178, 22 November 2006, p. 9-10.

36 Nodia G. Polyethnicity of Georgia: The Fact, the Attitude towards the Fact and Political Strategy // One society, Many Ethnoses: Ethnic Diversity and Civic Integration in Georgia / Ed. Nodia G. CIPDD: Tbilisi, 2003, p. 64-65 (in Russian).

regard to the ethnic minorities on the territory of Georgia. The data of this survey showed that 72.2% of respondents answered that the problem of ethnic minorities in Georgia can only be solved by evicting them out of the country, 8.8% thought that this problem can be solved by their assimilation, and only 18.5% proposed to create conditions under which minorities could retain their cultural and religious identity, learn the Georgian language and become fully recognized participants in the rebuilding of the Georgian state and in the formation of the civil society of Georgia³⁷.

It must be noted that formally ethnic minorities of Georgia have as their right the freedom to express their opinion through every channel available to them by virtue of the Georgian law. At the same time, the acting Georgian domestic legal basis with regard to language aspects is inadequate to the realities of the country. In view of this, it is necessary to emphasize that **the Framework Convention for the Protection of National Minorities, 1995, the European Charter for Regional or Minority Languages, 1992, the Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 1998** and other relevant international legal instruments can and must serve as a standard basis of democratic practices for the domestic Georgian law.

The following rule is apparent in the language rights of persons belonging to ethnic minorities: the state, some of whose citizens are native speakers of the language of an ethnic minority, must first and foremost create adequate and non-discriminatory conditions for using this language, and second, must provide efficient mechanisms for protection against violation of language rights.

The situation under which a very large proportion of representatives of ethnic minorities in Georgia have no knowledge of the official language is especially typical of such regions of compact settlement of ethnic minorities as Samtskhe-Javakheti and Kvemo Kartli. These regions of territorially concentrated habitation of minorities are not only geographically distant from the central part of the country but are also isolated socio-economically and politically, and this is also acutely felt in the socio-cultural context. It is quite indicative that a well informed Georgian expert discusses the “tension felt by the Georgian population” that generates suspicions that “persons belonging to minorities are not sufficiently loyal vis-à-vis the Georgian state”³⁸. However, the barrier of the Georgian language considered against the background of socio-economic and political problems of regions of compact habitation of minorities lends more weight to a suspicion that the policies of the Georgian leadership over the last several years were crude and badly prepared. Discrimination by linguistic criteria (although, of course, this is

37 Sociological Survey: 72,2% - There is no Place in Georgia for Ethnic Minorities // www.regnum.ru/news/584759.html, 04.02.2006 (in Russian).

38 *Nodia G.* Polyethnicity of Georgia: The Fact, the Attitude towards the Fact and Political Strategy, p. 64.

not the only factor) distances citizens of non-Georgian ethnicity from the state whose nationals they are, and cancels for them all stimuli for studying the Georgian language of their own volition.

In the opinion of many experts, young people having this choice prefer to learn Russian or English as this increases their chances of success in emigration, “explaining that in Georgia they will remain ‘second class citizens’. If one wants to have access to higher positions in the state structures, ethnic belonging has greater impact than actual language competence”³⁹.

An expert of the Working Group on Minorities of the Sub-commission on the Promotion and Protection of Human Rights of the UN Commission on Human Rights recognized that “Their access to educational and professional opportunities is increasingly restricted by their lack of proficiency in the state language and by the withering away of Russian, which remains the main language for inter-communal communication. The pressure of popular attitudes and media coverage which echoes nationalist sentiments and the insularity of patronage networks of the titular group which dominates significant positions combine to create an atmosphere where minorities experience discomfort. Many fear bleak prospects for their children. Social pressures and lack of tolerance towards other groups further contribute to a situation in which minorities feel unwelcome”⁴⁰.

The Georgian authorities, having staked everything on administrative enforcement of teaching the Georgian language in regions of compact habitation of ethnic minorities and insisting that in the local self-government, in education and court proceedings the Georgian language be used without an alternative language, in reality get the opposite of what they expected to achieve. *By intensifying the pressure on the mother tongues of the minorities, trying to force Georgian as the only language of record keeping, court proceedings, medium- and higher-level education in regions with compact habitation of minorities generates and enhances ethnic mobilization of non-Georgian population, to the rejection and even boycotting of the official language, first of all by the young and the politically active representatives of ethnic minorities in Georgia.*

A way out of today’s impasse will be found through a more profound implementation of the available international and European experience of protecting human rights and the rights of ethnic minorities, plus a liberalization of the policies of Georgian authorities and of the stance of the political elite. Anyone belonging to ethnic minorities should have the right of using the mother tongue

39 Korh B., Stepanyan A., Muskhelishvili M. Language Policy in Georgia, p. 32.

40 Matveeva A. Minority in the South Caucasus // Paper Prepared for UN Commission on Human Rights, Sub-Commission on Promotion and Protection of Human Rights, Working Group on Minorities. Ninth Session. E/CN.4/Sub.2/AC.5/2003/WP.7. 5 May 2003, p. 5.

both within Georgia and beyond its borders in order to establish contacts with his ethnic brethren, as well as the right of freedom of speech, expression of opinion in all accessible ways and means defined by the laws of the country of residence. It is important that in regions of compact habitation of ethnic minorities such as for example Samtskhe-Javakheti, the language of ethnic minorities must be given the status of a regional language and of the language of local record keeping and court proceedings. This is in complete agreement with the provisions of both the international legal instruments in this field and with recommendations of a number of highly respected international organizations engaged in problems of minorities⁴¹.

Certain Georgian political analysts express an opinion that the *de facto* practice, surviving since the Soviet times, of using the Armenian language in certain branches of record keeping in the Akhalkalak and Ninotsminda districts is “an outrageous violation of the Georgian law and the Constitution of Georgia”. However, in view of the ratification or adoption by Georgia of the above-mentioned documents of the Council of Europe and OSCE, this practice cannot be regarded any more as violating the Georgian law since the incorporation of the provisions of the above-mentioned international legal documents into the domestic political and legal realities of Georgia is mandatory. The membership of the OSCE and CE, the hopes of the Georgian political elite to be accepted into the NATO and in the future even into the EC – all this not only assumes that Georgia will have access to all options open to member states but also implies that each country meets certain conditions and complies with certain international political and legal standards.

In view of this, the political elite and the society in Georgia need to get used gradually to the fact that for instance Armenian-inhabited districts of Samtskhe-Javakheti or Kvemo Kartli have every right to use the Armenian language in the local record keeping, clerical correspondence and court proceedings, on billboards, in TV and radio broadcasting etc. Further attempts by the Georgian government and elite to ignore the political and language realities of Samtskhe-Javakheti and Kvemo Kartli, any toughening of the Georgian law regarding ethnic minorities will inevitably force the Georgian authorities to pass more and more laws that would contradict both political realities of the country and international standards. Furthermore, even if such laws are adopted, they will be so inadequate and doomed to be massively ignored by the local population that the Georgian government will have earlier or later to decide to revoke them or to introduce a moratorium on their application. This has already happened more than once in the political history of the post-Soviet Georgia. Otherwise such demands as, for example, the ban on an

41 See e.g. *Matveeva A.* The South Caucasus: Nationalism, Conflict and Minorities. MRG International Report, May 2002; *Wheatley J.* The Status of Minority Languages in Georgia and the Relevance of Models from Other European States. ECMI Working Paper #26, Flensburg, March 2006.

alternative to the Georgian language in local record keeping and court proceedings in regions where 95% of the population has absolutely no knowledge of Georgian will only lead to a social and economic collapse or even to large-scale actions of civil disobedience by ethnic minorities.

Consequently, the unwillingness of a certain part of the Georgian political elite to make concessions to ethnic minorities in language-related fields to at least a minimal degree drives the central Georgian authorities to passing laws which are utterly useless for the integration of minorities into the socio-political structure of Georgia. Quite the opposite: such policies of the Georgian authorities will only stimulate greater ethnic mobilization and radicalization of the demands of Armenians, Azerbaijanis and representatives of other ethnic minorities who live in Georgia. Instead of “integrating” themselves into the Georgian society, minorities exposed to the “administration-by-force” policies of central authorities will simply ignore the laws written for them or disobey them on a large scale.

From the point of view of international legal obligations and standards to which Georgia subscribed in the course of its European integration, the prospect of giving clearly defined legal status to the Armenian language in Javakhk should not be regarded by the central authorities as a concession but as a natural implementation by Georgia of its legal and political obligations.

In all fairness, the legal terminology of this problem does need elaboration. The political expression of the problem when active elements of society in Javakhk call for raising the Armenian language to the status of the second official language in the region of Samtskhe-Javakheti does seem to have unpleasant overtones to the ear of the official Tbilisi and does irritate the Georgian society. Even if we overlook for the moment the political question of commensurability and justifiability of the right to a second official language for the Abkhaz community (as expressed in Article 8 of the Constitution of 1995: “the state language of Georgia shall be Georgian, and in Abkhazia – in both Georgian and Abkhazian”) or Ossetians⁴² who were involved in armed hostilities against Georgians, on one hand, and the rights of the law-abiding Armenian population in Georgia on the other, one has to recognize beyond doubt that this issue needs to be resolved in correct legal terms. It

42 For example, the fact that the language problem in Georgia depends not so much on the constraints written into certain provisions in the Constitution of Georgia (this is a typical reaction of many a Georgian expert and representative of powers that be) as on the political atmosphere of the moment is illustrated by the “Initiative with Respect to the Peaceful Resolution of the Conflict in South Ossetia of March 2005” proposed by the Georgian government. According to this initiative of the Georgian government, Georgian authorities expressed their willingness to grant the Ossetian language an official status of on the territory of South Ossetia even though this seems to formally contradict (judging by the logic of declaration of certain Georgian experts and politicians) many of the quoted provisions of the acting Constitution of Georgia of 1995 and the domestic legislation of the country.

appears that in the case of Samtskhe-Javakheti the solution highly acceptable for all parties to the conflict may be not to demand that the Armenian language be given the status of the second official language⁴³, but to propose of a new initiative: *giving the Armenian language a legal status of a regional language or the official language of the ethnic minority in Samtskhe-Javakheti (this would perfectly comply with the logic of the above-mentioned European legal standards)*. The most influential Georgian political analysts often emphasized the possibility and desirability of this solution of the language problem in Javakheti, so that the internal records keeping in these regions would be done in the Armenian language while the reports and feedback documents forwarded to the centre would all be in Georgian. This is a completely normal and acceptable compromise for resolving a difficult problem, although it is technically tied to another, equally complex one – of allowing extended self-governance to this region.

The provisions discussed above need to be legally incorporated in the domestic legislation of Georgia. International conventions and recommendations can be used as the standard basis of democratic norms and practices in the Georgian law, to be accepted and efficiently implemented as it was done in many countries in Europe⁴⁴.

This aspect is closely connected not only to the problems of protection of ethnic minorities but also to safeguarding the fundamental human rights; this is especially obvious in the judicial sphere. It is quite clear, for instance, that using the Georgian language as the only language of court proceedings in Samtskhe-Javakheti (while the overwhelming majority of the population have no command of it) results in large-scale corruption, arbitrariness and abuse by law-enforcement

43 International standards do not offer any precise official definition of the terms “official language” or “state language”. Typically both these terms are used by states on interchangeable basis, although the former term is often used officially when referring to the historic national language that evolved and is used on the territory of the state, while the latter term designates the language borrowed from another state but which is used so widely that the state itself perceives it as a means of communicating to its citizens or as a language of official documents. Furthermore, there are no international standards or constraints on whether a state should recognize more than one language as its official language to meet the interests of its ethnic minorities or it should insist on a single state language and use its authority for legally imposing this with domestic legislation and legal standards. As a rule, such standards (or their robust practical use) find their specific expression through a process of balancing the interests of ethnic minorities and the states where they live.

44 For instance, eight countries in the OSCE have two official languages, two countries (Switzerland and Bosnia and Herzegovina) have three official languages and 22 countries, having a single official language, provide special status to other languages. Note that in these 22 countries another language or the language of an ethnic minority may have the status of an “official” language in a specific region of the country without being official for the entire country, or have a *de jure* special status within certain regions without being defined as “official”. For details, see: Report on the Linguistic Rights of Persons Belonging to National Minorities in the OSCE Area. OSCE HCNM, 1 March 1999.

agencies and in other violations of the legal process⁴⁵. An expert remarked: “All of this leads to inefficiency, discrimination and the persistence of informal practices. The fact that court proceedings in Javakheti are not normally held in Georgian is itself a violation of the Law on Common Courts and the Constitution, but the reality on the ground dictates that strict observance of these laws is not feasible. Moreover, the delays to court proceedings as well as the frequent lack of trained personnel capable of translating effectively from one language to another clearly undermines the effectiveness of the legal system in Javakheti and may even undermine the right of citizens to a fair trial. The legal right of bureaucratic bodies such as the Prosecutor’s Office to reject documents on the grounds that they have not been drafted in the state language could potentially lead to a selective application of the law and a consequent risk of arbitrary pressure. While the problem of finding qualified translators will always remain, establishing a legal obligation for province-level bureaucratic bodies such as the Prosecutor’s office to accept documents from lower-level bodies in minority languages could reduce delays, formalize existing informal practices, lead to smoother and more efficient administration (especially in the courts and Prosecutor’s office) and reduce the possibility of abuse⁴⁶.”

All this points to the need of implementing the appropriate documents and recommendations of CS and OSCE in the realities of Javakheti where the absolute majority of the population does not separate its ethnic identity and personal and social development from their mother tongue. This situation makes it inevitable for the central authorities to create adequate conditions and mechanisms for using the Armenian language in the Samtskhe-Javakheti region⁴⁷.

45 Thus the Report of the Ombudsman of Georgia S. Subari to the Georgian Parliament on 23 December 2005 listed similar acts of violation in 2005 of the rights of persons belonging to ethnic minorities and having no command of the Georgian language: “On January 26 the police of Akhaltsikhe took into custody Georgian citizens Seiran Markosyan and Norik Grigoryan charged of disorderly conduct. The arrest was accompanied with flagrant violation of law and procedural norms. Law enforcement officers used deception to make these two ethnic Armenians, having no command of Georgian, sign the [arrest] protocols. Violations of this sort are typical in the region where 60% of the population are ethnic minorities. For details see: “Disputed churches”, Protest Manifestations of Greeks and Disappearance of a Mullah: Report of the Ombudsman of Georgia // www.regnum.ru/news/569444.html, 07.01.2006 (in Russian).

46 *Wheatley J.* The Status of Minority Languages in Georgia and the Relevance of Models from Other European States, p. 12.

47 In his report focussing on the situation with the Armenian and the Azerbaijani ethnic minorities in Georgia, the highly respected International Crisis Group recommends to the Georgian government, among other things, to “Introduce legislation allowing Azeris and Armenians, in municipalities where they exceed 20 per cent of the population, to use their native language to communicate with administrative authorities, submit complaints, acquire civil documents and

The possibility for representatives of ethnic minorities to communicate with administrative structures and conduct record keeping in regions of their compact settlement is defined by international legal standards as an essential language right. This possibility guarantees that they will be capable of understanding those acts of the state that concern their lives, of expressing their points of view and of participating in the formation of relevant state policies.

A logical extension of such practices should be a wider use and development of public media in the native languages within the regions of Georgia with compact habitation of ethnic minorities. As provided by Article 16 of the Law on TV Broadcasting in Georgia of 2004, public television has now accepted the obligation of using the languages of ethnic minorities in its broadcasts.

2.3. Freedom of education and culture

According to the Law on General Education, 2005, “[l]anguage of study at the general education institutions shall be Georgian, while in the Abkhazian Autonomous Republic – Georgian or Abkhazian” (Article 4.1) although at the same time it states that “citizens of Georgia, whose native language is not Georgian, have the right to receive complete general education in their native language” (Article 4.3). This is of course an indication that in Georgia education in languages of minorities is so far allowed while at the same time the new law includes a provision of transformation of all ethnic schools to new all-Georgian school curricula according to which the Georgian language and literature, history and geography of Georgia, as well as other “social subjects” should be taught in these schools only in the Georgian language (as written into Articles 5.4 and 58.5) no later than the 2010-2011 school year.

The field of higher (university) education is regulated in Georgia by the 2004 Law of Georgia on Higher Education. Article 4 of this law also indicates that “the language of instruction at higher education institutions is Georgian, in Abkhazia – also Abkhazian”, although the same article incorporates a rather fuzzy formula stating that “instruction in other languages, except for individual study courses, is permitted provided that this is envisaged by international agreement or agreed with the Ministry of Education and Science of Georgia”. Furthermore, Article 89 of this law establishes unified national entrance exams conducted in the Georgian language for all higher education establishments accredited by the state in Georgia, and selects four mandatory subjects for entrance examinations in these higher-education establishments: the Georgian language and literature, general knowledge, foreign language and mathematics. The same article of the law stipulates that more subjects should be added to the unified national exam in

certificates, benefit from public services and conduct municipal business and sakrebulo meetings”.
– For details, see: Georgia’s Armenian and Azeri Minorities, p. ii.

Georgia in subsequent years⁴⁸.

The existing legal basis of the system of education in Georgia causes much concern among representatives of ethnic minorities and at least as much among experts, about the effectiveness of such methods of accelerated introduction of the Georgian language into the sphere of general and higher education: “Even those who believe that the introduction of Georgian will concern only a certain number of subjects fear that this might be the beginning of a transition to an all-Georgian education. Information concerning the Ministry’s intention is contradictory. It is thus understandable that Armenian speakers feel under threat, as long as the status of Armenian as the language of instruction is not guaranteed”⁴⁹.

It is highly probable at the same time that the Ministry of Education of Georgia will insist on progressive acceleration of the transformation of the Georgian language into the language of education in the schools of ethnic minorities, shielding itself in the meantime with feeble assurances that only select disciplines are to be switched to the Georgian language of education: «While some sources mention the introduction of these subjects in Georgian for 2006, other sources state that a number of schools already teach in this bilingual manner and that the reforms are aimed at teaching all subjects in Georgian in all schools. The latter would mean that education in the minority languages would be abolished. Information concerning this matter is contradictory and reflects the different political agents’ opinions rather than concrete plans. The *Parliamentary Committee for Education* holds that education in non-Georgian languages is counter-constitutional, since the constitution names only Georgian as the state language. The long-term aim should, according to Nodar Grigalashvili, be the complete transition to instruction in Georgian in all schools. It is understandable that the population in the Armenian and Azeri-speaking regions fear that their languages will no longer be tolerated as a medium of instruction»⁵⁰.

These legal standards and their applicability to the system of education cause understandable concern as they not only include discriminatory components but also constitute a very real barrier to the integration of the younger generations of representatives of ethnic minorities resident in Georgia into the social, political and cultural life of the country. They at the same time pose a serious threat to the process of personal maturation, efficient access to full-fledged education for people belonging to ethnic minorities in Georgia and to personality identification. In fact, in many cases these steps contradict the obligations taken by Georgia vis-à-vis the international community and also the general humanistic principles

48 Wheatley J. The Status of Minority Languages in Georgia and the Relevance of Models from Other European States, p. 9-10.

49 Korth B., Stepanyan A., Muskhelishvili M. Language Policy in Georgia, p. 37.

50 *ibid.* p. 44-45.

assumed natural in education and culture.

The area of educational rights of persons belonging to ethnic minorities is in the sphere of the recommendation provisions of the OSCE – **The Hague Recommendations Regarding the Educational Rights of National Minorities, 1996**. These formulate the general principles of protecting the rights of ethnic minorities and principles of a special appendix dealing with the right to receive education. It is the duty of the state to take special measures, where necessary, for actively implementing the language rights of minorities in the sphere of education, both independently and with the help of international assistance and cooperation (item 4). Regional and local authorities need to be given adequate powers with regard to education, which implies assistance to the “participation of minorities in processes of policy formulation at the regional and (or) local level” (item 6).

Another document pointing to the necessity of active participation of ethnic minorities in drawing up education curricula is the **Lund Recommendations on the Effective Participation of National Minorities in Public Life, 1999** where the responsibility fields of state authorities and organizations of ethnic minorities in this area are clearly separated (item 18).

The European legal standards in education for ethnic minorities are also clearly written into the **European Charter for Regional or Minority Languages, 1992** and the **European Framework Convention for the Protection of National minorities, 1995**. The former, in its Article 8 totally devoted to provisions covering education, outlines a well-defined structure of educational levels correlated with how the mother tongue is learnt and used. It also assumes teaching of all subjects in the native language at every stage of the educational process, and stipulates that this depends on whether the number of pupils whose families so request is considered sufficient (Part 2, Article 8). Article 12 of the Framework Convention declares it the duty of the state to “undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities”. The internationally recognized document in the area of protection of human rights and freedoms, the **International Convention on the Elimination of All Forms of Racial Discrimination, 1965**, also establishes the general legal standard on taking all due measures for protecting educational and cultural rights of ethnic minorities.

In our time there is an obvious tendency to emphasize the instruments for protection of rights and freedoms of ethnic minorities in the international legal documents. According to these documents, education is needed not only for providing academic or technical instruction but also to sustain such values as tolerance, pluralism, and rejection of racism. The current domestic situation with the field of educational rights of ethnic minorities in Georgia is far removed from the above standards. For persons belonging to ethnic minorities to overcome the

feeling of alienation and of existing in a “ghetto”, vigorous efforts are required on the part of the state whose citizens they are, efforts that would focus on the real support of not only social but equally political rights of citizens.

As the state - which lacks not only clear-cut and efficient mechanisms of implementation and protection of rights and freedoms of man and citizen but even of any legalized regulation of human rights of persons belonging to ethnic minorities - distances itself further from a citizen, his/her civic position in the society is marginalized and a gap appears between the two subjects of law (the citizen and the state). The civic alienation and the ethnic alienation overlap, they amplify each other, and as a result the legal status of a citizen gets “lost” against the background of the actual, legally undefined status – the status of a person belonging to an ethnic minority. In other words, the lack of legal regulation and protection of the status of a person belonging to an ethnic minority leads to a collision between the ethnic and the civic self-identification when a person perceives his/her ethnic identity as the primary one while the civic identity – if any – is felt as secondary at best. The only means of breaking this tendency (a negative factor for the stability of any state) can only be a legal set of instruments and thoroughly elaborated policies of Georgian authorities, first and foremost in education.

A study of polyethnicity in Georgia conducted by G. Nodia notes that “state structures operate exclusively in the Georgian language, that almost no opening was left for receiving higher education in languages of ethnic minorities, that it is extremely difficult to get a job for people with no command of Georgian, plus Georgian is virtually the only language used by the media. This means that by using the system of non-Georgian-language schools, the state pushes its own future citizens out of society, denies them the chance of achieving access in their own country”⁵¹.

One can assume, however, that “pushing its own future citizens out of society” occurs not so much through the system of non-Georgian-language schools as through the system of the exclusive or very nearly exclusive use of the official Georgian language in all spheres of active civic life of a person. This agrees with another passage from G. Nodia’s work: “It is only just when the state creates for relatively large ethnic minorities the guarantee of receiving general education in their native language – not as a permission to set up or licensing of private schools in these language (this is self-evident) but in the sense of financing such schools. People belonging to minorities must have a realistic chance of retaining their unique cultural and language identity through the education system. Therefore the system of non-Georgian-language schools must be retained as a matter of principle”⁵².

51 Nodia G. Polyethnicity of Georgia: The Fact, the Attitude towards the Fact and Political Strategy, p. 91.

52 *ibid.* p. 93.

The practice of accelerated introduction of the Georgian language at every level of education does not solve the problem – it makes it more difficult. In the opinion of a European expert, “...there is a fear that this legislation may result in de facto discrimination against minorities on ethnic grounds because of the short time frame provided for completing the transition from teaching the core subjects in the minority language (or Russian) to teaching them in Georgian. It is feared that within this time, pupils will still have insufficient mastery of the language to follow the lessons and that this may result in schoolchildren from national minorities receiving a sub-standard education compared to their Georgian counterparts. If this were to be the result, the education system would fail to conform to Article 4 and Article 12.3 of the FCNM⁵³. As we see from the results of forced introduction of this system in some ethnic schools in Azerbaijani-inhabited regions of Kvemo Kartli in the last year and a half, it produces a generation of semi-illiterate children that have practically no idea of the subjects that were taught them in the Georgian language. *The danger of this approach lies in that children from schools for ethnic minorities who as a result of this education failed to receive complete and multifaceted instruction in the language they understand are at a later stage unable to learn the Georgian language either.*

The fact is that as a result of introduction of the system of unified national exams in the Georgian language in higher education establishments of Georgia, only two pupils from Javakheti⁵⁴ were able to successfully pass these exams in 2005. Many teachers in the ethnic schools in Georgia are of the opinion that in regions with compact habitation of ethnic minorities, those children who received complete school instruction in their mother tongue but had only some basic knowledge of the Georgian language and later expressed a wish to improve their knowledge, learn Georgian much more efficiently. It must also be understood that in the conditions of the Samtskhe-Javakheti region with its 95% Armenian population, where even the few Georgians that live there are more proficient in spoken Armenian than in spoken Georgian⁵⁵, children have much less chance of thoroughly learning the Georgian language in the general curricula unless they have additional incentives. Experts do believe that teaching Georgian in areas with mixed habitation of ethnic groups must use a different methodology and

53 *Wheatley J.* Implementing the Framework Convention for the Protection of National Minorities in Georgia: A Feasibility Study, p. 33.

54 This was not connected with the general knowledge proficiency of these children in all other teaching subjects: practically all of them later enrolled on a competitive basis and without significant problems in Armenian institutes and universities.

55 Foreign experts also report this observation: “Within Akhalkalaki and Ninotsminda districts the language used for oral communication is almost exclusively Armenian. Even most of the (relatively few) local Georgians living in these two districts also speak this language”. - *Wheatley J.* The Status of Minority Languages in Georgia and the Relevance of Models from Other European States, p. 7.

follow different programs than in areas with compact habitation of minorities⁵⁶.

Another acute problem in Samtskhe-Javakheti is the creation and functioning in this region of higher education establishments operating in the Armenian language which is understood by the majority of the population. Some European experts are of the opinion that this is possible to achieve by turning to new policies for attracting and integrating representatives of ethnic minorities into the system of higher education in Georgia. The available experience of creation and operation of two-language universities in Macedonia, Romania and other European countries suggests fairly rational approaches to creation and expansion of the system of university education in Javakheti, using the so-called “flexible use of languages”, where Armenian and Georgian languages would be equally used during teaching terms⁵⁷. The International Crisis Group also recommends in its report that the work of the Akhalkalaki affiliate of the Tbilisi State University be modified, with a quota of at least 50% of the student body reserved for students originating from Javakheti, and also that “Armenian government support to improve the Akhalkalaki branch of the Tbilisi State University” be accepted⁵⁸.

One of the fundamental human rights, the right to use the mother tongue, depends of course on the possibility of mastering this language. As written in **The Hague Recommendations**, “the right of persons belonging to a national minority to self-determination can be realized in full if they acquire the adequate knowledge of their mother tongue in the course of school education” (item 1). Moreover, effective and extended education in a language of ethnic minorities in regions of their compact habitation may constitute an important element of civic integration in those cases when it is also conducted for persons that do not belong to ethnic minorities, i.e. it promotes tolerance, expands communications between people and facilitates understanding between minorities and the majority. As noted in the OSCE documents, if the right of communicating with the administration and judicial branches in the national language of a minority is implemented in full, “then the language will need to be taught outside the minority group”⁵⁹. The Council of Europe in its recommendations also recognizes the importance of mastering more than one language as a means of

56 Korth B., Stepanyan A., Muskhelishvili M. Language Policy in Georgia, p. 30-31; Gabuniya K. Assistance to Teaching of Georgian as the Second Language in Regions of Georgia with Compact Habitation of Ethnic Minorities // Language Policies and Education in Multi-language Societies. Materials of the Conference, Tbilisi, Georgia, March 2 2006. Geneva: CIMERA, September 2006, p. 22 (in Russian).

57 Dafflon D. Managing Ethnic Diversity in Javakheti: Two European Models of Multilingual Tertiary Education. ECMI Working Paper #25, Flensburg, February 2006, p. 4-7.

58 Georgia’s Armenian and Azeri Minorities, p. ii, p.28-29.

59 Report on the Linguistic Rights of Persons Belonging to National Minorities in the OSCE Area. OSCE HCNM, 1 March 1999.

better intercultural communications, dialogue and tolerance⁶⁰. Furthermore, the teaching of culture, history and religion in general comprehensive schools in countries with a large population of ethnic minorities creates preconditions for internal stability because it facilitates the creation of a tolerant polyethnic society resistant to national intolerance and to manifestations of discrimination which often result from insufficient or false information that the majority has about the cultures of ethnic minorities⁶¹.

It is therefore necessary to be more responsible in dealing with problems of general and higher education in the language of ethnic minorities; this has to be incorporated unambiguously in legal standards and acts of Georgia relevant to this sphere. The framework of legal standards for the protection of linguistic rights is a most important condition for preventing arbitrary interventions into the fundamental rights of ethnic minorities. The instruction in the language of ethnic minorities must be guaranteed as a necessary condition of their involvement in the cultural and educational sphere in Georgia.

2.4. Freedom of religion

The freedom of professing and practicing a religion is the most important element in the legal complex of protection of rights and freedoms of man. However, an analysis of the domestic legal situation with the rights and with political realities in post-Soviet Georgia shows that the situation with the freedom of conscience and with protection of the religious right of minorities in this country is rather alarming.

Even though the Constitution states in Article 9 that the Georgian state recognizes the exceptional role of the Georgian Orthodox Christian Church (GOC) in the history of the country, it also declares at the same time the freedom of worship and faith and the separation and independence of the church and the state. However, Georgia is the only state in the post-Soviet space without a separate law on religion or religious associations; this is largely explained by the resistance from the Orthodox Church which has a special status and in fact exerts great influence on the social and political processes in the country. In addition, the GOC enjoys very preferential treatment, including favors in tax payment and property ownership while all other religious associations of the country are offered practically no such benefits.

This special – we could even say constitutional – status of the GOC was

60 Council of Europe Committee of Ministers, Recommendation No R (98) 6 Concerning Modern Languages, 17 March 1998.

61 Council of Europe, Explanatory Report on the Framework Convention for the Protection of National Minorities, par. 71.

created as a result of signing on 14 October 2002 of the so-called Concordat (officially known as the “Constitutional Covenant between the Georgian State and the Georgian Apostolic Autocephalous Orthodox Church”). At the same time for all other religions in Georgia even the procedure of registration is fraught with complications. All aspects of creating religious associations in Georgia are supposed to be regulated by the Civil Code adopted in 1997; its Article 1509 stated that the legal entities in the public law are non-governmental organizations set up in compliance with the law (political parties, religious associations etc). However, the law “On juridical entities in the public law” does not define the procedure of registering of a religious association as a juridical entity. On the other hand, item 2 of Article 5 of this law states that a juridical entity can be created: 1. In compliance with the law; 2. By a decree of the President of Georgia; 3. By an administrative act of a governmental body. Obviously, no one of these options is valid as a basis for registering or setting up a religious association. The morass with registering religious associations in Georgia became even more entangled after a ruling of the Supreme Court of Georgia which decreed that religious associations are to operate as public-law entities and found it unacceptable to have them set up as unions (associations), i.e. as private-law juridical entities as defined by the Civil Code⁶².

The situation with religion-related issues started to change after the “Rose revolution”. On April 6, 2005 the Parliament modified Article 1509 of the Civil Code of Georgia which for the first time in the history of the Georgian state created for religious associations the possibility of registering as non-commercial private law juridical entities. Regardless of this, the registration of religious associations still remains an unresolved issue for several religious associations since the Catholic Church, the Armenian Apostolic Church and the Lutheran Evangelical Church refuse to acquire the status of private-law juridical entities since they consider it unacceptable to exist as a foundation or a union, especially since the GOC is a public-law entity. Consequently, they demand that either a clearly defined law on religious associations be passed or a separate agreement (in the spirit of the Concordat) be signed with individual religions. The leading Georgian human rights activists and experts, as well as the ombudsman for Georgia S. Subari also chose this approach⁶³.

This lack of legal instruments for registering religious associations in Georgia is very closely tied with the right to hold property of a number of traditional non-Orthodox Christian religions in Georgia, e.g. the Roman Catholic and the Armenian Apostolic churches. As long as there is no encoded legal status

62 *Khaindrava I.* The Church is Today's Georgia // Central Asia and Caucasus, No 5, 2003, p. 29-30 (in Russian).

63 From the interview given to the author of this article by a well known expert P. Zakareishvili (07.02.2006) and the People's Protector of Georgia S. Subari (06.02.2006).

for these churches, they cannot achieve a restitution of a number of buildings of religious and historical nature which were confiscated in the years of the Soviet rule, and will be unable to achieve that even if the Georgian authorities dare in the foreseeable future to display a political will and decide to return these buildings to their former owners.

The Report of the People's Protector of Georgia to the Parliament on December 23, 2005 noted in this connection: "By virtue of the Constitutional Treaty concluded by the State of Georgia and the Georgian Orthodox Church, Orthodox clergy are exempt from military service, the state recognizes Orthodox Christian marriage, respects the secrecy of the confession, declares important church festivities public holidays, the church and the state cooperate in various fields of common interest, the church enjoys tax benefits, the state assumes the liability to partially recompense the church for the damage done to it in the 19th and 20th centuries etc. The state offers these privileges only to the Georgian Orthodox Church. This is a *de facto* violation of the fundamental principle of equality recognized by the Constitution (Article 38) and by international treaties. As long as the state refrains from giving the same privileges to other religions, these others... are subjected to indirect discrimination – they find themselves in an unequal position vis-à-vis the Orthodox Church"⁶⁴.

Georgian experts recognize that the religious pluralism is an essential problem in Georgia and even though persons belonging to religious minorities are not in physical danger, they nevertheless may often lose their jobs or be subjected to public ostracism as a consequence of their religious beliefs.

Actually, even though the Catholicos-Patriarch Ilia II stands by the President of the country during all official ceremonies as the "Spiritual Father of the Nation", there are considerable frictions between the current Georgian authorities and the Orthodox Church. The reason is that certain groups in the GOC regard the liberal values (declared as priority targets for the current Georgian administration and shared by most of the Georgian political elite) as a direct threat menacing the foundations of the Orthodox Church. At the same time, many pro-Western personalities among the Georgian political elite harbor a stubborn belief that the GOC continues to actively collaborate with certain groups in Russia whose goal is to worsen the relations between Georgia and the European countries and the USA, and thereby weaken the Georgian statehood. "This makes religious circles potentially the main stronghold of anti-Western sentiment in Georgia, though officially the Church never questions Georgia's

64 For details, see: "Disputed churches", Protest Manifestations of Greeks and Disappearance of a Mullah: Report of the People's Protector (Ombudsman) of Georgia // www.regnum.ru/news/569444.html, 07.01.2006 (in Russian).

choice of European and Euro-Atlantic co-operation”⁶⁵.

The problems of the freedom of conscience and protection of rights of religious minorities in Georgia are not only closely tied with the special role of the GOC and with the imperfect domestic Georgian law that regulates the religious sphere. *It is considerably more dangerous that religion and religious structures transformed into factors and active forces inside the Georgian political opposition in every issue involving ethnic minorities, especially in regions of compact settlements of these minorities.* For instance, many among the population of the Samtskhe-Javakheti have the impression that negative incidents often result not so much from hasty or unprofessional actions of central offices of the government as from the position taken by the GOC in this region, which pushes representatives of the authorities into taking more radical positions. One example cited by local inhabitants is the active political involvement of representatives of the GOC in the incident around the Armenian church in the village Samsar of the Akhalkalaki region, or the construction of a Georgian orphanage in the Ninotsminda region and other incidents that could lead to open clashes between locals and representatives of the Orthodox church⁶⁶.

The problem, however, certainly stems not from any profound religious antagonisms between the Georgian Orthodox Church and the Armenian Apostolic Church. Although the followers of the Georgian and Armenian churches may have certain profound contentious subjects leading to purely theological disputes, the principal complications in their interrelations grow from the so-called “disputed churches” issue, from the problem of normalization of the situation in Samtskhe-Javakheti, the legal status of religions and ethnic minorities and from the entire excessively politicized perception of all these issues by the spiritual leaders.

At the present moment the diocese of the Armenian Apostolic Church encounters formidable difficulties. While in the 1920s there were hundreds of Armenian churches and faith-related edifices in Georgia, by now only about two dozens have survived. Almost all churches were shut down in the Soviet period. Several Armenian churches were opened after Georgia was declared independent, mostly in Samtskhe-Javakheti and in the Tsalk region of Kvemo Kartli. However, as we mentioned above, the problem of legal registration is painfully acute. Another difficult problem facing the diocese is the restitution of churches and other faith-related buildings that were confiscated by the Soviet state or transferred by it to the GOC. The paramount problem is to restore church buildings and historical monuments. A problem of recent origin that grew more pressing recently is that

65 Nodia G., Scholtbach A.P. The Political Landscape of Georgia. Political Parties: Achievement, Challenges and Prospects, p. 80.

66 For details of the incident see: The “Pilgrims” Wished to Build a Georgian Monastery in Javakheti // www.regnum.ru/news/485545.html, 18.07.2005 (in Russian).

of religious tolerance; the press reported facts of defilement of Armenian churches in Georgia⁶⁷.

The ombudsman in Georgia had this to say on the matter in his report: “In the Soviet period the Armenian Apostolic Church in Tbilisi conducted religious services in only two churches. We find the same situation today... the relations between the Georgian Patriarchy and the Armenian Apostolic Church are very heated because of the issue of disputed churches. At this moment the Diocese of the Armenian Apostolic Church in Georgia is especially insistent about the need to receive back the churches of Norashen in Tbilisi and Surb Nshan in Akhaltsikhe. The Patriarchy is adamant that a Commission on inspecting the state of these churches can only be installed after the Parliament adopts a law on religious associations, while the Parliament has already formulated its negative attitude concerning the law on religious associations. The Government does take into account ... the position taken by the Patriarchy but it cannot decide unilaterally whether to return the churches to their original owners or not. We see that so far the actions, applications and declarations of the Catholic and the Armenian Apostolic Churches, as well as recommendations of the People’s Protector fail to produce any results.

The case of the Norashen church is especially acute. Before the Soviet era the church belonged to the Armenian Apostolic Church. During the Soviet period it housed the Library of the Academy of Sciences. Following a decision by the Orthodox Patriarchy, the church was sanctified on 15 February 1995 as the Church of the Annunciation of the Mother of God and the Orthodox Liturgy was celebrated, causing the Armenian side to send its protest. The Patriarchy had to vacate the church but refused to transfer it to the Armenian Church. At the moment the Norashen church remains closed”⁶⁸.

International organizations and the governments of a number of states also seriously emphasize that Georgia faces a problem with religious freedom in the country and call upon its government to reach a just resolution of the issue⁶⁹. A report of the State Department of the USA for 2005, discussing the situation with freedom of conscience in Georgia stressed, among other points, that the Roman Catholic and the Armenian Apostolic Churches were unable to have churches and

67 In Akhaltsikhe (Georgia) Unknown Persons Defiled an Armenian Church // www.regnum.ru/news/640941.html, 16.05.2006 (in Russian).

68 For details, see: “Disputed churches”, Protest Manifestations of Greeks and Disappearance of a Mullah: Report of the People’s Protector (Ombudsman) of Georgia.

69 For details, see: Problems of Religious Freedom and Tolerance in Selected OSCE States. Report to the OSCE Supplementary Meeting on Freedom of Religion or Belief. International Helsinki Federation for Human Rights (IHF). Vienna, July 17-19, 2003, p. 25; Annual Report of the United States Commission on International Religious Freedom. Washington, May 2005, p. 87-90.

other building that the Soviet powers shut down during the Soviet rule restituted to them; a number of these building were later transferred by the state to the GOC⁷⁰.

Despite unambiguous conclusions and recommendations from the international community and many of human freedom activists in Georgia, it is noteworthy that the GOC continues to insist on a negative attitude to the problem of “disputed churches”, treating this issue as a kind of “zero sum game” – i.e. the restitution of religious buildings belonging to the Armenian church is evaluated by some officials of the Orthodox Patriarchy as a sign of “defeat” of the Georgian side and the issue is thus transformed to a sphere of public declarations or even “counteractions” from the armory of political confrontations, which goes contrary to the logic of relations between two religious associations⁷¹.

In recent years certain positive shifts are noticeable in Georgia in the social and political attitudes towards problems of religion. Two Councils on Religious Confessions were created on 15 and 16 June 2005 that brought together representatives of the principal religions acting in the country for the purpose of coordination of actions and measures in the religious sphere. The first of these councils was set up on the initiative of the Patriarchy of Georgia while the second was initiated by the People’s Protector of Georgia. Furthermore, on 6 February 2006 The Council on the Rights of Religious Minorities with the Office of the Protector of Human Rights even passed a Resolution addressed at the Georgian government that called on it, “taking into account indisputable legal, historical and other rights of the Diocese of the Armenian Apostolic Church in Georgia”, raise this church to an unambiguous legal status and assist it in restituting six Armenian churches confiscated during the Soviet era⁷².

In his report presented on 23 December 2005 the Ombudsman of Georgia recommended to introduce changes into the approaches to procedural aspects of registration of religious religions that are active in the country. S. Subari also pointed out in one of his interviews, referring to the Norashen church in Tbilisi and the Surb Nshan church in Akhaltsikhe: “The state should by all means return these churches to their historical owners... I will never be able to feel myself a true Christian when the territories and churches that historically belonged to certain religious groups are taken away illegally”⁷³.

70 Georgia. International Religious Freedom Report - 2005 // Released by the Bureau of Democracy, Human Rights, and Labor. US Department of State. Washington, November 8, 2005.

71 The Georgian Church has Established a Diocese in the North of Armenia – the Armenian Church is Bewildered // www.regnum.ru/news/603949.html, 11.03.2006 (in Russian).

72 The meeting of the author with members of the Council and the Ombudsman for Georgia S. Subari, 06.02.2006.

73 *Basilaia E.* Majority Rule or Respect for Diversity? // The Messenger, 20.01.2006.

One needs to take into account that although many international organizations represented in Georgia, the Georgian government, a considerable proportion of the ruling parliamentary majority as well as a number of NGOs are on the side of S. Subari, his influence manifests itself mostly in the aspects of the general problem of protection of human rights rather than in specific problems in the context of ethnic or religious minorities. It is apparent at the same time that owing to the liberal outlook of the acting ombudsman of Georgia he is perceived largely negatively by certain groups in the Georgian society. It is therefore unrealistic to expect that the situation in the religious sphere would change rapidly – indeed, this will require a stronger political will of the Georgian state and dying out of certain stereotypes in today's Georgian society.

The following factors continue to dominate the prospects for the evolution of the situation in Georgia with building the atmosphere of religious tolerance, real freedom of conscience and normalization of relations between the Georgian Patriarchy and the Diocese of the Armenian Apostolic Church in Georgia:

- Constant complications with the situation in Javakheti resulting from a more active role of the GOC Diocese. Even though this intensification generates heated and negative response of the local population, at the same time it strengthens the position of the Orthodox Church in its relations with the Georgian government as this is perceived by certain forces inside the Georgian society and Georgian elite;
- The radicalization in the mood of the Armenian socio-political organizations and of a number of NGOs in Georgia with regards to the state of Armenian temples and the desire to find a resolution to the problem as soon as possible “regardless of the fruitless process taking place for the last several years between the Georgian Diocese of the Armenian Apostolic Church, the Patriarchy of the Georgian Orthodox Church and the Georgian state”⁷⁴;
- A negative response, stimulated by the above factors, to the issue of religious tolerance and to the problem of “disputed churches” in the intra-Georgian social and political discourse;
- The continuing ‘helical’ intensification of mutual demands and accusations in the Armenian and Georgian academic and clerical circles⁷⁵ that deepen the mutually exclusive mental pictures of the problem in Tbilisi, Yerevan and Samtskhe-Javakheti.

Despite these factors, there are still reasons to hope that the awareness

74 Armenian Organizations in Georgia Express Indignation with the State of Armenian Temples // www.regnum.ru/news/561893.html, 17.12.2005 (in Russian).

75 Georgian Historians Express Indignation with the Publications of Armenian Authors // www.regnum.ru/news/637604.html, 10.05.2006 (in Russian).

of the need to reach a just resolution of religious issues will gradually gain more recognition in the actions and approaches of the Georgian authorities. This will follow in a large degree from a principled position in this respect chosen by the Georgian society, NGOs and political organizations (especially those representing the interests of ethnic and religious minorities), as well as the concerned international organizations and states; hence the need to synchronize the legal basis of the country with international standards.

2.5. Political rights and development of local self-governance

Political rights and freedoms can be realistically acquired and participation in the process of decision making at various levels of power can follow only if an ethnic minority really possesses power credentials on the territory of its compact habitation. This phase assumes that the minority takes on the responsibility for implementing a certain part of public undertakings on a specific territory. The generally accepted approach to resolving this issue is to introduce territorial self-governance for an ethnic minority whereby it becomes a qualitatively new subject in politics and law. In this situation an ethnic minority is treated not as a sum of scattered individuals who only claim to have their rights and freedoms to be protected on an individual basis but as a system, and political and legal group of individuals with its set of rights and the corresponding responsibility for the governance adequate to the acquired status.

We thus come to a most important factor and an indispensable precondition for the integration of ethnic minorities into the socio-political life of Georgia: the formation, registering and participation of political parties that represent the interests of minorities or specific regions of the country during elections. The Georgian political elite are so far very negative about the idea of registering political parties of ethnic minorities. "Creating such parties is regarded as a step towards separatism – territorial or psychological"⁷⁶. However, in the conditions when the minorities in Georgia remain permanently beyond the Georgian social context, when none of the acting all-Georgia political parties is for them politically relevant and desirable, the ban on registering regional political parties or movements (such as e.g. "Virik" in Javakhk) effectively erases the possibility for the local population to realize their constitutional rights in the process of decision making and to create equal opportunities for electing and taking part in the governance of their country⁷⁷. As formulated by the German

76 Nodia G. Polyethnicity of Georgia: The Fact, the Attitude towards the Fact and Political Strategy, p.86.

77 A well known expert confirms that the existing ban on registration of parties by regional or ethnic attributes, written into the domestic Georgian law, creates serious problems: "...Georgia is almost unique amongst countries to have signed the FCNM to have such strict provisions on its statute books.

expert Stephen Oeter, “Without the possibility to organise themselves as a ‘particular’ group and to put forward their particular interests as a group through their independent organisation including the pleading of their own cause in the political sphere through a specific party representing the minority, the integration of the minority will remain a phantom”⁷⁸.

Another dangerous anachronism of the existing Georgian landscape is the fact that the ban on ethnic parties under the current conditions merely entrenches the situation in which ethnic minorities are represented in all-Georgia parties only nominally; this creates a basis for strengthening bureaucracy, stunting democratic institutions, corruption and clannishness in the regions of Samtskhe-Javakheti and Kvemo Kartli.

Unless the political forces that represent the interests of ethnic minorities in areas of compact settlement are officially registered and involved in a civilized political process, unless they take part in local and parliamentary elections, this situation will underpin the negative practice of creating informal political movements that will have to get more and more radical at each step of the way. Being refused a chance to participate in normal political contest and advance their political demands that are pressing for a certain part of the population, they will be forced into (and have all the moral justifications for) transferring their political campaigns “to the street” as they would not be constrained the Constitutional and institutionalized framework. It is then natural that, say, in Javakheti this will only result in accumulation of the negative potential absolutely unrelated to strengthening of any “irredentist or nationalistic” tendencies in the region. Gia Nodia recognizes that although the minorities in Georgia live mostly within territories that are contiguous to their “ethnic motherlands”, “These are not issues of ethnic separatism and irredentism. While some Georgians are suspicious of hidden nationalist cravings within these minority communities the latter have made no separatist demands or organized irredentist movements. The main area of concern is the lack of socio-political integration of these minorities and low level

The law has already been used to refuse registration to a political association called Virkh which aimed to represent the mainly Armenian population of Javakheti. In other countries of eastern and central Europe, most notably Bulgaria, Romania, Slovakia and Macedonia, minority parties have served the dual function of increasing minority representation in parliament and lobbying the interests of persons belonging to national minorities to their governments”. – *Wheatley J. Implementing the Framework Convention for the Protection of National Minorities in Georgia: A Feasibility Study*, p. 24.

78 Oeter S. Minderheiten im Institutionellen Staatsaufbau // Das Minderheitenrecht Europäischer Staaten. Teil 2, Berlin 1994, p. 496. Quoted from: Frowein J.A., Bank R. The Participation of Minorities in Decision-Making Processes // Expert Study Submitted on Request of the Committee of Experts on Issue Relating to the Protection of National Minorities (DH-MIN) of the Council of Europe by the Max-Planck-Institute for Comparative Public Law and International Law, Heidelberg / Secretariat of the Framework Convention for the Protection of National Minorities, Council of Europe, DH-MIN (2000) 1, November 2000, p. 4.

of their genuine participation in Georgia's nascent democratic institutions⁷⁹.

In reality, the approaches to creation and registering of political parties in Georgia as ethnic and regional ones by some frontline Georgian experts and a number of representatives of the political elite of the country have recently started to change. They begin to recognize that a considerable part of the Georgian population (at least 16-17%) stopped regarding the existing political parties as a mechanism of their participation in the political life of the country. At the same time, the experience of some former socialist countries, such as Bulgaria, "shows that creation of ethnic parties does not bring the end of the world and should not necessarily promote particularization of certain groups⁸⁰. Georgian experts are fully justified in saying that the 7% election barrier operating in Georgia should create grave difficulties for the representation of ethnic parties in the Parliament even assuming that they can be legally registered. This factor already necessitates a drop in the election qualification threshold, to make it possible for the largest minorities to be really represented in the Parliament.

European experts emphasize that in polyethnic countries the state must introduce special privileges for the parties representing ethnic minorities. Such privileges concern the organization and funding of the electoral process and of the participation in the elections, and may include

- "lowered thresholds for entering parliament,
- reserved seats,
- reduction in the quorum for registration of a party,
- favourable delimitation of the constituencies, in particular, in the case of majority voting, and
- privileged funding for minority parties⁸¹.

As long as the approach ignores the interests of the state, no real institutions of a civil society are erected, nor is the primacy of the law enforced in Georgia – the creation and functioning of political parties that represent the interests of ethnic minorities appears to be an important stabilizing factor, instrumental for their integration into the social and political life of the country. One cannot exclude from consideration that under favorable circumstances, such parties may prove to be so efficient for the integration of ethnic minorities into the social and political life of the country and become such a natural attribute of the "party landscape" in Georgia that at later stages they will serve as successful examples for other

79 Nodia G., Scholtbach A.P. The Political Landscape of Georgia. Political Parties: Achievement, Challenges and Prospects, p.72.

80 Constitutional/Political Reform Process in Georgia, Armenia and Azerbaijan: the Political Elite and the Voices of the People, p.241-242.

81 Frowein J.A., Bank R. The Participation of Minorities in Decision-Making Processes, p. 6.

countries of tolerant state-wise approach to resolving the problem of participation of ethnic minorities in the political process of decision making. On the other hand, the initiatives of creating such parties will immediately peter out once the minorities get the feeling that legal protection of their status has become a reality. In this case ethnic minority parties undergo a transformation from a political conduit into a stream of public associations which serve advanced civil societies as a means for discussing problems and, in a law-abiding democratic state, offer a sort of indicator in the field of protection of the rights and freedoms of minorities.

However, the actual situation with the political field in Georgia plus insufficiency in legal instruments and protection of ethnic minorities suggest that the level that is optimal for a polyethnic state will take a long time to achieve. In the 13 years between the last censuses the relative weight of ethnic minorities dropped by a factor of almost two – from 30% to 16% of the total population. Only 6% of members of Parliament represent ethnic minorities. Not a single one made it to the Tbilisi sakrebulo (municipal council). At best one or two won places in local legislative bodies in regions of compact settling of minorities⁸². There were 14 members from ethnic minorities in the Georgian Parliament convened in 1999 (the same 6 per cent), all of them from the ruling party “Union of Citizens of Georgia” and the level of their actual participation in the work of the Parliament was minimal⁸³. A similar situation, without noticeable changes, remains in place after the “Rose Revolution” of 2003. as noted by some Georgian experts: “by this date, against all expectations, the number of appointments from minorities after all the reforms in administrative and law-enforcement structures decreased even more, which confirm the tendency for prestigious social niches to remain closed from most representatives of ethnic minorities”⁸⁴.

This situation was confirmed, for instance, in the reports at the NATO Parliamentary Assembly⁸⁵. It was pointed out, for example, that the most important political posts in the country are occupied exclusively by ethnic Georgians and that the mood to follow ethnic discrimination in the cadre policies in Georgia, especially in law-enforcement branches, is dominant⁸⁶.

82 *Gventsadze M.* Bilingualism – is it the Language Policy in Georgia? // *Multinational Georgia*, No 2 (February), 2005 (in Russian).

83 *Nodia G.* Polyethnicity of Georgia: The Fact, the Attitude towards the Fact and political Strategy, p. 65.

84 *Adeishvili A.* Prestigious Social Niches are Closed for Representatives of Ethnic Minorities // *Multinational Georgia*, No 2 (February), 2005 (in Russian).

85 *Verena Wohlleben* (General Rapporteur). Stability in the Three South Caucasus Republics: Ten Years After Independence, Progress and New Challenges // NATO Parliamentary Assembly, General Report. 156 CC 04 E rev 1. November 2004. (available on www.nato-pa.int).

86 *Bert Middel* (Rapporteur). Minorities in the South Caucasus: Factor of Instability? // NATO Parliamentary Assembly, Sub-Committee on Democratic Governance, Report. 166 CDS DG 05 E rev 1. November 2005, p. 13-16. (available on www.nato-pa.int).

The electoral procedure in Georgia is also very undemocratic with relation to the rights of ethnic minorities. Therefore, as in all other spheres of protection of the rights of minorities, it is necessary to achieve real implementation of international legal standards. **The Framework Convention of 1995** declares in Article 16 that “The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention”. **The Lund Recommendations of the OSCE, 1999** note that “Where minorities are concentrated territorially, single-member districts may provide sufficient minority representation”, and further on “Proportional representation systems... may assist in the representation of minorities” (item 9).

Before corrections to the Georgian Law on Local Governance and Self-Governance was introduced (corrections were made at the end of 2001), it was possible to nominate candidates to offices of local self-governance only through party lists, and this precluded territorially concentrated minorities to nominate their candidates locally. However, the new edition of the law eliminated this omission but it also outlined an arbitrary redrawing (gerrymandering) of electoral district boundaries under which, say, each Georgian settlements in the Akhalkalaki district is assigned one sakrebulo (village administration) while four to five merged Armenian settlements are also assigned one. This disbalance reflects the actual powers of the local administration since the district-level administrative body is formed of the chairpersons of all village bodies (sakrebulo). Such was a technique for reducing the number of elected Armenian members at the district level⁸⁷. These practices are in conflict with international and European standards.

The approach that dominates in all European democratic countries is the direct opposite, an approach that stimulates greater participation of minorities in local administration by creating the right conditions for the electoral process. For example, the Office for Democratic Institutions and Human Rights (ODHR) of the OSCE based on the four **Lund Recommendations** covering electoral issues has developed its own practical recommendations which clearly state that “The fundamental principle in drawing the boundaries of electoral districts is that this be done in a just way, without a negative effect on the representation of any party or associations of minorities. In some cases electoral districts are carved out in a way that deliberately improved representation for a group (groups) of minorities”⁸⁸.

87 For details, see: *Minasian S. Socio-economical and Political Situation in Javakhk at the Current State // 21st Century* (Analytical Information Journal of the Noravank Foundation), Publication in Russian, No 1, 2005.

88 Recommendations Promoting the Participation of National Minorities in the Electoral Process.

This example demonstrates that on one hand, the Georgian authorities make use of the omissions and discrepancies in the domestic law concerning the European standards of the electoral law and on the other hand, they resort to arbitrary interpretation of the acting legal standards and conduct discriminatory policies regarding the electoral rights of the ethnic minorities of the country. **The European Charter for Regional or Minority Languages, 1992** declares it a duty of the state to respect “the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question” (Pt. 1, Art. 7). **The European Charter of Local Self-Government, 1985** indicates in Article 5 that “Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute”. Although organizing a referendum is said to depend on the domestic legislation the message of this article is that it is obligatory not to dismiss the opinions of the local population.

Whenever local self-governance is considered, one must always take into account that the administrative and territorial division of Georgia as a state is not codified in the Constitutional standards. The 1995 Constitution only formulated the principles of the arrangement “...after the jurisdiction of Georgia is completely restored on the entire territory of the country” (Pt. 3, Art. 2). One should not forget, however, that the division of powers between the Center and the regions must still safeguard the ethnic interests of the predominant ethnic group on the territory where self-governance is to be installed. The bodies of the local and especially regional administration must be formed taking into account the historical and territorial specifics of the resident ethnic minorities (item 20 of the **Lund Recommendations, 1999**). In other words, the rights and freedoms of a minority, which in addition has historical and territorially justified arguments to support demands for special protection, must not be violated in the process of formation of these structures.

The self-governance of an ethnic minority (it can be territorial or non-territorial in nature) is an important instrument for the real protection of the rights and freedoms of persons belonging to minorities.

The following factors show that giving an ethnic minority the right of extended self-governance must be an attractive option for a state in which this minority resides, both from a legal and a political standpoint:

- Real self-governance is the best guarantee against the seed of iridescent

and secession tendencies among the minority population in the area of territorially concentrated habitation, by eliminating the threat of forced assimilation or ethnic cleansing by the state and/or by representatives of the titular ethnos, by quenching the feeling of political and ethnocentric pain caused by the problem in people of that minority, and by weakening the radicalization of their demands;

- Extended self-governance provides better possibility for representatives of minorities to build a more efficient local administration corresponding to their needs. This will facilitate an improvement of social and economic conditions on the territories of concentrated settlements of minorities, eliminating thereby one of the most dangerous stimuli for accumulation of negative feelings in the society;
- The feeling of real self-governance, a guarantee of the fundamental rights of ethnic minorities and the understanding that they participate in the process of political decision-making gives the minorities the sense of belonging to the society and thereby stimulates their active integration into the socio-political life of the country where they live;
- Extended self-governance provides ethnic minorities with a chance to protect their cultural and language identity, which is an important contribution to the overall cultural diversity of the state where they live and whose citizens they are, and at the same time it generates incentives for creative and professional development of each individual by creating additional and alternative options for self-realization, for achieving individual goals and for perceiving the social significance of their activities.

The extant international acts outline an integrated approach to ensuring that the ethnic minorities have the right to extended self-governance. It includes:

- The right to take part in the governance of your country which means first of all the participation in conducting the daily business of the state; secondly, the right to elect and be elected; and third, the right to be employed by the government;
- The right for transfrontier communications with compatriots with a view to setting up cooperation between bodies of local self-governance of the two countries.

This last right is especially required where complete ethnic, language and religious similarity is found, and also where there is a direct territorial contact between the self-governance structures of the two parties to collaboration. Such provisions are contained in the **UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992**

and the **Protocol No 2 1998 of the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities, 1980**. These provisions are especially important and relevant for representatives of those ethnic minorities in Georgia who form territorially concentrated settlements at the borders with their “ethnic motherlands”. It is instructive that this attribute (neighbours across the border) is not mandatory for creating transfrontier communications between territorial communities. This is especially important in the case of the rights of the Armenian population not only within the Samtskhe-Javakheti but also throughout Georgia. A similar situation is now developing with the Azerbaijani population in Kvemo Kartli. Quite a few states that faced acute problems with their ethnic minorities in the past were able to achieve considerable success in their integration and in protection of their rights by signing special treaties (or by including *ad hoc* provisions into bilateral agreements) with the “ethnic motherlands” of their minorities⁸⁹. This aspect is emphasized in the recommendations of leading international experts⁹⁰.

The juridical set of rights to self-governance is complemented by a number of other complexes supporting self-governance. This is, first and foremost, political and economic components. For the right to self-governance to get established, the state must provide a materials and funding basis, and on the other hand, must use this economic foundation of self-governance efficiently and apply it directly to resolution of local social problems.

What is thus apparent is the need to lend support to extended self-governance both on the part of the international community and of the state itself, with a possible involvement of other subjects of the international law (international and intergovernmental organizations and states). International legal instruments clearly and unambiguously correlate the right to self-governance with (where appropriate conditions exist) the rights of ethnic minorities.

The interests of ethnic minorities of the country also dictate certain specific features of their authority in the sphere of their territorial administration that would make it possible to achieve a qualitative increase in the level of social and economic development: at the present moment this is simply unfeasible to obtain through the effort of the central authorities of Georgia alone. For this reason it is necessary, for example, in the Samtskhe-Javakheti region to involve the resources of Armenia, the Armenian Diaspora and international

89 *E.g.* the 1923 Lausanne Treaty between Turkey and Greece, the 1995 Slovakia-Hungary Treaty and many other similar documents.

90 *See e.g.*: Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities adopted on 14 September 2001 on Parliamentary Assembly Recommendation 1492 (2001) on the Rights of National Minorities // ACFC Opinion on PA Rec 1492, Secretariat of the Framework Convention for the Protection of National Minorities, 14 September 2001.

organizations. Furthermore, the mandatory condition is that Georgia fully assumes its obligations imposed on any signatory of the **European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities 1980**.

In the course of its winter session of 2006 PACE adopted a resolution in which it directed a certain criticism at the Georgian authorities⁹¹. Among other things, the document characterizes Georgia as a country in which local democracy is underdeveloped or even practically absent. As far as the local self-governance is concerned, PACE called on Georgia to complete the territorial and administrative reforms and bring them in compliance with the **European Charter of Local Self-Government**.

The most acceptable way to reducing the conflict generation potential and to improving stimulated integration of minorities would thus be an intensified decentralization and increased competence level of the bodies of self-governance on the all-Georgia scale, but in the case of Javakheti also installing it in the status of an asymmetric regional self-governed unit (a special approach to the sphere of political rights and the functioning of regional social and political associations, the resolution of linguistic and educational problems, as well as safeguarding the religious and cultural uniqueness of minorities).

91 Implementation of Resolution 1415 (2005) on the Honouring of Obligations and Commitments by Georgia. Report, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). Co-rapporteurs: Mr. Matyas Eorsi, Hungary, Alliance of Liberals and Democrats for Europe and Mr Evgeni Kirilov, Bulgaria, Socialist Group. Parliamentary Assembly of the Council of Europe, Doc.107795, 05.01.2006. (www.coe.int).

RECOMMENDATIONS

Protection of fundamental human rights and freedoms

- Recognize the principles of protection of human rights and of ethnic minorities as first priorities and as concepts corresponding to the highest interests of the state of Georgia;
- Strengthen the supremacy of law in Georgia and promote and develop democratic institutions in its regions;
- Uplift the authority of the institution of Protector of Human Rights in Georgia and provide him with the necessary resources and the mandate for more active monitoring of the human rights situation;
- Increase the level of awareness in the population of the rights they have and improve the access of ethnic minorities to information by producing a larger number of news and educational programs in the minority languages in electronic media;
- Create a new specialized structure (such as “The Office of Protector of Rights of Ethnic Minorities of Georgia”) having an enhanced activities mandate, high degree of independence and elections-based proportional representation of minorities;

Law and legal standards

- Codify the European Framework Convention for the Protection of National Minorities 1995 in its entirety into the Georgian law, to extend the Convention cover to all representatives of the minorities regardless of where they reside;
- Ratify in Georgia the European Charter for Regional or Minority Languages, 1992;
- Ratify the European Convention on Transfrontier Co-operation between Territorial Communities or Authorities, 1980 (and its additional Protocols) and continue codifying the rights of ethnic minorities to cultural, educational, economic and other types of across-the-frontier links to their “ethnic motherlands” (also by signing bilateral treaties or by including ad hoc articles into intergovernmental agreements);
- Draft out a new extended law on ethnic minorities that would take into account their interests in the cultural, linguistic, educational and socio-political spheres and promote the civic integration of minorities;
- Introduce additions and changes into derivative standards and laws and into departmental regulation of issues concerning cultural, linguistic, educational

and political rights of ethnic minorities;

- Actively involve social and political organizations and individual representatives of ethnic and religious minorities in working on draft laws that are relevant to their concerns.

Socio-political area

- Proclaim that socio-political associations in regions with compact habitation of ethnic minorities refuse to make irredentist or secessionist declarations;
- Declare moratorium on irresponsible speculations concerning the problems of regions with compact habitation of ethnic minorities in the domestic political activities in Georgia and in the “ethnic motherlands” of minorities;
- Declare moratorium on further increase in the numerical strength of law-enforcement armed units in the regions with compact habitation of ethnic minorities and take into account the interest of ethnic minorities when new units are brought to these regions;
- Involve a broad spectrum of civil society institutions of the regions with compact habitation of ethnic minorities directly and efficiently into processes of decision-making (and decision execution control) in the area of legal regulation of socio-economical, educational and cultural facets of life of these regions of Georgia;
- Extend trust-building measures by a deeper dialog with public organizations in Georgia and by regular meetings with core socio-political organizations representing ethnic minorities;
- Proclaim repudiation of any action aimed at (or objectively assisting in) a change in the demographic situation in regions of territorially concentrated habitation of ethnic minorities;
- Take practical steps towards ensuring equal rights for representatives of ethnic minorities in matters of employment by state structures and of professional advancement;
- Start a broad-based campaign for promoting tolerance with regard to ethnic and religious minorities;

Activities of international organizations

- Raise the level of attention to preparing objective monitoring in regions of territorially concentrated habitation of ethnic minorities and increase the frequency of visits to these regions by experts and representatives of international organizations;
- Promote a more profound dialog between the interested international organizations and the Georgian authorities on issues with the protection of the rights of ethnic and religious minorities;

- Establish direct contacts and improve collaboration with local social and political organizations and pursue strengthening of the civil society institutions and protection of human rights and freedoms.

Activities of international donor organizations

- Monitor the efficiency of projects implemented by international organizations in the area populated by ethnic minorities, especially within the territories of concentrated habitation;
- Coordinate the implementation of projects in the territories of concentrated habitation of ethnic minorities with the activities of representatives of local socio-political organizations and NGOs;
- Boost the scale of those projects that aim at resolving the issues with the socio-economic rehabilitation of regions of territorially concentrated habitation of ethnic minorities;
- Monitor the compliance with the parity principle in the allocation of funding and resources provided by international organizations in regions of territorially concentrated habitation of ethnic minorities;

Linguistic issues

- Ratify the European Charter for Regional or Minority Languages, 1992 and implement it in its entirety into the body of Georgian law;
- Develop the legal basis and standards for further implementation in Georgia of the provisions of the European Framework Convention for the Protection of National Minorities, 1995 so as to raise the status of the languages of ethnic minorities in regions of their territorially concentrated habitation to the language of internal record keeping and court proceedings;
- Analyze and discuss the issue of incorporating adequate modifications concerning minority languages into domestic legal acts and into derivative departmental instructions;
- Organize courses for improving the proficiency in the official language among civil servants and eliminate language-based discriminatory practices (such as sacking civil servants belonging to ethnic minorities for reasons of insufficient command of the official language);

Cultural and educational fields

- Submit adequate supplements to laws on the general and higher education in Georgia that would ensure that schools of ethnic minorities can function on complete curriculum in pupils' mother tongue;
- Improve the materials and technological basis and the infrastructure of schools and cultural education establishments in regions of territorially

concentrated habitation of ethnic minorities;

- Develop special methodology of teaching the Georgian language and literature as a separate mandatory subject in all schools in regions of territorially concentrated habitation of ethnic minorities;
- Codify into law a special mode of taking entrance exams in the languages of ethnic minorities or reduced-criteria for the Georgian language exams for enrolling in higher-education establishments of Georgia;
- Set up a joint Armenian-Georgian State University in the town of Akhalkalaki in accordance with the intergovernmental agreements between Armenia and Georgia;
- Intensify more profound cultural and educational exchange between representatives of different ethnic groups of Georgia;
- Include into Georgian school curricula in regions of territorially concentrated habitation of ethnic minorities special subjects for studying the language and culture of these minorities;
- Introduce into curricula of all general-education schools of Georgia a mandatory subject designed to teach multiculturalism, tolerance and non-discrimination.

Freedom of conscience and freedom to practise religion

- Introduce changes to the Civil Code and to other relevant legal instruments in order to resolve the issue with registering religious associations in Georgia as public law juridical entities;
- Adopt a separate law on religion and religious associations in Georgia reflecting the view of the fundamental international legal standards;
- Resolve the issue of restitution of church properties and buildings confiscated during the Communist rule in Georgia to their former owners;
- Reduce political activities of religious organizations in areas of territorially concentrated habitation of minorities to the lowest possible level.

Local governance area

- Implement the provisions of the European Charter of Local Self-Government 1985 in Georgia with a view to greater decentralization of power on all-Georgia scale;
- Adopt a law establishing electiveness of town mayors and heads of district and regional administrations;
- Submit annexes to the acting legal standards in Georgian law designed to raise the level of self-governance taking into account the interests of regions of territorially concentrated habitation of ethnic minorities;
- Comply with the principle of parity and proportionality in drawing the

borders of electoral districts with territorially concentrated (or mixed) habitations of people of ethnic minorities;

- Create special councils comprising representatives of minorities and empowered to introduce initiatives and draft laws into local organs of representative authority to provide assistance for heads of executive powers of the regions;

Civic integration and participation of minorities in social and political life

- Launch more active measures to seed institutions of civil society in areas of territorially concentrated habitation of minorities;
- Repeal legal constraints on the registration of political parties and movements that are created on the basis of ethnicity and/or region of habitation;
- Assign quotas of Parliament seats and draft an adequate policy for active involvement of representatives of minorities in the work at every level of executive and judicial branches;
- Uphold the proportionality principle in selecting candidates to appointive positions in regional power structures and in forming the staff of law-enforcement structures in areas of territorially concentrated habitation of ethnic minorities;
- Intensify the campaign aimed at weakening the relevant social stereotypes and intolerance, in the society and also in the media and educational establishments of Georgia;

Socio-economic sphere

- Stimulate investment for the socio-economic rehabilitation in areas of territorially concentrated habitation of minorities originating from “ethnic motherlands” and diasporas of these minorities;
- Sign bilateral legal acts covering legal standards at the governmental and interdepartmental levels and concerning specific ethnic minority issues between Georgia and the “ethnic motherlands” of these minorities;
- Actively complete implementation of the program (or draft a new one) of job procurement for the local population of Javakheti in the course of dismantling and evacuation of the Russian 62nd military base;
- Implement an efficient state-supported program of socio-economic rehabilitation, expansion of the transportation infrastructure and provision of natural gas to Samtskhe-Javakheti.

CONCLUSION

Ethnic minorities in Georgia continue to be only minimally involved in the socio-political life of the country and in the processes of decision making at practically every level. Representatives of minorities are virtually absent from any responsible positions in the Parliament, or the central government, or regional-level administrative bodies (i.e. in the administrations of large-scale territorial units of the country, such as, for example, Kvemo Kartli and Samtskhe-Javakheti). Although minorities do take part, to a certain extent, in self-governance in areas of their territorially concentrated habitation, at the same time the number of officials representing an ethnic minority, for example in some predominantly Azerbaijani-populated districts of Kvemo Kartli or in the Akhaltsikhe district of Samtskhe-Javakheti (with a very considerable proportion of Armenian population), is absolutely out of proportion to the ethnic composition of the total population. If we also take into account the insufficient level of assigned responsibilities, weak decentralization of power and underdeveloped self-governance, these factors do not bode well for the real participation of minorities in the socio-political life of the country and for their integration into society.

Alas, the efforts of administrative structures and of a number of Georgian NGOs purported to improve the situation are to a large extent declarative and an observer frequently fails to unearth any real steps directed at improving or modifying the situation with the protection of the rights of minorities. And the situation does require urgent changes, for instance, in the aspect of raising the role of minorities in the process of making political decisions and in administering the country. Even though a certain part of the Georgian elite does militate against it, steps in this direction need to include the introduction of a special quota for ethnic minorities in the Parliament and in governmental offices of Georgia, a resolution of the problem of creation and registration of political parties in accordance with their ethnic and/or regional origin, a turnaround in employment policies and assigning some regions the status of extended or asymmetrical self-governance.

If this is not done, the minorities will be unable to influence the political evolution of the country and thereby the chance will be lost for them to institutionalize their relations with the state. The minorities will have to express their political demands and suggestions on informal political fields. A failure of the state politics in protection of rights and in the integration of ethnic minorities into the social life of Georgia will become a serious negative factor that in the future may destabilize the situation in this country.

It is necessary that Georgians recognize that representatives of ethnic

minorities are citizens of Georgia with a full set of rights. The Georgian state and the Georgian society must make the first move in this direction. As the Georgian state and the political elite are responsible for every citizen of the country, they must become cognizant of the fact that forced and maximalist demands and even preconditions to involving the minorities in the processes of integration into the socio-political life of the country (especially in the linguistic, educational and political spheres) are impossible and counterproductive. As long as representatives of minorities remain unconvinced that their ethnic identity is not in danger in Georgia, they will be unable to really integrate into the Georgian society. Having ascertained that minorities bear no radical irredentist or secessionist intentions, the Georgian society must guarantee their linguistic, educational and political rights, thus providing a most important stimulus for incorporating representatives of minorities into a common all-Georgia cultural, linguistic and educational field, offer them the possibility of becoming equal-rights players in the political life of the country and enjoying the fruits of the socio-economic evolution of Georgia. Pluralism and religious tolerance, giving truly equal rights to all religions existing in Georgia also constitute most important conditions for integrating ethnic minorities into the Georgian society.

The creation of a genuinely democratic and developed state is a long and difficult process. An even longer and more difficult process is the coming of age of a civil society, especially if there is ethnic and religious diversity in the country. The experience of the global community shows that this process may take years or decades and that forcing acceleration may not always bring the desired results. Starting on this path, both the society of Georgia and its ethnic minorities need to be ready to sacrifice some elements of their stereotypical concepts and to shed some of their unsubstantiated fears and prejudices.

Ethnic minorities in Georgia should not remain hostages to, or unwilling victims of, the sad events of the end of the last century that took place in Abkhazia and South Ossetia. The unwillingness to liberalize the attitude towards Georgian citizens of non-titular ethnicity must not hide behind pointing to unfortunate analogies of the beginning of the 1990s. Regardless of the degree of effectiveness of the apparent force-driven control that the Georgian authorities succeed in installing on the territories with territorially concentrated settlements of ethnic minorities, the problem will remain unresolved and the only result will be that these regions will turn into a real headache for Georgia and the entire South Caucasus with each new toughening of the policies of the Georgian leaders. The hopes harbored by certain groups of the Georgian political elite to find a "solution to the problem" by a slow and systematic demographic "colonization" of the territories with compact habitation of ethnic minorities is equally counterproductive. An example of, say, attempts of large-scale repopulation of

such regions by Georgian settlers in the Tsalk district of Kvemo Kartli not only fly in the face of the accepted international legal standards but increase the risk level and the conflict generation potential; in fact, they are in practice virtually unfeasible for Georgia in the foreseeable future.

Hopefully, the intensification of the processes of European and Euro-Atlantic integration, an intense dialog concerning the process of induction of Georgia into the NATO environment will concentrate the attention of European and international organizations and leading powers to the problems faced by ethnic minorities in Georgia in the field of protection and implementation of their rights. Active help from the international community and some not-indifferent states may lead in the future to achieving a mutually acceptable compromise in balancing the interests and approaches of the Georgian majority and its ethnic minorities in even the most entangled problems, with a view to establishing long-term political stability and progress in the evolution of political processes in Georgia.

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APPENDICES

Appendix 1: List of international legal UN documents signed by Georgia

Document title	Date of joining	Date of coming into force	Ratification document
Universal Declaration of Human Rights	1991		Resolution of the Supreme Council of Georgia 05.09.1991
International Covenant on Civil and Political Rights (16.12.1966)	25 January 1994	3 August 1994	Decree of the Parliament of Georgia 399-IC
Optional Protocol to the International Covenant on Civil and Political Rights (16.12.1966)	25 January 1994	3 August 1994	Decree of the Parliament of Georgia 401-IC
Hague Convention on the Civil Aspects of International Child Abduction	14 February 1995	1 October 1997	Decree of the Parliament of Georgia 661-IIC
Convention on the Elimination of All Forms of Discrimination against Women (18.12.1979)	22 September 1994	25 November 1994	Decree of the Parliament of Georgia 561-IC
Convention on the Rights of the Child (20.11.1989)	21 April 1994	2 July 1994	Decree of the Parliament of Georgia 465-IIC
International Covenant on Economic, Social and Cultural Rights (16.12.1966)	25 January 1994	3 August 1994	Decree of the Parliament of Georgia 400-IC
Convention on the Prevention and Punishment of the Crime of Genocide (09.12.1948)	18 May 1993 r	11 October 1993	Decree of the Parliament of Georgia 247-IIC
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (26.11.1968)	24 February 1995	29 June 1995	Decree of the Parliament of Georgia 660-IIC
International Covenant on Civil and Political Rights : Second Optional Protocol Aiming at the Abolition of the Death Penalty (15.12.1989)	2 March 1999	22 June 1999	Decree of the Parliament of Georgia 1818-IIC
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	16 April 1999	2 July 1999	Decree of the Parliament of Georgia 1899-IIC
Convention relating to the Status of Refugees (1951)	28 May 1999	7 November 1999	Decree of the Parliament of Georgia 1996-IIC
Protocol of 1967 to Convention relating to the Status of Refugee	28 May 1999	9 August 1999	Decree of the Parliament of Georgia 1996-IIC
Resolution on changes to article 43 of the Convention on the Rights of the Child	23 February 2000		Decree of the Parliament of Georgia 156-IIC

Convention on the Elimination of All Forms of Discrimination against Women : Optional Protocol (6 Oct. 1999)	18 May 2002	1 November 2002	Decree of the Parliament of Georgia 1472-PC
On Recognition of the Competence of the Racial Discrimination Liquidation Committee by the 1966 UN Convention On Liquidation of all forms of Racial Discrimination		06 June 2002	Decree of the Parliament of Georgia 1492-IIS
Convention on the Political Rights of Women		4 October 2005	

Appendix 2: List of legal documents in the framework of the Council of Europe to which Georgia is a party

Document title	Date of joining	Date of coming into force	Ratification document
European Convention on Human Rights and Fundamental Freedoms and Protocol 11 (04/11/1950)	12 May 1999	20 May 1999	Decree of the Parliament of Georgia 1940-IC
Additional Protocol No 4 to the European Convention on Human Rights and Fundamental Freedoms	23 February 2000	13 April 2000	Decree of the Parliament of Georgia 153-IIC
Additional Protocol No 6 to the European Convention on Human Rights and Fundamental Freedoms	23 February 2000	1 May 2000	Decree of the Parliament of Georgia 154-IIC
Additional Protocol No 7 to the European Convention on Human Rights and Fundamental Freedoms	23 February 2000	1 July 2000	Decree of the Parliament of Georgia 155-IIC
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	3 May 2000	1 October 2000	Decree of the Parliament of Georgia 272-IIC
European Agreement relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights(05/03/1996)		1 July 2001	Ratification not required
First Protocol to the European Convention on Human Rights and Fundamental Freedoms	27 December 2001	7 June 2002	Decree of the Parliament of Georgia 1243-IC
Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances		1 September 2003	

European Framework Convention for the Protection of National Minorities	13 October 2005	1 April 2006	
European Social Charter (Revised) and the Appendix to it			Decree of the Parliament of Georgia 01.07.2005

Appendix 3: Georgia's Declarations to the Council of Europe Framework Convention for the Protection of National Minorities⁹²

Resolution of the Parliament of Georgia On the ratification of the Framework Convention for the Protection of National Minorities

The Parliament of Georgia resolves:

1. To ratify the Strasbourg Framework Convention for the Protection of National Minorities of 1 February 1995.
2. To take into account, with the ratification of the Framework Convention for the Protection of National Minorities (further "the Convention") the following:
 - a) Georgia bases the interpretation of the term "national minorities" on the below mentioned criteria and considers that the status of "national minority" can only be conferred to a group of individuals in case members of the group:
 - are Georgian citizens;
 - differ from the dominant part of the population in terms of language, culture and ethnic identity;
 - have been living on the Georgian territory for a long time;
 - live in compact settlements on the Georgian territory;
 - b) In conformity with article 10 of the Convention, Georgia assumes the obligation to guarantee to persons belonging to a national minority the assistance of a translator in relations with administrative organs and in legal proceedings, thereby enabling them to enjoy the right to use the minority language as granted to them by the above mentioned article. Georgia also assumes the obligation to create, as far as possible, the conditions enabling persons belonging to national minorities to learn the State language;
 - c) In conformity with article 11.1 of the Convention, the obligation to write, in official documents, first names and surnames of persons belonging to

⁹² Unofficial translation by the European Centre for Minority Issues, Regional Office, Georgia (www.ecmigeorgia.org).

national minorities in Georgian language in a way that respects, as far as possible, their pronunciation in the minority language is established by internal legislation;

- d) In conformity with article 11.3 of the Convention, situations concerning the use of street names and other topographical indications in Georgian and in minority languages in regions traditionally inhabited by a significant number of representatives of national minorities are settled by internal legislation. Georgia does not consider this right granted to national minorities as obliging the State to change existing names of territorial units and considers it inappropriate to sign further international treaties on the above-mentioned issue;
- e) Georgia shares and agrees with the goals and the spirit of article 16 of the Convention. At the same time this article shall not concern settlement processes that may take place after resettlement of victims of ecological or technical catastrophes on the territory of the country, and of persons living in zones considered dangerous for their life and health. In addition the above-mentioned article shall not concern temporary or permanent settlement of refugees and forced displaced persons;
- f) In relation to article 18 of the Convention, Georgia declares that the protection of national minorities' rights is recognized by the Constitution, the legislation of Georgia, conventions, treaties and agreements to which Georgia has acceded and which recognize and protect the rights of national minorities. Accordingly, Georgia recognizes the requirements envisaged by the Convention, but considers it inappropriate to sign further international treaties on the above-mentioned issue;
- g) In relation to article 30 of the Convention, Georgia declares that it may ensure full and guaranteed observance of the Convention's provisions on the whole territory of the country only after the recovering of the territorial integrity of the state and the resolution of the Abkhazia and former South Ossetia autonomous region conflicts. Georgia asks for the assistance of the Council of Europe and its member states to enable the full compliance with the spirit and the provisions of the Convention in regards to the population of the Abkhazia and former South Ossetia autonomous region.

3. The requests foreseen by point 2 of the present resolution form an integral part of the decision of the Parliament of Georgia on the ratification of the Convention for the Protection of National Minorities.

Speaker of Parliament Nino Burjanadze
Tbilisi, 13 October 2005

Appendix 4: International Crisis Group Recommendation to the Georgian Government⁹³

To develop and implement more effective overall minorities policy

1. Complete work on the National Civic Integration Strategy and Action Plan and allocate funds in the 2007 state budget to implement them.
2. Increase funding and capacities for the Ministry for Civic Integration and appoint a senior, respected official as presidential adviser on civic integration issues.
3. Ratify the European Charter for Regional and Minority Languages and the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.
4. Take affirmative action to encourage minorities' representation in central and regional government.
5. Fund Public Protector's offices in Marneuli and Akhalkalaki.
6. Consult with councils (sakrebulos) in municipalities with over 20 per cent minorities on issues sensitive for minorities and include their representatives in the National Council on Civic Integration and Tolerance.
7. Consult with the Council of National Minorities when drafting new laws affecting minorities.
8. Continue investigation into land distribution in Kvemo-Kartli and expropriate and redistribute land obtained illegally to local farmers.
9. Make evening news TV broadcasts available in local languages in Kvemo-Kartli and Samtskhe-Javakheti.

To secure minorities' rights in public administration and education

10. Introduce legislation allowing Azeris and Armenians, in municipalities where they exceed 20 per cent of the population, to use their native language to communicate with administrative authorities, submit complaints, acquire civil documents and certificates, benefit from public services and conduct municipal business and sakrebulo meetings.
11. Amend all laws on civil service testing so that where minorities are over 20 per cent of the population, officials may be eligible to serve without knowing the state language at least for an interim period of ten to fifteen years.
12. Amend the 2005 Law on General Education to emphasize bilingual education in minority areas and ensure that core social science subjects are taught in Azeri and Armenian (in parallel with Georgian).
13. Strengthen Georgian as a second language (GSL) teacher training,

⁹³ Georgia's Armenian and Azeri Minorities // International Crisis Group, Europe Report №178, 22 November 2006.

development of GSL teaching materials and opportunities for minorities to learn GSL in primary and secondary schools.

14. Improve access to higher education by amending rules to allow minority students to take national entrance examinations in Russian, Armenian or Azeri and provide intensive GSL study to students who do not pass Georgian language exams.
15. Transform the Zurab Zhvania School of Public Administration into a two-year civil administration academy targeting minorities and offering intensive GSL training; set quotas so that at least 50 per cent of new entrants in the Akhalkalaki branch of the Tbilisi State University and the Marneuli branch of the Ilya Chavchavadze State University are minorities; and accept Armenian government support to improve the Akhalkalaki branch of the Tbilisi State University.
16. Create joint commissions with Azerbaijan and Armenia to develop history textbooks for Georgian schools.

To improve minorities' access to the judicial system and participation in local government

17. Strengthen public services at the municipal level.
18. Allow judicial proceedings in Azeri or Armenian in municipalities with over 20 per cent minorities.
19. Translate into Armenian and Azeri and disseminate all new legislation.
20. Revise electoral boundaries to ensure equal representation in municipal councils and equality of suffrage.
21. Remove legal and administrative barriers to registration of political parties on a regional or ethnic basis and decrease the threshold for a party's representation in the parliament to 5 per cent nationally.
22. Distribute information, manuals for precinct election commissions (PECs), voter lists, ballots and protocols certifying results in bilingual form in municipalities with over 20 per cent minorities.

CMI PUBLICATIONS



The Caucasus Yearbook. - Ed. A. Iskandaryan, CMI, Yerevan, 2007 (in Russian).
ISBN 978-99941-2-064-2

The volume is the third in the series of Caucasus Yearbooks produced by the Caucasus Media Institute. The idea of the Yearbooks is to sum up each year in the Southern and Northern Caucasus, and this volume is for year 2005. It does not attempt to give a comprehensive description of events in 2005 but rather uses them as a spotlight so the region can be seen and understood better.

The Yearbook has two main sections: analytical papers and reference material. The papers are based on presentations given at the Annual Caucasus Conference that the CMI organizes every spring in Yerevan. The authors try to understand what the year 2005 meant for the Caucasus, including the three states of the South Caucasus, the three unrecognized republics, and the Russian Northern Caucasus. The 2005 issue makes a special focus on international policies, as it presents the relations of the Caucasus with Russia, Europe and the Near East. Reference materials include an overview of the main economic trends in the South Caucasus countries in 2005, a description of the military balance in the Caucasus in 2005, a brief chronology of 2005 in Northern and Southern Caucasus, a list of books about the Caucasus on social and political topics published in 2005, and a list of useful web-resources on the Caucasus. The volume ends with a set of full-color maps: the Caucasus seen from space, political-administrative and ethnic maps of the Caucasus, and a map of pipelines in the Black and Caspian Sea regions.

Authors of analytical papers: Lasha Bakradze, Alexander Iskandaryan, Walter Kaufmann, Alexander Krylov, David Petrossyan, Tigran Sarkissyan, Alexander Tsinker, Anatoly Tsiganok, Arthur Tsutsiev



Minasyan, S.

Ethnic Minorities in Georgia: Potential for Integration. A Case Study of the Country's Armenian Population. – Yerevan, CMI and the Yerkir NGO Union, 2006 (in Russian and in Armenian).

ISBN 99941-2-053-0

The volume analyses the situation with human and minority rights in Georgia and suggests ways of integrating minorities in the social, political and cultural life of the country. The author looks at the legal framework for minority issues, focusing on Georgia's international legal obligations and their political implementation practices. In a case study of the Armenian-populated region of Samtskhe-Javakheti, the author proposes mechanisms and recommendations for achieving a compromise between minorities' needs to preserve their identity, language and culture, and to achieve factual political rights, on one hand, and their profound civil integration, on the other.



The Caucasus Yearbook. - Ed. A. Iskandaryan, CMI, Yerevan, 2006, 359 p. (in Russian)

ISBN 99941-2-028-x

The second issue of the CMI Caucasus Yearbook is an analytical review and reference volume summing up events and tendencies in the Caucasus. The research papers of the second issue are based on presentations given at the CMI International Caucasus Conference in Yerevan in spring 2005. The authors try to understand what the previous year meant for the Caucasus in terms of domestic and foreign political developments, economic changes, interethnic relations and religion. The volume includes reference material such as a list of books about the Caucasus; a list of useful web-resources; a brief chronology and a set of full-color maps of the Caucasus and the region.

Authors of analytical papers: Gia Areshidze, Sergey Arutyunov, Musa Basnukaev, Lyudmila Harutyunyan,

Harutyun Khachatryan, Alexander Iskandaryan, David Petrosyan, Alexander Skakov, Igor Torbakov, Arif Yunusov, Suren Zolyan



Post Soviet Media: From Propaganda to Journalism.

Ed. V. Cheterian, CMI, Yerevan, 2006. 192 p. (in Russian)
ISBN 99941-2-014-x

The volume represents an attempt by the Caucasus Media Institute to take forward the debate around the role played by news media in the post-totalitarian countries of the former USSR and Eastern Europe. Most of the articles in the compilation were written by journalists and media researchers with a post-Soviet background who took part in an earlier conference on the subject held in Yerevan in autumn 2003. Several articles were written for the volume by media specialists who come from Western European countries and focus their research on the development of mass media in a post-totalitarian setting. In Chapter 1 media researchers analyze the ways the societal transition has affected the role and the functioning of post-Soviet media in general, focusing on such aspects as public trust in the news media, the fact/comment ratio in the news, the effects of the Internet, social networking and media ownership. In Chapter 2, journalists from various countries and regions look at more than a decade of development and the current challenges faced by their countries. Economic pressure, an antiquated educational system, totalitarian heritage, poor journalistic skills and practices, and general disillusionment are highlighted here as problems faced by the mass media throughout the post-Soviet world. Chapter 3 offers insights into ways used by post-soviet governments to pressurize news media and journalists.

Authors: Sergey Bondarenko, Vicken Chetirian, Mariam Durdyeva, Irada Guseinova, Lucie Hribal, Alexander Khamagaev, Alfia Kharchenko, Irina Kostrichenko, Remzi Lani, Ruben Meloyan, Marina Muskhekishvili, Diana Schmidt, Alexey Sukhov



Diaspora, Oil and Roses. What makes the countries of the South Caucasus tick. Ed. I. Haindrava, A. Iskandaryan. Heinrich Böll Foundation and Caucasus Media Institute, Yerevan, 2005, 214 p. (in Russian)
ISBN 99930-78-74-3

The new CMI publication saw light in September 2005. This volume is a result of a joint effort by Caucasus Media Institute and the South Caucasus Bureau of the Heinrich Böll Foundation. The main idea was to give the reader a better understanding of development trends in the South Caucasus. Papers written by scholars in Azerbaijan, Armenia and Georgia offer a possibly objective multi-faceted image of political life in each South Caucasus state in particular and in the region in general.

The keywords in the book title – Diaspora, Oil and Roses – represent popular notions of what the South Caucasus countries rely on in their development. Armenia is helped by its vast Diaspora, Azerbaijan raises profits from its oil mining industry, and Georgia made a huge step forward after its Rose Revolution. Diaspora, Oil and Roses have thus become integral parts of the popular images of the three countries. One of the purposes of this volume is to find out where images end and reality begins.

In 2005 the Heinrich Böll Foundation published the German version of this volume, *Diaspora, Öl und Rosen. Zur innenpolitischen Entwicklung in Armenien, Aserbaidschan und Georgien*. The Russian edition has been updated and revised.

Authors: Ali Abasov, Rakhman Badalov, Sabit Bagirov, David Berdzenishvili, David Darchiashvili, Roman Gotsiridze, Toghrul Juvarly, Otar Kandelaki, Harutyun Khachatryan, Ivlian Khaindrava, Lela Khomeriki, Zeinal Mamedli, Rasim Musabekov, Alexander Iskandaryan, Nina Iskandaryan, Anna Karagulyan, Edward Melkonyan, Ruben Meloyan, Ahassi Tatevosyan, David Usupashvili



The Caucasus Yearbook. - Ed. A. Iskandaryan, CMI, Yerevan, 2006, 359 p. (in Russian)
ISBN 99930-78-73-5

The pilot issue of the CMI Caucasus Yearbook called Election Year saw light in April. The volume sums up the year 2003 in the Caucasus. The Yearbook comprises research papers and reference material. The research papers of the pilot issue are based on presentations given in spring 2004 at the International Caucasus Conference in Yerevan. The authors try to understand what the year 2003 meant for the Caucasus in terms of domestic and foreign political developments, economic changes, interethnic relations and religion. The volume includes reference material such as a list of books about the Caucasus; a list of useful web-resources; a brief chronology and a set of full-colour maps of the Caucasus and the region.

Authors of analytical papers: Alexander Agajanyan, Sergey Arutyunov, Armen Darbinyan, Kosta Dzugaev, Alexander Iskandaryan, Otar Kandelaki, Igor Kuznetsov, David Hovhannesian, David Petrosyan, Dmitri Furman, Ivlian Khaindrava



Religion and Politics in the Caucasus. Ed. A. Iskandarian.
 - CMI, Yerevan, 2004. - 120 p. (in Russian)
 ISBN99930-78-42-5

The volume contains updated papers from the 2003 CMI conference on Religion and Politics. Written by prominent researchers from Armenia, Georgia, Russia, the US and Finland, the papers focus on the region's most acute problems in the sphere of religion and politics: radical Islamic trends in the Northern Caucasus, the activities of Orthodox purists and anti-ecumenists in Georgia, Islamic revival in Azerbaijan, religious and political discord in the Armenian Diaspora and its repercussions in Armenia, and the role of the Russian Orthodox faith in multiethnic Russia. The volume is addressed to a wide readership, primarily journalists that have to cover these acute issues in their daily work, and anyone interested in the Caucasus and in the role religion plays in politics (and vice versa) in the modern world

Authors: Tadeusz Swietochowski, Edward Melkonyan, Ivlian Khaindrava, Dmitry Furman, Kimmo Kääriäinen, Alkexander Iskandaryan, Said-Magomed Khasiev



Caucasus-Russia: Legal and Illegal Migrations.

Ed. A. Iskandaryan. CMI, Yerevan, 2004. 160 p. (in Russian)
ISBN 99930-78-37-9

The CMI volume on migration is a study on migrants from the Caucasus in the Russian Federation: their adaptation, employment, legal and social status, acceptance by the receiving society, further migration plans. The papers for this volume were written by prominent Russian social scientists based on extensive opinion polls conducted in 2001-2002 in twelve regions of the Russian Federation.

The volume is of special interest for anyone studying migration in the South Caucasus as it presents an aspect on migration from the perspective of the receiving community.

Authors: Galina Vitkovskaya, Dmitry Poletaev, Yelena Turukanova, Yevgeny Krasinets

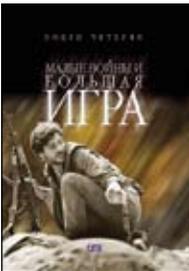


Migrations in the Caucasus. Conference Papers.

Ed. A.Iskandaryan. Yerevan, CMI, 2003, 132 p. (in Russian)
ISBN 99930-78-30-1

The volume includes papers presented at the International Conference on Migrations in the Caucasus held at the Caucasus Media Institute. The authors are well-known experts on migration, social, political and national studies from Russia and the countries of the South Caucasus. The volume sums up the past period of forced migration and discusses the new migration wave that mainly consists of labor migration. The papers debate such invariably important issues as the formation of ethnic Diasporas, adaptation of refugees, pendulum migration and *расстарбайтерство*.

Authors: Lyudmila Harutyunyan, Galina Vitkovskaya, Viktor Dyatlov, Alexander Iskandaryan, Edward Melkonyan, Gevork Pohosyan, David Svanidze, Guram Svanidze, Alexander Skakov, Larissa Khoperskaya



Little Wars and a Great Game.

Vicken Cheterian, Yerevan, CMI, 2003, 132 p. (in Russian).
ISBN 99930-78-25-5

Addressed primarily to journalists, this volume offers a general profile of post-Soviet conflicts in the North and South Caucasus in the last decade. Analyzing the emergence and evolution of the conflicts, the author follows their internal logic and looks at the main stakes and stakeholders, both regional and external, the international impact of the conflicts and potential prospects for the region. В приложении имеются географические карты конфликтных зон, хронологические таблицы, данные о национальном составе и численности вооруженных сил кавказских республик.